CEDAW Shadow Report
Submitted by Afghan Women Network (AWN)
To the Committee on Elimination of All Forms of Discrimination against Women

March 2013
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ECW (Empowerment Center for Women)
AWEC (Afghan Women Education Center)
OHW (Organization of Human Welfare)
ARE (Ariameher Rehabilitation Establishment)
List of Acronyms and Terms

ANDS  Afghanistan National Development Strategy
APRP  Afghanistan Peace and Reconciliation Program
AWN   Afghan Women Network
CEDAW Convention on Elimination of all Forms of Discrimination against Women
CEDAW Convention on the Elimination of Discrimination Against Women
EVAW  Elimination of Violence Against Women
IARCSC Independent Administrative Report and Civil Service Commission
NAPWA National Action Plan for the Women of Afghanistan
NATO  North Atlantic Treaty Organization
NGO   Non-governmental Organization
NSP   National Solidarity Program

Zina - sex outside of marriage
Farz - a requirement or duty to fulfill under the Islamic law
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Executive Summary

Despite significant progress in the condition of women since 2001, major challenges remain in terms of gender mainstreaming efforts in Afghanistan. In 2011, Afghanistan was the most dangerous country in the world for women and the worst in terms of health, violence, and lack of access to economic resources. The fertility rate was estimated at 6.48 children per woman in 2009 and the maternal mortality rate was ranked as one of the highest in the world (there are an estimated 1800 maternal deaths per 100,000 live births in Afghanistan). Access to primary education for girls remains a major issue, with a 75 percent dropout rate before the fifth grade. The role and contribution of Afghan women in the country’s economy and as positive change agents continues to be underestimated and unrecognised. Legal provisions giving women inheritance rights to land and control over income remain poorly enforced, at best, and socially and domestically unacceptable. The courts and society at large consistently rely on often arbitrary interpretations of Islamic Sharia Law to limit women’s rights in economic and political spheres, mobility, marriage, divorce and inheritance.

This report is focusing only on the issues that are a matter of priority in AWN’s discussion with the government of Afghanistan and international community. The key theme presented in the report is a lack of political will in implementation of the laws. Enforcement of anti-violence legislation remains the key issue, including continuous persecution of women victims of sexual violence and protection of women in family life. A particular concern remains the continuous criminalization of victims of sexual and domestic violence, as well as victims of trafficking under the charges of zina – sex outside of marriage – and attempted zina. Adoption of relevant laws and policy documents was an invaluable step undertaken by the government of Afghanistan. In order not to waste efforts it took to develop such laws and directives is it imperative to adopt tools to implement and enforce the laws and directives.

Women continue facing barriers in accessing to primary, secondary and higher education and to maternal health services hindering their access to public life. Major barriers to women’s access to public and community life remain unaddressed. This is particularly underscored by a poor access to employment and protection of working women. Women continue being excluded from work with the government on professional, ministerial and international levels. Major programs must be adopted to ensure that identified barriers are addressed and counteracted. These must include a range of monitoring and strict reporting

6 Akbar, Shaharzad and Pirzad, Taiba. 2011. Women’s Access To Property in Afghanistan: Law, Enforcement and Barriers. (Qara Consulting Inc.: Kabul.)
7 A number of legal aid and women’s rights NGOs. Interviews conducted by APPRO in June 2011.
requirements, as well as a range of campaigns and public mobilization efforts to ensure support for such programs.

In addition to specific recommendations as outlined under each article discussed in this shadow report, AWN offers a number of general recommendations that are crosscutting and crucial to implementation of CEDAW in Afghanistan.

**Priority Recommendations**

**Priority Recommendation 1:** Create an independent commission to follow the implementation of CEDAW. In order to ensure that the discussions on the implementation of CEDAW are followed up and taken seriously, it is important for the government to develop an indicators matrix and tie the indicators to implementation and follow-up mechanisms. To support the government in implementing recommendations of the CEDAW committee and to help provide oversight of the implementation, it will be important to create an independent commission made up of a coalition of Civil Society Organizations. The creation of such a committee will help centralize all reporting on implementation of CEDAW into one focal point and avoid the currently scattered format of reporting.

**Priority Recommendation 2:** Continue building the capacity of key governmental institutions. In light of the fact that the Afghan governmental institutions charged with implementing CEDAW are very weak, both in both their implementation and reporting capacity, further capacity building is required. Such efforts should take the form of mentorship programs and on-the-job support, rather than training sessions and conferences that only last a few days or a week. In this regard, governor offices and Departments of Women’s Affairs in the provinces should become much more actively involved in tracking and monitoring follow-up cases on violence against women and children.

**Priority Recommendation 3:** Show a genuine political commitment to implementing CEDAW provisions. There is growing concern about a lack of government commitment to address violence against women and violence against children (including boys). Stricter enforcement guidelines are required from the government. Efforts to ensure implementation of existing laws must be backed up by genuine political will and reporting.

**Priority Recommendation 4:** Involve religious scholars in promoting CEDAW provisions. Recognizing that Afghanistan is a religious society and religious scholars are part of the formal government structures, the role of mullahs and religious clergy should be increased in promoting awareness of violence against women and should start actively preaching that any form of violence against women and children is unacceptable in both civil and religious law. Such engagement should be one of the implementation indicators to be reported in the next periodic report on implementation of CEDAW. Similarly, madrassas and other religious schools should include courses on violence against women and make it explicit that no form of violence is acceptable under both civil and religious law.

