



## Journal of International Women's Studies

Volume 11

Issue 1 *Gender and Islam in Asia*

Article 10

Nov-2009

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### Recommended Citation

Farhoumand-Sims, Cheshmak (2009). CEDAW and Afghanistan. *Journal of International Women's Studies*, 11(1), 136-156.  
Available at: <http://vc.bridgew.edu/jiws/vol11/iss1/10>

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## CEDAW and Afghanistan

Cheshmak Farhoumand-Sims<sup>1</sup>

### Abstract

This paper considers the relevance and applicability of CEDAW in Afghanistan and uses personal interviews with key Afghan and international actors to reflect on the context and framework for understanding the challenges and opportunities that exist for the implementation of CEDAW in contemporary Afghanistan. Starting with an introduction to CEDAW, it traces the Convention's history in Afghanistan leading to its ratification without reservations in 2003 in order to argue that the application of CEDAW in Afghanistan is threatened by conservative forces who perceive it as an element of international efforts to 'westernize' Afghanistan and undermine its unique cultural and religious heritage, particularly vis-à-vis traditional gender roles and sensitive issues around women's honour and chastity. The paper asserts that closer collaboration with Afghan activists and supporting grassroots efforts to promote women's rights within a more culturally and religiously sensitive manner is key to succeeding in advancing women's rights in general and encouraging compliance with CEDAW in particular.

*Key words:* Women's Human Rights, Afghanistan, CEDAW

### International Human Rights

The international human rights regime was born in the 1940's as a response to the horrific violations of human rights prior and during the Second World War. The tragedies of the 1930's and 1940's served as an impetus for the founding and institutionalization of a global human rights regime dedicated to the promotion and protection of human rights upon which the UN as an organization immediately embarked on. The Charter of the United Nations (1945) and the Universal Declaration of Human Rights (1948) (UDHR) have served as the foundations of the human rights regime and have inspired a large number of treaties, conventions, and customary laws addressing a wide range of human rights issues and topics. One of the most important and well-known instruments is the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Throughout much of its history, the United Nations as an institution has promoted gender equality and women's human rights. By the end of the International Decade on

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Women in 1985, over twenty international legal instruments pertaining to the treatment of women had been adopted by the world organization, each reflecting “international agreement on particular problems related to the status of women and, as such, providing a unique insight into the state of the international consensus on the role of women in society” (Kaufman Hevener, 1986, p. 2). And as the human rights regime matures, “women’s rights increasingly constitute a central feature of the world human rights regime. At the international level, the United Nations system is replete with programs, specialized agencies, regional commissions, and international instruments aimed at addressing a plethora of women’s issues” (Min Wotipka & Ramirez, 2003, p. 3). The UN Charter and the UDHR both include references to women, but the language and intent do not go far enough to promote and protect women’s rights and to ensure their presence and full participation nationally and internationally, and make the link between gender equality and sustainable peace and development.<sup>2</sup> As a result, dominant definitions of human rights and the mechanisms to enforce them have largely excluded women’s experiences and their under-representation (Bunch, 1995, p. 13). Even in the early days of the UN, there was recognition that women’s issues needed special attention and discussion, resulting in the establishment of the Commission on the Status of Women in 1946.<sup>3</sup> It was the important work of this UN body that eventually led to the drafting and adoption of CEDAW.

### **An Introduction to the Women’s Convention**

Efforts to develop an international convention focused specifically on women’s rights began in 1963 when the CSW was mandated to prepare a draft declaration that would “combine in a single instrument, international standards articulating the equal rights of men and women and a committee from the CSW was appointed to begin this important work in 1965.”<sup>4</sup> The outcome document, the *Declaration on the Elimination of Discrimination Against Women* was adopted by the General Assembly on November 7, 1965 and be served as the blue print for CEDAW which came into force in 1981. CEDAW represents a “...culmination of more than thirty years of work by the Commission on the Status of Women...” whose work was “instrumental in bringing to light all the areas in which women are denied equality with men”<sup>5</sup> and sets out internationally accepted principles of equality for women and men and prohibits any

