



جلال فونديشن JALAL FOUNDATION

An Afghan Women-led, Women-focused Organization
With 50 NGO and Women Council Members throughout Afghanistan
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Recommendations to the Committee on the Elimination of Discrimination against Women, re: Combined Initial and Second Report of the Government of the Islamic Republic of Afghanistan (GOIRA)

55th Session, 8-26 July 2013

1. Introduction

Jalal Foundation is a national NGO that is run, led and for Afghan women. It has 50 member NGOs and Women's Councils operating in distant localities where women are generally missed by development interventions due to such factors as insecurity, geographic inaccessibility, absence of communication facilities, low literacy, and patriarchal traditions.

These recommendations were prepared to reflect the perspectives and concerns of women in communities that are hardly reached by development and are often missed by national reconstruction initiatives. The analysis, comments and recommendations raised in this paper are crucial in helping reverse the rapid down spiral of women's rights in this critical phase of security and political transition in our country.

2. Resurgence of Fundamentalism and its Threats to Women's Rights

2.1 Background: The *Afghan fundamentalist (Islamist) movement* has been active in Afghan politics since the late 1960s¹. Its power and influence over the lives of Afghans were dramatically heightened by the sensational victory of mujahidin forces over the Red Army during the Russian invasion of Afghanistan. The main strength of this movement lies in its military power and political organization. Although the movement is not united under a single leader, each of its factions exerts considerable influence in the lives of Afghans through engagement in various democratic activities, militant/terroristic actions, political affairs, religious worships, and the day to day activities of the people.

¹ Fuller, Graham, *Islamic Fundamentalism in Afghanistan: It's Character and Prospects*, 1991.

2.2 Women's oppression as a sub-ideology of fundamentalism: The main asset of fundamentalism is "radical Islam", which provides the ideological basis for a vision of Afghan solidarity as a nation. Unfortunately, fundamentalism or radical Islam is totally averse to women's rights, feminism, or gender equality. This ideology does not recognize women as equal human beings. It denies women of their human rights and legitimizes the use of violence to sustain patriarchy and women's subordination. Female oppression/control is a sub-ideology of fundamentalism, something that came into full fruition during the rule of the Taliban. The truth, however, is that the sub-ideology of female oppression/control has been deeply embedded into the fabric of social institutions and the mindset of men, leaders, and even many women. In other words, it is an ideology that is embraced not only by Taliban but by many institutions and citizens of Afghanistan.

2.3 Fundamentalism resurrects female-directed tyranny: The international intervention that began after the fall of the Taliban in 2001 endeavored to counteract female oppression by enshrining women's rights in the Constitution, adopting strategic policies to advance women's status, building their capacities, and promoting their participation in all walks of life.

Unfortunately, these gains are now under threat of being clawed back as fundamentalism springs back into the surface of formal and informal decision making - in government, religion, family, and community. It is like a hibernating monster that has been awakened by the announcement of imminent departure by the international community at the end of 2014.

The theory that women's rights will be sacrificed in the name of peace is now a living reality. More than just making women's rights a bargaining chip, it is now clear that the peace and transition process is just being used to justify the re-imposition of fundamentalist tenets on women's oppression. The following data illustrates how the gains of the past ten years on women's rights are now past slipping down the drain:

- The number of reported VAW cases had increased from 2,299 to 4,010 for the period 21 March to 21 October 2012 compared to the number of cases for the same period in 2011². This is a difference of 1,711 or 74.43 percent higher than

²Information received from office of the Afghanistan Independent Human Rights Commission, Kabul, 6 December 2012. See also *A Long Way to Go: Implementation of the Elimination of Violence against Women* *law* *in* *Afghanistan*

the original figure for 2011. Even if this is seen as an achievement in terms of peoples' willingness to report VAW incidents, it is still clear that: (1) many women still suffer from violence; (2) offenders are not fully deterred by the presence of EVAW law because of its poor implementation; and (3) the need for response systems to VAW survivors is increasingly becoming a compelling imperative. Apart from these, our 50 women's councils and NGOs scattered nationwide know for a fact that in their respective localities, there are much more cases of VAW that are not being reported because of complicity by family members, lack of reporting mechanisms, and ignorance of the law and how it works.