**Priority Recommendation 5:** Develop a nationwide awareness campaign on CEDAW provisions. A nationwide campaign to communicate the key provisions of CEDAW and government’s commitments to its implementation and reduction of cases of violence against women should be developed and reported on in the next periodic report.
Introduction

1. The Afghan Women’s Network, which leads the Afghan women’s rights NGOs, hereby submits a shadow report on the implementation of the Convention on Elimination of All Forms of Discrimination Against Women. This report follows up on the list of critical issues that was previously submitted to the committee. The list of issues included:
   1. Access to primary and secondary education
   2. Access to health care, particularly maternal health services
   3. Enforcement of anti-violence legislation, including continuous persecution of women victims of sexual violence
   4. Access to public and community life
   5. Access to employment and protection of working women
   6. Inclusion of women and women’s issues at ministerial and international levels.

Description of the Social and Political Context

2. The promotion of gender equity has been a key crosscutting theme in reconstruction and development efforts in Afghanistan. Since the 2001 Bonn Agreement, national policy mechanisms in Afghanistan have formally embraced and promoted gender equity. As the official Initial and Second Periodic Report submitted by the Government of Afghanistan gender equity is enshrined in Afghanistan’s constitution and the Government of Afghanistan has signed a range of international legal instruments aimed at promoting gender equity, including the Convention on the Elimination of Discrimination Against Women (CEDAW).

3. Additional mechanisms for the promotion of gender equity include the Ministry of Women’s Affairs (MoWA, established in 2002), the Afghanistan National Development Strategy (ANDS, finalised in 2008), the National Action Plan for the Women of Afghanistan (NAPWA, approved in 2008), and the Elimination of Violence Against Women law (EVAW, signed in 2009). In 2011, the government created a working group to develop a National Action Plan to implement Security Council Resolution 1325 on Women, Peace and Security. This group, which includes representatives from key ministries, including the Ministry of the Interior and the Ministry of Defence, conducts its meetings at the deputy minister level. While implementation of these mechanisms is an important step in addressing gender equality and elimination of discrimination against women, enormous challenges remain.

4. These documents and mechanisms are direct products of the formalisation of gender mainstreaming in Afghanistan. The goal of gender equality reforms and programming has been to ensure that both men and women can exercise their rights, have opportunities to contribute to the reconstruction and development of the country, and

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enjoy a full and satisfying life. Since 2001, women and girls have had the right to education, health care and participation in public life. Their access to these services has improved dramatically.

5. Women are now included in the government. Out of 23 ministries three are headed by females: the minister of women’s affairs, the minister of public health, and the minister of labour and social affairs, martyrs and the disabled. There is a mandatory 30% quota of women in the Parliament. Women make up about 20% of all government employees.

6. In the reporting period Afghanistan saw the development of a women’s rights movement. The Afghan Women’s Network, which is the largest women’s rights organisation in Afghanistan, has over 110 registered women rights organisations and some 5,000 individual members that provide a range of services to women, including education, health, advocacy and legal support.

7. Statistics confirm that Afghanistan has the world’s highest indicators of non-sexual violence against women and the lowest indicators for access to health care and economic resources for women. Women continue to face important challenges. For example, Afghanistan’s fertility rate was estimated at 6.48 children per woman in 2009 and the country has one of the world’s highest maternal mortality rates – an estimated 1800 maternal deaths per 100,000 live births. While the law provides women with the right to inherit land and control income, this provision is poorly enforced and generally rejected by Afghan society. Despite legal provisions and policy papers that protect women’s rights in the economic and political spheres, mobility, marriage, divorce and inheritance, courts and society in general employ conservative and culturally influenced interpretations of Islamic sharia law to limit those rights.

8. Women continue to experience discrimination at work and are often passed over for promotion or excluded from professional development opportunities. High-profile working women receive threats and there have been allegations of women being killed for working. Women’s issues have also been largely excluded from the agendas of conferences on Afghanistan. These issues are discussed in detail below.

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17 Interviews with high-profile women.
Methodology

9. This shadow report was written by the Afghan Women’s Network (AWN). The report draws on the experience of AWN members throughout Afghanistan. The first draft of the report was produced following initial consultation with the membership in May 2012. The final draft of this report was produced after AWN prepared the list of key issues and the first draft of the report, which was made available in both Dari and English to the members prior to the consultation meeting in December 2012. The first draft of the report was actively debated at this consultation meeting. The final draft of the report incorporates comments and suggestions from the consultation meeting. The drafting of this report, as well as the consultations, was funded by UN Women.

10. This report focuses solely on the articles of the convention in which AWN has experience and is qualified to comment. These articles were considered crucial in promoting a positive dialogue on the issues of implementation of CEDAW in Afghanistan. AWN recognizes that even within the identified areas of expertise it is possible to explore more depth under each of the issues. However AWN would like to focus only on issues that have been identified as the key priority by the membership. AWN will consider expanding the discussion further for the following sessions of the Committee.

11. The goal of this report is to provide article-based analysis of issues that have been identified in the official government report submitted to the CEDAW Committee in 2011. The present report focuses on the lack of implementation of existing laws and policy guidelines. Although both the report and the Replies to the List of Issues In Regards to the Periodic Reports provided by the government acknowledged key challenges faced by women, both of them focus on outlining the existing laws and policy documents to protect and promote gender equity and the rights of women. These documents could serve as a fundamental framework with which to eliminate discrimination against women in Afghanistan. However, it is equally important in discussion of challenges to recognise the gaps that exist between these documents and practice. All legislative frameworks and strategic documents must be supported by the required capacity and political will to implement commitments made by the Government of Afghanistan. The present report provides AWN’s perspective to the political will and capacity of the government to implement the commitments made to women’s rights.