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<sup>2</sup> Subsequent documents such as the Vienna Declaration and the Beijing Platform for Action built on the language and content of the two earlier documents in an effort to highlight and emphasize women’s critical role in peace and development efforts. The preamble of the United Nations Charter reaffirms “faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women” and reiterates this commitment in Article 1 where it outlines the purposes of the United Nations and includes “promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion ...” (UN Charter 1945). The Universal Declaration of Human Rights, the primary UN human rights document reaffirms this commitment to equality for all, including specific reference to sex in article 2: “Everyone is entitled to all the rights and freedoms set forth in this Declaration without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (UDHR 1948).

<sup>3</sup> Initially, the advocacy led to the establishment of a subcommission on women’s issues at the Commission on Human Rights in 1946, but increased pressure led to the transition of this subcommission to a separate body known as the Commission on the Status of Women (CSW).

<sup>4</sup> “A Short History of the CEDAW Convention.” <http://www.un.org/womenwatch/daw/cedaw/history.htm>

<sup>5</sup> [gopher://gopher.un.org:70/00/ga/cedaw/Convention](http://gopher://gopher.un.org:70/00/ga/cedaw/Convention) , p. 2

restriction or exclusion of women solely on the basis of sex or marital status” (Tinker, 1981, p. 3). The Convention was an important progress in the global effort to advance women’s rights and prevent gender-based violations of these rights and serves as the most critical and comprehensive document created to address the advancement of women and fulfillment of their human rights.

CEDAW not only defines equality; it discusses a wide range of topics such as nationality, freedom of religion, movement, opinion, and association, sexual and reproductive rights, rights to education, healthcare and access to political and public rights.<sup>6</sup> With Article 2, it places an affirmative obligation on States to advance equality of the sexes through national constitutions or through legislation and “requires states to establish equal protection for women by modifying or abolishing existing laws, practices and customs which constitute discrimination against women” (Minor, 1994, p.139). Furthermore, the Convention provides an agenda for action for those States that are party to the Convention. Often referred to as the Women’s Convention and International Bill of Rights for Women, the Convention’s preamble and thirty articles address civil rights, the legal status of women and for the first time in Treaty history, considers issues relating to human reproduction and the impact of culture on gender relations.<sup>7</sup> Kaufman Hevener states that, “...new corrective ground was broken in CEDAW on issues not addressed in previous conventions” (1986, p. 7). The Convention highlights the crucial role of access to justice and legal rights to curtail discrimination and violations of women’s rights. It comments on previously undiscussed issues such as the need to transform power relations between men and women within families, communities, the market and the state; and it boldly discards the distinction between the private and the public spheres by seeking to end human rights violations in the home. The Convention also discusses the situation of rural women, points to the need for special measures to promote gender equality and refers to the importance of removing cultural barriers to gender equality. One of the progressive aspects of the Convention is its recognition of social, customary and cultural practices and stereotyped sex roles that are detrimental to women’s achievement of full equality and inclusion of stipulations for States Parties to the Convention to actively work to reverse these attitudes and practices. While other human rights instruments and treaties promote and protect human rights without discrimination, the unique experience of women and the gendered ways in which their rights are undermined required special mechanisms which the CEDAW convention and its optional protocol provide. The challenge with CEDAW, as with other treaties, is to translate what is on paper to tangible changes that transform women’s lives with an eradication of human rights violations aimed at them.