- Increased incidents of brazen, extreme forms of VAW (i.e., mutilation, hanging, beheading, public execution, etc.), are now more frequently being reported in media than before. For example:
 - In June 2012, MOWA Provincial Affairs Director Shah Jan Yazdan Parast, reported to media that 11 women have been executed by Taliban in Parwan Province alone during the past six months;
 - The barbaric public execution of a 22-year old woman in Parwan was captured in an amateur video and widely circulated in media in the same period, obviously, to sow fears in the hearts of women and warn them about the return of Taliban-style control of women;³
 - On 22 July 2012, Radio Liberty reported that a man in Helmand Province shot dead his two teenage daughters, allegedly for being away for four days;⁴
 - Two women were be-headed by the Taliban in Kajaki District in Helmand Province in August 2012⁵; and

http://unama.unmissions.org/Portals/UNAMA/human%20rights/November%2023_UNAMA-OHCHR-Joint-Report-on-Implementation-of-EVAW-law_ENG.pdf

³ Jalal Foundation's compilation of news articles on Afghan women, volumes 1 to 9, 2012 to 2013.

⁴ Radio Free Europe/Radio Liberty, as compiled in Volume 2 of Jalal Foundation's Afghan Women News Digest, July 2012.

⁵ VOA News, 27 August 2012.

- In October 2012, Mah Gul, a 20-year old woman from Herat was beheaded by the cousin of her husband and her mother-in-law for refusing to prostitute herself.

The statistics are not systematically being recorded but it does not mean that the problem does not exist. Our partners in the field know the situation as they are part of the daily horrors routinely experienced by women from the Taliban and from their own families and communities. As far as cruelty of women is concerned, it is “open season” once again in Afghanistan.

- Assassination/killing of and constant threats to women defenders of human rights have been more rampant and brazen than before and have not received justice. For example:
 - Lt. Islam Bibi, commander of Women’s Police Department in the Province of Helmand was killed on 3 July 2013 in Lashkarga City while on her way to her office;
 - In January 2013, the Taliban assassinated a female social activist in Wardak and hanged her dead body in a tree;
 - On 13 July 2012, Hanifa Safi, the Head of the Women’s Ministry was assassinated in the province of Laghman through a car bomb;
 - Najia Sidiqi, Acting Provincial Director of the Women’s Affairs Department in Laghman was assassinated in 12 December 2012; and
 - In September 2012, Kolsoom, a 30-year old woman from Herat Province, was stabbed to death by her husband, allegedly because she is working for a development NGO.

It has also been observed that some government officials and state mechanisms have started to waver in their posturing to protect women’s rights, such as:

- ***Threats to the EVAW law:*** In June 2013, the decree on the Elimination of Violence against Women was filed for ratification by the Parliament despite its validity and the adequacy of its coverage and punitive provisions. The law was a product of four years of dialogue and negotiations with many sectors. It was

enacted through a presidential decree in 2009 and has since been used in prosecuting VAW offenders. Yet, fundamentalist solons branded it as un-Islamic. One of them even warned that “*there will be blood in the streets if the law will be enacted*”. Presently, the law is under threat of being amended or repealed. In addition, division among women’s leaders is being fomented by the debates on the legality of the EVAW law.