12. AWN wishes to commend the Government of Afghanistan for recognising the number of challenges that the women of Afghanistan face in their daily lives. AWN helped to develop the Combined Initial and Second Periodic Reports on the Convention on the Elimination of all Forms of Discrimination Against Women (hereinafter referred as the official report), which was submitted to the CEDAW Committee in 2011 in the form of consultations and providing recommendations to the government on the key issues and concerns experienced by women in Afghanistan. This shadow report aims to further the dialogue about women’s rights in Afghanistan by identifying and discussing the underlying issues that fuel the current dire state of rights and by suggesting a number of practical steps that the Government of Afghanistan could adopt to protect women’s rights.
Article 1: Definition of Discrimination

13. AWN acknowledges that the key provisions of the law in Afghanistan protect women. Paragraphs 64 to 68 of the official report outline laws that protect women in Afghanistan. The Constitution of Afghanistan asserts the equality of men and women under the law. Supporting laws, including the law on Elimination of Violence Against Women, prohibit discrimination against women and define violence. These laws alone provide a comprehensive framework that could protect women.

14. However, this framework is undermined by a lack of enforcement and other laws that contradict the spirit of the Constitution and of other laws protecting women’s rights. Such examples are outlined below.

15. In 2009 the Afghan president signed the Shia Personal Status Law by a decree. This law had provisions that go against the spirit of other laws, including going beyond what is normally outlined in laws regarding the obligations of a husband and wife in sexual relations, as far as allowing husbands to withhold food and maintenance if their wives are not willing to have sexual relations with them. The law also had issues with inheritance and mobility provisions for women. These provisions of the law were later amended based on intensive advocacy by women’s rights groups in Afghanistan.

16. Another example is the so-called Amnesty Law (National Reconciliation, General Amnesty and National Stability Law), which was gazetted in December 2009. This law provides almost a blanket amnesty for crimes in exchange for reconciliation with the current insurgents and warlords. While the law is not directed explicitly against women, it pardons crimes that were or could be committed in the name of national reconciliation. Provided that women are usually the main victims in the armed conflicts, this law goes against the spirit of both the Constitution and the EVAW law.

17. Similarly, in 2010 and 2011 the Afghan Supreme Court issued guidance that effectively criminalizes “running away” by using the article 130 of the Constitution, which states that no laws in Afghanistan can be contrary to the provision of the Sharia. However, the way in which this article has been used in the 2010 and 2011 guidance, for example, is clearly discriminatory in nature. The guidance assumes that women who leave home expose themselves to a high risk of engaging in zina (sex outside of marriage) and are therefore criminalized for runaway acts as preventative punishment. However, the same assumption is not applied to men and boys who leave their house without permission or supervision, which is therefore prejudiced against women. Article 2 discusses both the crime of running away and related issues.


19 HRW. 2012. I had to run away: The imprisonment of women and girls for “moral crimes” in Afghanistan. HRW: Kabul.
Recommendations for Article 1

18. Recommendations on condemnation of definition of discrimination:
18.1. Reformulate existing laws that are contradictory to the spirit of equality and
discriminatory in nature against women to bring them in line with the CEDAW
framework - principles, articles and general recommendations.

Article 2: Condemnation of Discrimination and Remedial Measures

19. AWN is commending the government on their expression of support to remove
discrimination against women and their acknowledgment of remaining issues.
Paragraphs 69–72 of the official report affirmed the government’s commitment to
implementing nondiscrimination principle in the laws and policy framework of
Afghanistan. Paragraph 73 of the official report states that women rarely participate in
the community councils and that these councils themselves are ignorant of the laws that
protect women. Paragraph 74 says that, despite minimal representation of women in
public life, systematic discrimination against women has been eliminated from the
government. Paragraphs 75–77 outline that women receive more lenient punishments
in criminal law in Afghanistan. Paragraph 78 says that rape cases are taken particularly
seriously by the Afghan officials, while paragraph 80 states that women can access
justice without any limitations.

20. Unfortunately, the practice of condemning discrimination is less than what the
government has committed to. For example, as discussed in greater detail in the report,
despite legal and policy provisions, systematic discrimination against women regarding
access to education, health, employment, and public life is rampant. Similarly, despite
the assertions that Afghan officials treat rape seriously, it appears that this commitment
is applied arbitrary. In 2008, for example, the president pardoned three men found
guilty of gang raping a woman in Samangan province. Further rape victims are
consistently criminalized in the Afghan justice system.

21. A manifestation of the government’s lack of commitment to condemning discrimination
and provision of remedial actions is the alarmingly high number of women and girls
convicted and imprisoned for moral crimes. Despite legal provisions, up to 50 percent of
all women in prisons in 2007 were convicted of moral crimes. There is enough
evidence to suggest that the situation in 2012 remains the same and that the majority of
these women are victims of rape, statutory rape, forced prostitution, or trafficking.
Additionally, due to the approach taken in investigating crimes committed by women, it
is likely that a significant number of women who are currently incarcerated for non-
moral crimes were acting in self-defence after what could have been years of systematic
abuse.

21 HRW. 2012. I had to run away. New York: HRW.
22 HRW. 2012. I had to run away.
22. The Supreme Court issued two guidance notes for judicial staff, one in 2010 and another in 2011, confirming the criminalisation of girls “running away from home” — if the ran away girl does not go directly to a home of a relative, which is often unsafe for the women. Such a ruling is contrary to the provisions of EVAW law and has no legal foundation in the criminal code of Afghanistan. Further after the Supreme Court ruling the Attorney General Office issued a directive to stop holding women on the charges of running away. This directive however did not result in women and girls who run away being less likely to be prosecuted, but rather that they are being prosecuted under different charges including that of “attempted zina.”

