

ENDING VIOLENCE AGAINST WOMEN AND GIRLS IN AFGHANISTAN



Across the world, violence against women and girls remains one of the most serious — and the most tolerated — human rights violations; both a cause and a consequence of gender inequality and discrimination. It is never acceptable and it can be prevented.

Violence impacts women physically, psychologically and economically. It deprives women of their free will, decision-making power, opportunities including education and employment, and access to, and control over, resources. It renders women dependent and disempowered, leaving them in a subordinate position within the family and the community.

Discriminatory social and cultural norms and mores governing society as a whole allow violence against women and girls to flourish through either silent consent, or open encouragement. It is a structural issue, deeply rooted in patriarchy, and thus a range of services and programmes need to be employed in parallel to address it. Survivors need access to effective support services and confidence in the justice system; programmes must be in place to change behaviour and attitudes in order to prevent violence.

Violence also impedes development gains, as it undermines physical and mental health, prevents women from assuming leadership and decision-making roles, and impacts the economy through increased health expenditure and reduced productivity.

There is a lack of credible and representative data on the prevalence, attitudes to, and shape of violence against women in Afghanistan, the collection of which is hindered by the embedded traditionalism and widespread discriminatory practices in many parts of the country.

Change is occurring at multiple levels, but it is slow and uneven, reflecting the complex relationship between culture, socioreligious factors and politics playing out across the country.

KEY MESSAGES

- Violence against women is a complex problem that requires a range of services and programmes employed in parallel.
- Survivors need protection against retribution and undue pressure from their family/community. Survivors must have access to legal remedies such as protection restraining and expulsion orders that can be effectively and immediately enforced.
- Removing both the perpetrator's ability to obtain forgiveness and the defence of 'honour' as a mitigating factor would strengthen the rule of law and facilitate prosecution.
- Equal participation of women and girls in all spheres of public and private life is essential and participation of men and boys is critical.
- Women and girls need access to timely and rights-based justice through a human rights-based legal framework, structures and systems.
- Violence against women is a deep-seated structural issue and therefore prevention strategies must: include socio-structural support such as education, employment and housing; address intersectional issues and risk factors that perpetuate violence; formulate and implement laws that address specific forms of violence against women and its underlying causes.

87%

of women in Afghanistan experience some kind of violence during their lifetime. 62% reported experiencing multiple forms of violence.¹

59%

of women report being in a forced marriage.²

57%

of brides in Afghanistan are under the age of 16. Often girls are forced into marriages at an early age to settle financial and political debts.³

THE SITUATION FOR WOMEN IN AFGHANISTAN

Years of war and insecurity have deepened the culture of violence in Afghanistan, and it continues to be a source of deep concern, despite positive legislative and institutional developments.

Women and girls are exposed to violence in public and private spaces, girls are prevented from going to school, and women have little access to healthcare such as polio immunisations. There has also been a deepening in women's isolation, creating barriers for women seeking help, and leading to an increase in substance abuse. Women remain mostly excluded from the peace process. Finally, human rights defenders and organisations providing support services to women survivors have become targets of violence and harassment.

Four main factors underlie women's vulnerability and the perpetuation of violence against women in Afghanistan: the traditional gender order that values men above women in all areas; the erosion of protective social mechanisms; the weak rule of law; poverty and insecurity.

A staggering 87% of Afghan women experience violence, mostly at the hands of the family members and people who claim to love them the most. This violence includes: linked to early and forced marriages – including baad (the exchange of girls for dispute resolution) and baadal (exchange marriages); so-called honour crimes; rapes and killings of women; sexual harassment in the workplace and in public spaces; and self-immolation and self-harm linked to experiences of violence.

Social taboos and sanctions for certain crimes of morality – such as suspected romantic or sexual relationships outside marriage ('zina') – have not only led to an overall culture of silence around violence against women, but also increased impunity for perpetrator. They have also led to secondary violence, such as virginity tests to rebut accusations of zina.

Traditional justice systems often perpetuate the current social order and work against women's rights, undermining formal legal reform. Instead of finding support from police, judicial institutions, and government officials, women who try to flee abusive situations often face indifference or criminal sanctions for committing moral crimes.

Recent cases including the public lynching of Farkhunda Malikzada, the abuse of Reza Gul and the gang rape of four women in Paghman district, prompted local and international outrage, however, it didn't lead to legal reform and proper judicial processes. The lack of proper access to justice and weak law enforcement in these

TAKING ACTION AND PROVIDING SUPPORT ON THE GROUND

Karimullah* has spent 20 years raising awareness about the injustices women suffer and was involved in setting up a committee to look into cases of violence against women. Its 14 members followed close to 400 cases a year and the committee gathered resources to represent survivors throughout their journey, including at police stations and court.

One example of the committee's activities referred to a mullah who intimidated a young woman to sleep with him, or else she would be forced to marry. The committee not only encouraged the girl to testify before the court – something that took a lot of courage – but also provided her with the support to be able to do so. The Mullah was brought to the court of justice.