- ***Incompetence of MOWA to champion women’s rights:*** Amidst the heated controversies about the EVAW law, the Ministry of Women’s Affairs (MOWA), which is mandated to protect women’s rights and mediate conflicting views from an enlightened perspective, was disappointingly silent. It should be noted that in many issues, MOWA has been constantly taking the side of government even if they are deleterious to women.
- ***Unwillingness of President Karzai to champion women’s rights:*** When approached by women activists for help in defending the EVAW law, President Hamid Karzai informed them that women’s rights had already brought tremendous trouble and shame to his leadership and he will no longer be able to extend any help.⁶ This mindset is very alarming considering that he is the prime State official who is ultimately accountable over the protection of women’s rights.
- ***Questionable appointments to the Afghan Independent Human Rights Commission (AIHRC):*** Recently, President Karzai appointed Commissioners to the AIHRC who lack knowledge and commitment to women’s rights. They include a hard line fundamentalist and former member of the Taliban government who was jailed in Bagram by American soldiers for his insurgent activities. He asserted that the EVAW law was un-Islamic and must be changed. Only upon pressures from the Human Rights Watch and UN High Commissioner on Human Rights was the said Commissioner dismissed from office by the President⁷. Although this is a welcome development, it is also clear that President Karzai is inclined to sacrifice the interests of women to placate the Taliban.

The rest of the new appointees to AIHRC have also questionable records on human rights. One of them, Qadria Yazdanparast was closely associated, through Jamiat-i-Islami, with Afghanistan’s warlords, many of whom maintain private

⁶ This was relayed to Jalal Foundation by a woman activist who was present in the meeting with President Karzai.

⁷ <http://www.hrw.org/news/2013/06/18/afghanistan-weak-appointments-undermine-rights-body>

armies even while holding government posts⁸. It should be noted that the Civil Society and Human Rights Network submitted 27 names for consideration by President Karzai but none of them was appointed.

RECOMMENDATIONS

- a) The Government of Afghanistan should be asked to issue a commitment to ensure that existing laws and policies on women's rights will not be diluted, shelved, amended or repealed, at least in the next five years.
- b) More appointments of fundamentalist persons to strategic positions in government are expected to increase, given the peace and reconciliation process and the vision of integrating the Taliban into national politics. Noting the quick and favorable response of President Karzai to pressures from international agencies (as mentioned above), it is recommended that a UN agency (e.g., UN Women) be designated to help Afghan women generate resistance to questionable appointments by the President.
- c) International advocacy for the dismissal of the newly-appointed Commissioners to the AIHRC must continue and be intensified. This is very important because the AIHRC is the only institution in the country that has the commitment and capacity to defend women's rights.
- d) CEDAW should call for an evaluation of the performance of the Ministry of Women and recommend ways by which its strategic effectiveness could be developed. For now, considering that the Ministry of Women's Affairs is part of the government, it is clear that it can never be effective in serving as a champion of women's rights, especially during the transition process. In this connection, the Government of Afghanistan should be advised to consider the creation of a high level, independent mechanism linked to the Afghan Independent Human Rights Commission to serve as effective "watchdog" of women's rights, at least during the period of transition.
- e) In consultation with women NGOs, the Government of Afghanistan should be required to present a holistic strategy to protect women's rights from the

⁸ <http://www.nytimes.com/2013/07/02/world/asia/karzai-choices-for-afghan-human-rights-panel-raise-questions.html?smid=tw-share>

onslaughts of fundamentalism. It should include a massive public information campaign and the long-term transformation of values to eradicate those that are inimical to human rights, including the rights of women. A copy of this strategy should be sent to CEDAW before the national election in 2014.

- f) For the sake of securing the rights and lives of Afghan women, CEDAW is requested to invite the next President of Afghanistan to a meeting in order to emphasize the importance of her/his roles in protecting the rights of women, especially during the transition. Afghanistan is scheduled to hold an election early next year (2014).

3. Low performance in regard to Afghanistan MDG Goal 3

3.1 *Afghanistan's MDG Goal:* Goal 3 of Afghanistan's Millennium Development Goals (MDGs) states that it will promote gender equality and empower women by “*increasing female participation in elected and appointed bodies at all levels of governance to 30% by 2020*”⁹, among other strategies. More than in any other institution, this goal is supposed to be pursued by all government entities.

3.2 *Removal of quota provision in the National Election Law:* As could be gleaned from the Initial and Second Report of GOIRA, the government has been failing miserably in attaining this goal in all areas, except in the Parliament, where the goal is close to being attained. Unfortunately, this positive trend has just been seriously undermined by the recent decision of the Parliament to delete the quota provision for women in the election for the provincial councils. Female Parliamentarians revealed that they were tricked to sign the version of the law which did not contain the quota provision.