23. However, the official report fails to recognise a range of cultural and social norms that present barriers to women seeking government help. It is not uncommon for judges, prosecutors, and the police to refer women with sexual abuse complaints back to the informal dispute resolution bodies in their communities.

24. Family Response Units were created in police stations to facilitate women’s access to the police and ability to report instances of domestic violence and other forms of crimes against women. However, the majority of these units are largely staffed by male personnel who do not have adequate training to deal with female victims of violence. The Family Response Units remain obscure departments in the police, as their staff provide little if any outreach to the communities on services the units provide.

25. The police do not maintain a registry of cases reported by women and police responses to these reports. This makes it difficult to identify what proportion of cases have been addressed by the police compared to those that have been referred back to the informal dispute resolution bodies at the community level. Similarly, despite widespread allegations that the police do not investigate honour killings, the lack of an official registry of births and deaths makes it difficult to estimate the number of women who have been killed in this way or to investigate these allegations.

**Recommendations for Article 2**

26. Recommendations on condemnation of discrimination and provision of remedial actions:

26.1. The Afghan Supreme Court should replace its existing guidance on the criminalisation of “running away” with new guidance that clarifies that “running away” is not a crime and cannot be prosecuted under article 130 of the Constitution.

26.2. Women who are currently imprisoned having been convicted of “running away” should be released.

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23 HRW. 2012. I had to run away.
24 Interview with Heather Barr, HRW researcher, March 2012.
25 HRW. 2009. We have promises of the world. See also UNAMA. 2009. Silence is violence.
26.3. The attorney-general should ensure that all cases involving women, including suspected honour killings, are fully investigated for crimes falling under EVAW law or any other law that protects women against violence, and investigate whether women accused of crimes were acting in response to abuse or self-defence.

26.4. The minister of the interior should instruct all police that they are obliged to register and report all cases of women complaining of abuse or violence and to convey information pertaining to all such incidents to the prosecutor immediately.


**Article 3: Guarantee of Basic Human Rights and Fundamental Freedoms**

27. ANW acknowledges the efforts that the Government of Afghanistan has made in fulfilling its obligations under this convention. There have been major achievements in improving the situation of women since the ousting of the Taliban government. The official report outlines the laws and policy instruments developed to protect women’s rights and identifies some of the challenges that the government faces in attempting to fulfil its commitment to fully implement the convention. The report identifies the quotas and other measures that have enabled women to become part of political and public life, and outlines examples of occasions where women were able to participate in both internal affairs and represent Afghanistan at international conferences. The report identifies the institutions that have been created with the mandate of promoting women’s rights, including the Ministry of Women’s Affairs, the Afghanistan Independent Human Rights Commission, and a range of non-governmental and civil society organisations that aim to protect and promote women’s rights in Afghanistan. The report also identifies insecurity and a lack of resources as barriers to the fulfilment of the government’s commitments to implement the convention.

28. AWN is however concerned that there is a lack of genuine commitment by the government to protect women’s rights. The insecurity and the lack of human and financial resources should not be underestimated. However, this shadow report argues that the key challenge when attempting to secure existing achievements and improve the situation of women’s rights in Afghanistan is the overall lack of political will to enforce the legal and policy frameworks that have been developed.

29. This lack of political will and enforcement of existing laws is the crosscutting theme discussed in all of the articles upon which this report focuses. The perceived lack of qualified women is frequently used as an excuse for not implementing the existing policy framework. However, cases of harassment and intentional discrimination against women have consistently remained uninvestigated. For example, three years after signing EVAW law, few if any convictions have been obtained for the violations of women’s rights that have been reported and prosecuted, and some articles have been largely ignored in legal practice. The remainder of this report focuses on the details of such failures to execute and implement the legal and policy frameworks.
Article 6: Trafficking and Prostitution

30. The official report outlines legal provisions that define trafficking, rape, and statutory rape.27 These provisions ensure that the victims of trafficking, forced prostitution, rape, and statutory rape cannot be charged with zina. However, the official report fails to recognize a range of cultural and social norms that present barriers to women seeking government help when they are trafficked. Paragraph 119 of the official report acknowledges that there are no reliable statistics on prostitution and trafficking due to difficulties in collecting such data. It is also likely that such data is not available precisely because the government appears to re-victimize those individuals who come forward with reports of any form of sexual abuse.

31. The official report indicates that a High Commission on Anti-Kidnapping and Human Trafficking was created as mandated by the 2008 Anti-Human Trafficking and Abduction Law. The committee created a plan that aimed towards the elimination of trafficking; however, no convictions were made under the 2008 law and no progress reports on implementation of existing plan were submitted to the government.28

32. Prostitution is illegal in Afghanistan and is prosecuted under the articles of the penal code outlawing sex outside of marriage. As a result, female sex workers are exposed to more violence as they are not recognized as a vulnerable group and, as discussed in Article 2, are more likely to be punished and further victimized. AWN cannot stress enough the concerns about criminalization of women victims of trafficking and rape under running away, zina, or attempted zina charges (please refer to Articles 2 and 3 for further discussion).

Recommendations for Article 6

33. Recommendations on the trafficking and prostitution provisions of CEDAW:
33.1. Develop an awareness-raising campaign about issues of human trafficking, with a specific focus on anti-trafficking of women.
33.2. Implement existing plan on implementation of 2008 law and develop coherent reporting mechanisms.
33.3. Promote collaboration between communities and the police on implementation of 2008 Anti-Trafficking law.
33.4. Ensure that courts are using the 2008 law adequately and are not prosecuting victims of trafficking under their “running away” clauses as currently instructed by the Supreme Court, or as zina as is currently practices by the courts.