While CEDAW has the most number of signatories, it also has the highest number of reservations imposed by States Parties to the Convention. This is a major issue challenging the efficacy of CEDAW and weakening it as a human rights regime. In fact, according to Schopp-Schilling, “[t]hese reservations are one of the reasons that the right to non-discrimination on the ground of sex still has not reached the status of customary international law, in contrast with the right to non-discrimination on the ground of race”

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<sup>6</sup> The Convention is very careful in addressing this issue and refers only to a woman’s equal right “to decide freely and responsibly on the number and spacing of their children and to have access to information, education and means to enable them to exercise these rights.” (CEDAW article 16:1e)

<sup>7</sup> [www.un.org/womenwatch/daw/CEDAW/index.html](http://www.un.org/womenwatch/daw/CEDAW/index.html)

(Minor, 2007, p. 213). There are a variety of explanations given by States Parties to justify their reservations. Generally, states will argue that the reservation is an expression of incompatibility between the Convention and national priorities or laws. Interestingly, some States Parties such as the United Kingdom enter reservations to argue that their own national laws surpass CEDAW protections and they therefore do not wish to be bound by the Convention's limits. But the vast majority of reservations are entered by states who argue that elements of the Convention are in contravention of cultural practices and religious laws.<sup>8</sup> For example, many Muslim states such as Bangladesh, Egypt, Morocco, among others have "made reservations to allow non-compliance whenever the Convention conflicts with the Islamic Shariah" making the reservation "incompatible with requirements to abolish discriminatory laws, customs and practices" (Del Prado, 1995, p. 70). The Convention's monitoring mechanisms are designed to encourage compliance but given the treaty body system, there are no enforcement mechanisms to ensure that compliance or sanction noncompliance.

The CEDAW Committee has attempted to address the reservation in several ways. They raise their dismay at meetings with delegations presenting their country reports, and they have commented on the reservation issue in two general recommendations.<sup>9</sup> In meeting with States Parties, they "ask penetrating questions about their reservations in order to determine the extent to which the goals of the Convention are impeded due to their reservations" and "they encourage States Parties to review and amend their laws and policies in compliance with the Convention in order to facilitate withdrawal of reservations" (Riddle, 2002, p. 617). The chairpersons for the treaty bodies suggested that,

Treaty bodies should systematically review reservations made when considering a report and include in the list of questions to be addressed to reporting Governments a question as to whether a given reservation was still necessary and whether a State party would consider withdrawing a reservation that might be considered by the treaty body concerned as being compatible with the object and purpose of the treaty (Riddle, 2002, p. 618).

This comment and the ongoing concern of the Committee members about the reservations led to amended guidelines requiring states with substantive reservations to provide information about the status of their reservations in their country reports (Riddle, 2002, p. 618). But in the final analysis, the current reservation system "has proven inadequate in dealing with the competing values of universality and integrity" (Riddle, 2002, p. 623). Despite the negative impact that reservations have on treaty bodies, my interviews with serving members of the CEDAW committee in 2001 revealed that while the Committee is disappointed with reservations to the Convention, they would rather that states ratify the Convention so that the Committee can encourage and work with

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<sup>8</sup> This holds true for all Muslim States Parties to the Convention except Turkey who has removed all its reservations, and Afghanistan who has ratified CEDAW without reservations in a highly unusual and questionable manner which will be discussed in the next chapter.

<sup>9</sup> CEDAW report for the 18<sup>th</sup> and 19<sup>th</sup> session, please see <http://www.un.org/womenwatch/daw/cedaw/reports/18report.pdf>

them toward full compliance, than to have states not ratify because they could not express dissent.<sup>10</sup>

Despite these challenges CEDAW has proven to be a valuable and powerful tool in advancing women's rights.<sup>11</sup> While compliance has been slow and laborious, many States Parties strive to live up to their obligations to CEDAW by incorporating its articles into their laws and practices. CEDAW Committee member Dr. Schopp Schilling notes that, "The work of the Committee, through its constructive dialogue with States Parties, its concluding comments and its close cooperation with international and national NGOs and UN specialized agencies, programmes and funds – in particular, with the United Nations Development Fund for Women (UNIFEM) – has had a tangible impact on the improvement of women's exercise of their human rights in many countries" (Schopp Schilling, 2007, p. 217). But the Convention is not without its critics who point to a number of weaknesses that impede its efficacy to promote and protect women's rights on the global scene.