**Name and some details have been changed.*



THE SITUATION FOR WOMEN IN AFGHANISTAN

Despite the enormity of the problem, change is occurring in Afghanistan; the government is advancing the national action plan, legislation and policies on ending violence against women.

- The 2004 Afghan Constitution established human rights and human dignity for all and guarantees the creation of a society free of discrimination and violence. Elimination of violence against women and girls in public and private spheres is a critical target both, the constitution and international commitments.
- The Penal Code and the proposed Family Law are also being reviewed, the outcomes of which for women are yet uncertain.
- The establishment of the Prosecution Office on Elimination of Violence against Women, the High Commission on Elimination of Violence against Women, the Commission on Elimination of Sexual Abuse of Children and Women, Family Cases Units in police stations, the Ministry of Women's Affairs, the Afghanistan Independent Human Rights Commission.
- The new Sustainable Development Goals have re-emphasised eliminating violence against women as a lynchpin of sustainable development, providing a historic opportunity to implement a systematic approach to prevent and respond to violence against women and girls in Afghanistan.

Elimination of Violence against Women Law (2009)

The Elimination of Violence against Women (EVAW) law was passed by presidential decree in 2009, alongside revisions to the Criminal Procedure Code. It criminalises 22 forms of violence against women, including rape, child marriage, forced marriage, and forced immolation. It has, however, yet to have been ratified by parliament, something that has undermined its implementation.

Judicial officials have, however, begun applying the law's provisions. In the first year of its implementation, from 21 March 2010 to 21 March 2011, cases were opened in 26% of the 2,299 incidents of violence against women reported to the Human Rights Commission. Indictments were filed in 7% of the cases and judgments delivered in 4%. However, the positive trend of increased use in reporting and registration is not leading to a similar increase in the use of the EVAW Law to resolve cases by prosecutors and courts.

Implementation remains a challenge, with no standardised procedures and appropriate mechanisms for operationalising the laws and policies; a lack of budget has led to poor physical facilities and services.

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Afghanistan's ranking in the global Gender Inequality Index. This is out of a total of 155 countries.⁴

26%

of the 2,299 incidents of violence against women reported to the Human Rights Commission in the year ended 21 March 2011 had cases opened.⁵

74%

of women reported experiencing psychological violence, mostly from their husbands.⁶



RECOMMENDATIONS

Protection

- It is vital to provide survivors with protection against retribution and undue pressure from their family/ community. Survivors must have access to legal remedies such as protection, restraining and expulsion orders that can be effectively and immediately enforced.
- Shelters, housing and medium to long-term measures are needed to ensure survivors are able to re-build their lives without violence. Sensitivity and confidentiality guarantees will encourage survivors to seek assistance.
- Effective reparations will not only ensure survivors' fears and needs are met, but also enhance their confidence in the legislative and judicial process.
- Protection of human rights defenders and service providers is crucial and engenders confidence in the rule of law.

Prevention

Violence against women is a deep seated structural issue and therefore prevention strategies must:

- include socio-structural support such as education, employment and housing;
- address intersectional issues and risk factors that perpetuate violence, such as gender inequality, stereotypes and cultural perceptions of women, poverty, women's education and economic independence;
- formulate and implement laws that not only address

specific forms of violence against women but also its underlying causes.

- Public awareness-raising and education on the legislative framework, as well as training of personnel, are crucial both as preventive strategies and for effective implementation. The availability of services must also be publicised while maintaining confidentiality to protect survivors from harassment.

Procedure

- The process for reporting and evidence collection must not depend solely on survivors' involvement. The State cannot defer to the survivor on the question of whether to prosecute the perpetrator. The State bears the ultimate obligation and accountability to eliminate violence against women and therefore must make that decision.
- Limiting legal privilege to only the accused and spouses would result in more effective evidence gathering and avoids placing an unreasonable burden on relatives for the prosecution. It also protects relatives from repercussions for 'assisting in the investigation and prosecution' as the law can compel relatives to provide evidence and testify.
- Mediation should defer to the law and be applicable only in non-criminal cases. Removing both the perpetrator's ability to obtain forgiveness from the survivor's family and the defence of 'honour' as a mitigating circumstance, premised as it is on a victim or survivor's transgressions of social norms, would strengthen the rule of law and facilitate prosecution of perpetrators.



FOOTNOTES

^{1-3, 5, 6} Governance and Social Development Resource Centre, *Violence against women and girls in Afghanistan*, 2013

⁴ <http://hdr.undp.org/en/countries/profiles/AFG>

CAPTIONS

Page 1: International Women's Day celebrations in Laghman City. Credit: UNAMA/ Fardin Waezi.

Page 2: Credit: UNAMA/Fraidoon Poya.

Page 3: A woman in Bamayin province. Credit: UNAMA/Eric Kanalstein.

Page 4: Women in Herat. Credit: UNAMA/Eric Kanalstein.

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