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Article 7: Political and public life

34. The official report acknowledges that, despite significant improvements in representation of women in public life, major challenges remain. While many women have participated in these processes, these participants represent only a fraction of the total population of women. A significant number of the women who are currently able to participate in public life have been promoted as part of the government’s commitment to include women through the use of positive discrimination.

35. While this commitment is commendable as a means of bringing about incremental changes in the thinking process of communities, significant barriers remain to the participation of average women in community life. Women continue to face limitations on their mobility and their ability to participate in public and community life. Although these challenges have been attributed to the overall insecurity that impedes women’s movements, AWN maintains that the core of the problem stems from old, hurtful stereotypes about women. The majority of women cannot leave their homes without permission from a male relative. While this practice is illegal in Afghanistan under the EVAW law, it is widespread. The exact extent of the problem is unknown because a lack of census results makes it difficult to describe the socio-economic characteristics of Afghan society. No convictions have been obtained under the EVAW law that forbids restricting the movement of women.

36. The Government of Afghanistan remains largely passive in developing programmes that will counteract such harmful attitudes towards women’s mobility and participation in public life. The government has not developed safe public spaces in which women can enjoy their right of assembly or developed systematic programmes that allow women to participate in public life. This situation could be remedied by increased investment in schools and training of female teachers and consultative processes that specifically solicit women’s input. Improved access to education and health-care for girls and women would also help expand the participation of women in public and community life.

37. A notable effort by the Government of Afghanistan is the National Solidarity Programme, which mandates that at least 60 percent of village populations participate in community development council elections, and encourages the formation of women’s councils to run in conjunction with or parallel to the main (men’s) council. There is currently no gendered evaluation of this program, which makes it difficult to determine the true extent of women’s participation in the governance of their own communities. There are also additional concerns about the long-term sustainability of this programme, which is currently donor-funded.

38. A particular concern is a lack of government’s actions in protection of women in public life. In 2012 alone a number of women active in political life have been assassinated. Two examples are the head and acting head of the Department of Women’s Affairs in Laghman province. Also of particular concern is government’s silence on girls’ schools
mass poisoning\textsuperscript{29} and even further attributions of these poisonings on mass hysteria,\textsuperscript{30} and the silence of the government on assassination of a vaccination volunteer\textsuperscript{31} in Kapisa province.

Women’s Involvement in Peace and Reconciliation Program

39. The official report also notes that the Government of Afghanistan is committed to involving women in the peace process. Such involvement is ensured by developing the National Action Plan under Security Council Resolution 1325 on Women, Peace and Security, and by including women in the High Peace Council, which oversees political negotiations with the Taliban, and the implementation of Afghanistan Peace and Reconciliation Program (APRP).

40. Despite this commitment, women remain marginal to the key negotiations and implementation of APRP. Negotiations with the Taliban and other armed opposition groups conducted by the government have largely excluded women from negotiations.\textsuperscript{32} This exclusion violates the provisions of the Security Council Resolution 1325. Where women are included, they are not provided with the resources they need to fulfil their duties.\textsuperscript{33} This includes a lack of mandates, inadequate financial resources to implement programmes and a lack of measures, including bodyguards, to ensure the physical protection of high-profile women. Most of the programmes mandate the involvement of women, yet remain blind to the fact that women require a different set of resources in order to participate effectively in the peace process at the national level. As a result, women’s participation in such programmes remains largely “window dressing.”\textsuperscript{34}

Recommendations for Article 7

41. Recommendations for the protection of women in public and political life:
41.1. Continue supporting NSP as a tool with which to engage more women in public life.
41.2. Provide physical protection to high-profile women.
41.3. Investigate and prosecute all cases in which women were threatened due to their high-profile status.

\textsuperscript{29} http://www.telegraph.co.uk/news/worldnews/asia/afghanistan/9314319/Pakistan-and-Taliban-acused-of-poisoning-Afghan-schoolchildren.html and also see http://www.cnn.co.uk/2012/08/02/world/meast/cnnheroes-jaan-afghan-school/index.html
\textsuperscript{31} http://www.guardian.co.uk/world/2012/dec/05/afghanistan-woman-health-volunteer-assassinated
\textsuperscript{34} A. Hozyainova and E. Saadat. 2012. Women in Peace Building: Facilitators or Pawns? APPRO: Kabul.
41.4. Adequately resource women who are assigned to participate in the peace and reconciliation programmes, including providing additional resources to ensure that their participation is meaningful.

41.5. Actively involve women in all negotiations including decision-making roles, not only as participants in the final conferences.

41.6. Develop a mechanism to counteract the challenges faced by women in participating in political and public life of the country.

**Article 8: Representation**

42. AWN acknowledges that there are women represented in the government, however not enough efforts have been made to ensure genuine progress of women. The official report describes the government’s commitment to ensuring that women are represented in the Ministry of Foreign Affairs, and also indicated that some women do currently serve as ministers or chairpersons of government commissions. Such appointments are important for ensuring that both genders are represented and have an opportunity to contribute to development of the country.

43. Despite the government’s formal commitment to ensuring that women’s rights are included in the development and political agenda of the country, there are concerns about the realisation of this commitment. Key conferences on politics and development often fail to prioritise women’s issues. The London Conference (2010) and the Second Bonn Conference (2011) had no female government representatives and did not discuss or address women’s issues. The Chicago (2012) NATO Conference included only one woman as part of the Afghan delegation. Only the Tokyo (2012) conference raised questions of women’s rights in Afghanistan. However, the resolution of the conference on women’s rights is weak.