The President could veto the law and the Ministry of Women's Affairs could have stood up and provided an objective, enlightened analysis on the wisdom of the quota provision. However, up to the present, the President and the Minister of Women have both been silent about the deletion of the said quota provision. A fundamentalist Parliamentarian was quoted by local newspapers as saying that the quota provision is un-Constitutional because it will allow women with lower votes to win over men with higher votes. This is a reflection of the prevailing ignorance of the Women Convention's provision on

⁹ Islamic Republic of Afghanistan, *National Action Plan for the Women of Afghanistan, 2008-2018*, page 17.

affirmative action and threatens to obstruct the power of the Parliament to advance women's status.

3.3 Lack of political will and strategy to promote women in decision making: The attainment of MDG Goal 3 is being hampered, allegedly, by the lack of qualified female candidates. This is only partly true. The fact is, women who have been given the opportunity and training all rose up to the challenge.

Within government, women in decision making positions comprise only around 8.2 percent of the total¹⁰. This figure could be easily increased by the President by appointing women to decision making positions. For example, instead of only three (3) female ministers, he could appoint more women to meet the 30 percent goal within his Cabinet. He could do the same with vice presidents (now both males); deputy ministers (now with only 3 females); governors (only 1); town mayors (only 1); district mayors (only 1); etc. He should also make sure that women comprise at least 30 percent of other appointed positions for key bodies, such as the Independent Election Commission, Independent Administrative and Civil Service Commission, National Peace Council, and Afghan Independent Human Rights Commission.

RECOMMENDATIONS

- a) The Government of Afghanistan should ensure that the High Level Appointments Board includes representatives from the women's movement. These representatives should be selected by women NGOs themselves. The TOR of this Board should also be modified to include the responsibility to assist the President in ensuring that women comprise 30 percent of all appointed positions. Moreover, its search and screening guidelines must explicitly carry an affirmative bias for women.
- b) The President should be encouraged to immediately appoint more women in various posts until he leaves his office, a legacy that he could leave to compensate for all his failings in defending women's rights. He should also be encouraged to issue a call for all political parties to include the protection of women's rights in their party platforms.

¹⁰ Central Statistics Organization, *Women and Men in Afghanistan, Updated Baseline Statistics on Gender*, 2011.

- c) The Government of Afghanistan should be asked to submit a comprehensive sex-disaggregated statistics on senior appointed and elected positions, showing the percentage of women in each of such positions.
- d) President Karzai should be asked to veto the National Election Law and ensure that the quota provision is re-integrated into it.

4. Widows and Female Heads of Household

4.1 Widows and Female Heads of Household have been recognized as the poorest and most vulnerable population of the country, along with the Kuchis. State support to them is guaranteed under Article 53, Section 2 of the Afghan Constitution¹¹. However, they receive very little attention in terms of national policy and decision making, social protection and support, service delivery, and political participation. This is partly because they lack representation and a comprehensive study on their situation has not been conducted to inform policy/decision making and programming.

4.2 Based on available data, there are around 1.5 to 2 million war widows in the country. *“Those widows, whether heads of households or not, are relatively young, with an average of 35 years. Ninety nine percent of them are unable to read and write. Around 90% of Afghan widows have children, and many of them are in a great difficulty in supporting their children”*.¹² According to a UNIFEM study in 2006, 65 percent of the 50,000 widows settled in Kabul intended to commit suicide due to their harsh living condition.¹³ The average Afghan widow suffer from destitution, absence of support systems, social exclusion, poor health, denial of inheritance rights, and lack of education, skills and economic opportunities. Only a few of them receive small dole out from government. The rest are inclined to go into slavery, forced prostitution, substance abuse or roadside pauperism.

4.3 The Disarmament, Demobilization and Reintegration (DDR) program of government does not include widows even if their situation is a direct consequence of the war. Likewise, there is no specific allocation to women heads of households in any of the

¹¹ Constitution of the Islamic Republic of Afghanistan, 2004.