44. Women were not involved in determining the conference agenda and the preparation for these conferences. Significant efforts were required on the part of women’s groups in order to be included into these conferences and to learn about the process of preparation.

**Recommendations for Article 8**

45. Recommendations on improving women’s representation at the international level:

45.1. To ensure the active participation of women in preparation for all international conferences on Afghanistan.

45.2. Ensure that women are provided with adequate resources to be able to effectively contribute to such programmes.

**Article 10: Education**
46. AWN would like to acknowledge that this article of CEDAW extends beyond primary education and requires governments to look at all aspects of educational system in Afghanistan. Given the challenges that the government of Afghanistan faces in all aspects of reconstruction, AWN wishes to comment only on the aspect of primary education for girls.

47. The Government of Afghanistan has acknowledged that access to education for girls remains a critical issue, despite the progress achieved to date. Girls and boys study in the same school only up to the grade three. Normally in the lower grades boys and girls could attend the same school but study in shifts. While girls represent roughly half of the potential school population, only 20 percent of government schools are dedicated girls, only 37 percent of all students are girls, and 37 percent of all teachers are females. These figures have remained largely stable over the last 10 years, which suggests that minimal efforts have been made to increase the number of girls enrolled in schools (see Table 1).

Table 1: Percentage of all girls enrolled in schools as a proportion of all grades.

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48. While the Government of Afghanistan has made significant progress in the education sector, a number of areas of concern remain. Only 20 percent of girls who enrol in primary school continue beyond grade five. The government has also acknowledged the underlying causes of girls’ high dropout rate and intrinsic barriers to their access to schools. While insecurity is a significant challenge, and is currently being addressed via various stabilisation and political tools, it is not the most fundamental barrier in ensuring girls’ access to education. Factors such as negative attitudes of society towards girls’ education, poor quality of education, a lack of female teachers, and a lack of facilities are at the core of preventing girls from accessing education.

49. An area that urgently requires government attention is changing communities’ negative attitudes towards girls’ education. An average of 35 percent of girls who dropped out of school cited cultural reasons, which was matched only by the distance to school. Under the Elimination of Violence against Women Law of 2009, it is illegal to prevent girls from accessing school. However, enrolment figures reveal that this practice is widespread, although there has not been a single conviction based on that article of the law, nor widespread campaign to counteract such practice.

50. In areas where education is available, its quality remains very low. Concerns for the quality of education were one of the reasons cited for children (both boys and girls)

dropping out of school. Quality of education was also cited as one of the reasons why families chose to send their children to work instead of school. It is imperative, therefore, that efforts to ensure the quality and relevance of teaching and learning in schools are sustained. The skills learned at school must enable students – both boys and girls – to go on and secure employment. Having a number of unemployed high school graduates only sends a signal that education has no economic value and is questionable in its ability to benefit family and communities.

51. The number of female teachers (like the number of female students) has remained largely constant at around 37 percent in the 10 years since the Taliban government’s ouster. This consistency suggests that the efforts to recruit and retain more female teachers to ensure girls access to education must be reviewed. An increase in the numbers of female teachers must be matched by an increase in their quality. AWN has acknowledged that attracting female teachers to rural areas is further challenged due to a lack of incentives for women to relocate to rural areas and a lack of support structures among rural communities to educate women to the required level. This challenge could be overcome with consistent programming that aimed to reduce negative attitudes towards the education of girls in these communities.

52. The official report states that the policies and the strategy of the Ministry of Education identify building of girls’ schools as a priority. However, there is currently no evidence to suggest that the government has indeed prioritised girls’ schools. As shown in paragraphs 46–51, existing numbers do not suggest that such prioritisation has been acted upon.

53. In 2009-2010 academic year only 19.9 percent of the students enrolled in institutes of higher education were female. Women face similar issues in accessing higher education as those to the issues of primary education. Both the government and public sentiment support women to gain higher education, because “women are half of society and they need to be educated to create balance; educated women will help to develop the country; education women make strong mothers and produce healthier children; women have the right to education; female nurses, doctors, and teachers are needed and only educated women can fulfill these needs; women have the same needs as men and this includes higher education; and pursuing education is required of both men and women within Islam (farz).” The key identified barriers were: “insecurity, financial issues, difficulties with the university entrance examination, the low quality of secondary education in the country, transportation concerns and issues, a lack of female professors, lack of hostels for girls and cultural issues.” Yet it appears that both the

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government of Afghanistan and the international donors are not willing and/or able to engage with the underlining factors that cause these issues to flourish.

Recommendations for Article 10

54. Recommendations for improving access to education
54.1. Increase in-service and pre-service teacher training for all teachers.
54.2. Develop and implement a set of additional incentives to increase retention of female teachers, especially in rural areas, including higher pay, housing and relocation allowances.
54.3. Continue development of community-based approaches and parent and community involvement in school management and child protection.
54.4. Continue supporting and developing non-formal education for school-age girls in areas where government schools have not been provided.
54.5. Develop and implement programmes that promote positive attitudes towards girls’ education.
54.6. Develop programmes that support women to prepare for entrance exams to the Universities, and that counteracts key barriers experienced by women.

Article 11: Employment

55. The official report outlines programmes designed to recruit and retain female workers and acknowledges that these programmes have faced significant implementation challenges, including consistent enforcement of guidance and protocols on employment and promotion of personnel. The report also acknowledges that monitoring of these programmes is inadequate and that female employees may continue to face discrimination.

56. Existing programmes that prioritise the recruitment of women into the civil service, including the Priority Reform Programme and Public Administration Reform, do not include reporting mechanisms to monitor compliance with the provisions of these programmes. Independent research shows that at least one-quarter of women in civil service have been denied promotion on the basis of their gender. However, the Government of Afghanistan does not have an independent investigative committee to monitor implementation of the civil code and ensure that the recruitment, employment and promotion of women in public institutions is free from discrimination.

57. The official report states that only 21 percent of civil servants are women, most of whom are hired at the lower levels. These numbers are justified by the overall lack of literacy among women. Most civil servants are concentrated in the urban settings, as the government has limited representation outside the provincial capitals. Urban settings have the highest concentration of schools, and therefore have much higher literacy rates

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among both males and females. Thus, low literacy rates are only part of the problem. The key barrier to recruitment of women into civil service remains the negative attitudes towards working women.

58. The government has made minimal efforts to counteract negative images of working women. While it is illegal to prevent women from working, this continues to be a widespread practice and no convictions have been obtained for such violations. There is anecdotal evidence of women being threatened and killed for working and reports of high-profile and working women (women’s rights advocates, successful business or government officials) receiving death threats. These threats are largely uninvestigated, even when reported to the police, and no additional measures have been taken to protect working women from such threats.

59. The government has not focused on creating an enabling environment for women to join the work force. Women have traditionally been responsible for caring for the house and providing child care. There are only 612 government-funded kindergartens in Afghanistan. The lack of day-care is one of the basic benefits that the government could offer to encourage greater women’s participation in the civil service.

60. An additional concern for working women is sexual harassment at work. Although there is little evidence about the extent of sexual harassment in the workplace, anecdotal evidence suggests that women are likely to be further victimised if they come forward with reports of sexual harassment. At the moment, there are no standard operational procedures that protect and investigate claims of sexual harassment.

61. It is more difficult to understand the conditions and situation of women in the private sector. Most women are employed in agricultural production, where it is not uncommon for them to be used as free or extremely low-cost labour. The extent to which women are involved in the private sector, and the conditions under which they work there, is largely unknown. There is no mandatory reporting on the staffing of private businesses, which makes it difficult to monitor women’s employment situation and ensure that businesses are not discriminating against women in the workplace.

**Recommendations for Article 11**

62. Recommendations for increasing employment of women

62.1. Set up an investigation committee under the Independent Administrative Report and Civil Service Commission (IARCSC) to monitor and investigate any irregularities in implementation of the law.

62.2. Develop anti-sexual harassment protocols, the implementation of which is monitored under IARCSC.

62.3. Develop better benefits structure for working women, including provision of day-care, to attract more educated women to the civil service.

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62.4. Implement programs that benefit women’s businesses and women friendly businesses including through preferential contracting with women owned companies and women friendly companies.

**Article 12: Health**

63.AWN would like to acknowledge that the requirements of CEDAW call for the government to report on a range of health indicators. However recognizing the situation of health care in Afghanistan this report is focusing primarily on the issues related to maternal health.

64. The Government of Afghanistan has acknowledged that, despite the progress that has been made, access to health care, especially for girls and women, remains an important issue. The government also acknowledges that the targets set for the improvements in the health sector cannot be achieved in the specified timeframes. There continues to be an alarmingly low number of trained obstetric nurses and doctors to provide ante and prenatal care. Some 65 percent of trained obstetric personnel are located in Kabul, which leaves rural women with limited access to obstetric care. The government estimates that 57–75 percent of women who give birth do so without professional medical supervision. Women are underrepresented in the ranks of government doctors (22 percent) and nurses and/or paramedical staff (18 percent), resulting in significant barriers to women accessing health care.

65. Only a few provincial capitals have maternal hospitals. Other clinics are understaffed and under-resourced and inaccessible in areas where ambulances are not available and public transportation is non-existent. These factors combine to negatively impact the health and longevity of mothers and children.

66. Negative attitudes of communities towards women seeking medical help from male health care providers remain the primary barrier preventing women from seeking medical help. While Afghan law has made it illegal to prevent women from accessing health care, it is common, especially in rural areas, for families to prevent women from seeking medical attention if medical personnel are male; however, no convictions have been obtained for this under the EVAW law. It is difficult to estimate the exact number of women who have died from preventable and curable illnesses as the government does not hold a record of such deaths.

67. State professionals provide little, if any, monitoring of medical care. Public state-funded medical care has been dogged by allegations of dishonesty and abuse, including government clinics that only work half-days, medical personnel referring government patients to patients to private clinics run by the same personnel who work in the government clinic, and allegations of free state-provided medicine being diverted to private pharmacies. To date, no public investigation of such allegations has been conducted.
68. There are have been allegations of neglect against medical professionals, including failure to protect women victims of domestic violence, or infliction of further abuse on women seeking medical help as the result of abuse. While reports on women’s rights in Afghanistan have provided anecdotal evidence for these problems, it is important for the government to conduct a public audit and to prosecute public health officers for mismanagement or misconduct in health care. No such audit on the part of the government has so far been conducted.

69. In addition to the question of maternal health, AWN is concerned about a lack of information to the question of mental health. The years of war have left the population of Afghanistan traumatized. However conversations about mental health are frowned upon and considered shameful to discuss not only among friends and family, but also professionals. The situation results in the fact that mental health issues in Afghanistan are highly under-researched. AWN is calling for the government of Afghanistan and international donors to start paying greater attention to psychosocial support services and mental health issues as a part of the overall health provision.