¹² Ministry of Women’s Affairs, *Women and Men in Afghanistan, Baseline Statistics on Gender*, 2008, Afghanistan.

¹³ Yahuvah, Basir, *Situation of Widows in Afghanistan, Part Two*, 2010.

government-distributed township which are managed by Mujahideen leaders and commanders¹⁴.

4.4 Around two percent of households in Afghanistan are headed by women¹⁵. This translates to around 70,000 households. The pre-census listing of the Central Statistics Office conducted earlier calculated the figure at 3.3 percent or 120,000 households. Female heads of households are considered to be among the most vulnerable because in the Afghan tradition where women are regarded as second class human beings, there are many factors that work against them – i.e., they cannot compete with men in economic opportunities; they are denied of inheritance rights; they cannot ensure the security of the family; they are excluded from social networks; and they cannot access food and resources (fuel, water, etc.) with as much power as their male counterparts. As a result, they lack economic resilience and are inclined to resort to desperate survival strategies.

RECOMMENDATIONS

- a) Request the Government of Afghanistan to progressively increase the public allocations and the number of widows and female heads of households who are covered by social protection and support by the Ministry of Labor, Social Affairs, Martyrs and Disabled.
- b) Require the Government of Afghanistan to submit a comprehensive, evidence-based analysis of the situation of widows and female heads of households, to include accurate statistical figures; analysis of their socio, economic, and political status; and corresponding policy options to address the challenges that they continue to experience.
- c) Request the Government of Afghanistan to come up with a dynamic national data base on widows and female headed households that could intelligently inform advocacy, policy and decision making and programming for them and their families.

¹⁴ Afghan Women's Network, *Afghanistan NGO Report on ICESCR: A Women's Perspective*, 2010.

¹⁵ Central Statistics Office, *National Risk and Vulnerability Assessment, Afghanistan*, 2007/08.

5. Comments on the Composition of the Delegation

We express concern about the composition and leadership of the Afghanistan delegation to the 55th Session of CEDAW which will consider the Initial and Second Report of Afghanistan, as follows:

- First, it is not acceptable to us that the delegation of Afghanistan is headed by an Adviser instead of a high level official of government. An Adviser is not officially accountable for the implementation of CEDAW and should have not been allowed to head the delegation. He is not answerable to CEDAW on the weaknesses of the Convention's implementation by government. He is also not in the position to commit the government of Afghanistan in implementing CEDAW's recommendations.
- Second, we are also very concerned that the highest official of the Ministry of Women's Affairs, the Minister of Women, is not part of the delegation. The Minister of Women is the highest decision maker in the agency of government that is answerable to the women of Afghanistan on the implementation of the Women's Convention. Many times in the past, we saw how the Minister failed to use the power of her position to protect the rights of women and she had not shown commitment to the well-being of the most disadvantaged women or willingness to work productively with women activists. It is also important for the Minister herself to hear directly the comments and recommendations of the CEDAW Members and ensure that they are implemented back home.
- Third, we are not pleased that there are only two female members of the delegation. This is an international session on women and it is only fitting that the delegation be dominated by women. It shows how women are being marginalized by the Afghan government in the composition of its international delegations.

RECOMMENDATIONS

- a) The attention of the Government of Afghanistan should be called regarding its decision to send an Adviser as head of delegation rather than the most senior public official who holds primary accountability over the implementation of CEDAW.

- b) The Government of Afghanistan should be asked to create a sex-disaggregated list of international events and conferences to which the government sent a delegation and to indicate the position/role in the delegation by the female and male representatives.
- c) The Government of Afghanistan should be asked to present a long term strategy for promoting the appointment of Afghan women to international bodies.

6. Conclusion

We thank CEDAW for giving us the opportunity to share our views on the work of the Government of Afghanistan in the implementation of the Women's Convention. Should you have any question, please contact massoudajalal@rocketmail.com.

We remain optimistic and will continue to be strengthened by your support. More power!