**Recommendations for Article 12**

70. Recommendations to improve women’s access to health care
70.1. Develop professional Afghan organisations with licensed medical providers, promote and improve standards of medical care provision and monitor delivery of health care.
70.2. Develop professional ethical guidelines to counteract abusive behaviour of medical staff towards patients.
70.3. Develop mechanisms to monitor supply and appropriate use of medical supplies and equipment for clinics.
70.4. Start integrating mental health issues as a part of basic package of health services.

**Article 15: Equality before the Law**

71. The official report outlines all the legal and policy frameworks that the Government of Afghanistan has developed since 2001. Although these frameworks are important stepping stones for outlining and defining the overall function and purpose of the state, they are not sufficient to ensure protection of women’s rights. As the present report has argued, the key challenges in elimination of all forms of discrimination against women in Afghanistan cannot be addressed by passing a law or developing a policy framework alone.

72. The key challenge is to implement such progressive laws in a deeply conservative country. Negative attitudes towards women’s mobility prevent them from accessing education, health care, and participation in public life. A lack of participatory development programmes that work with the existing structures only further alienate communities that pride themselves on their independence.
73. There are a number of programmes that Afghanistan could build on to help protect women’s rights. The National Solidarity Programme could, with some caveats, offer a framework for engaging women in decision making and community life. A number of departments in the ministries in Afghanistan have provided personal leadership and created an environment in which women can thrive in their work. There are examples where school principals are working closely with communities to ensure that girls can go to schools, thereby dispelling negative attitudes toward girls’ education. Although such examples are rare, they do exist, which shows the importance of leadership in setting up a framework for greater integration of women in public life, access to education and health care.

Recommendations for Article 15

74. Recommendations on ensuring equality before the law
74.1. Create commissions (which include the active input of women) to report regularly on the implementation of various policy and legal frameworks.
74.2. Appoint qualified people who are committed to and have a track record in promoting women’s rights (regardless of their gender) to key leadership positions.
74.3. Conduct monitor to assess effectiveness of current projects and programs that promote and ensure active participation of women, and propagate lessons learned across all government programs.
74.4. Ensure that all programs have adequate funding to ensure active participation of women.

Article 16: Equality in Family Matters

75. The key concern in protection of women in family life is their inability to access divorce even in cases where marriage undermines well-being of a woman. The official report outlines a number of legal provisions that guarantee women’s equality in family life. However, as with issues covered under other articles, the de facto situation remains far from equitable for women. AWN wishes to focus on the particular issue of women’s access to divorce and separation within existing legal boundaries.

76. Afghan law mandates that all marriages be registered. However, the registration rate of marriages is low. For example, in Kabul in 2012, only 800 marriages were registered; in a city estimated to have over 5 million people, this is a negligible number of registered marriages. This low number is partly due to the fact that the actual registration process is too lengthy and offers no immediately visible benefits to the couple, but places unnecessary financial and logistical burdens on couples. These issues are very similar to those of registering births and deaths. The Afghan Government does not maintain an

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47 http://www.bbc.co.uk/news/world-asia-20736342
adequate system of civil status registration and does not provide facilitates (such as a registrar office or a court) in enough central locations for the general population to access such services.

77. Afghan family law allows women to divorce their husbands if the husband causes the wife suffering, if he is absent for a long time, if he cannot or will not pay for her living costs, if he cannot bear children, or if he has a mental illness. Divorces can be granted by the family court. However, since the registration of marriages is not common, women seeking divorce must first prove that they are married, and then produce a burdensome level of proof that their request for divorce is justified. Given the lack of women’s access to justice and their overall inability to report violence cases to the police (as discussed in Articles 2 and 3), women who are forced to demand separation as a result of continued family violence and other problems face substantial obstacles. 49

78. Existing law and cultural traditions afford men much greater rights in divorce cases. A man can divorce without gaining the consent of his wife, and no registration of divorces are enforced, exposing women to more accusations of zina if their (ex-)husbands change their minds.

79. Threats to divorce have been reported as a form of violence against women precisely because women are left so unprotected in family life.50 Similarly, women have been systematically denied divorce/separation in cases where they have requested it as decisions to grant divorce normally rest with community councils and the state exercises little presence in the matters. 51 Many women who are left with no other resources many women resort to suicide. 52

80. The plight of women seeking divorce in Afghanistan has come under increased public scrutiny recently. In December 2012, a judge was caught on tape asking for a bribe or marriage in exchange for granting a legal divorce to a woman.53 Even before this, the media had highlighted the difficulties that women face when trying to get a divorce or separation, as it is formally known whether such proceedings were initiated on the request of the woman. 54

81. Finally, the courts in Afghanistan do not recognize that engagement is not the same as marriage. It is not uncommon for girls to be charged with running away and zina if they elope with someone other than their existing finance. Although the civil code of Afghanistan recognizes that engagement is not the same as marriage and allows an

53 http://www.bbc.co.uk/news/world-asia-20150996
54 http://www.irinnews.org/Report/95621/AFGHANISTAN-Amina-I-was-very-young-when-I-got-married-and-my-life-was-very-bad
engagement to break up for any reason, it is culturally unacceptable and places a major stigma on women who decide to break their engagement.

**Recommendations for Article 16**

82. Recommendations on ensuring family equality
82.1. Enforce mandatory registration of marriages.
82.2. Educate judiciary about the articles of the law allowing to break engagement without penalty.
82.3. Introduce and enforce mandatory registration of divorces.
Afghan Women’s Network

United Nations Entity for Gender Equality and the Empowerment of Women