One of the pervasive weaknesses of the Convention is that it does not mention violence against women in the private sphere of home and work or in the public sphere during times of conflict. Around the world, domestic violence constitutes one of the most pervasive forms of violence against women. The Committee has tried to respond to the absence of discussion about domestic violence with general recommendations which highlight the fact that although not discussed directly in the Convention, violence against women constitutes a violation of the Convention's laws in principle and spirit.<sup>12</sup> These general recommendations followed extensive study of violence against women in order to consider how it could fit into the framework of the Convention (Evatt, 2002, p. 547). Furthermore, other UN organs have worked to bring attention to this issue; the CSW's efforts for example has led to the adoption of General Assembly Resolution 48/104, a Declaration on the Elimination of Violence Against Women on December 20, 1993.<sup>13</sup>

A second important weakness is the Convention's silence on violence against women in conflict and post conflict contexts where human rights violations generally intensify.<sup>14</sup> This is highly problematic given the rise of gendered and institutionalized violence against women in the form of ethnic cleansing through systematic rape, forced pregnancies, mutilation etc. (Del Prado, 1995, p. 69). The absence of special and specific reference to violence against women in times of conflict leaves them more vulnerable to impunity and the actions of state and non-state actors in times of war. It has also weakened the Convention's efficacy in preventing violations of women's human rights in conflict and post conflict zones. International women's advocacy helped to the adoption of the United Nations Security Council Resolution 1325 on women, peace and security (hereafter UNSCR 1325 or SCR 1325) in October 2001 formally acknowledged the gendered dimensions of war and the ways in which men and women experience war and violence differently, and provided women another powerful tool for the protection

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<sup>10</sup> This point was raised in interviews UN officials in July 2001 at UN Headquarters, NY.

<sup>11</sup> For an interesting overview of ways in which women around the world are using CEDAW to demand their rights, please see IWRAW's *The Women's Watch*, vol. 11 no. 3 & 4, June 1998.

<sup>12</sup> Please see general recommendations # 12 and # 19 available at <http://www.un.org/womenwatch/daw/cedaw/recommendations/index.html>

<sup>13</sup> For the text of the Declaration, please see <http://www.un.org/documents/ga/res/48/a48r104.htm>

<sup>14</sup> Except article 6 which addresses exploitation of women through prostitution and state responsibilities to eradicate this.

and promotion of women's rights.<sup>15</sup> The Resolution draws upon human rights principles articulated in the UDHR and CEDAW and fills a gap to address specific issues relating to women, peace and conflict.<sup>16</sup> The resolution argues that "women and girls are particularly affected by the consequences of armed conflict;" and that women's participation at all levels of decision making is crucial to sustainable peace and reconciliation. Hence, SCR 1325 calls for the full and equal participation of women in conflict prevention, peace processes and peacebuilding; recognizes the differing impact of war on men and women and calls for the protection of women in times of conflict; mandates the provision of gender-sensitive training for personnel involved in peace support operations; and calls on the UN to increase its efforts at gender mainstreaming in all UN organs and programmes. SCR1325 represents a culmination of years of advocacy by local and international women's NGOs fighting for recognition of the important connection between the impact of armed violence on women and the role of women in peacebuilding. Both CEDAW and UNSCR 1325 have important implications for women's rights advocacy in Afghanistan.

### **CEDAW and The Afghan Women's Rights Agenda**

In the aftermath of the fall of the Taliban, efforts to ensure that women's rights were firmly entrenched in the critical early stages of "nation-building" in Afghanistan, as international actors actively sought to advance two important international United Nations documents that ostensibly would protect and promote women's rights and participation in peace-building and reconstruction: the United Nations International Convention on the Elimination of All Forms of Discrimination Against Women and the United Nations Security Council Resolution 1325 on Women, Peace and Security. Although not perfect, and certainly fraught with limitations and controversy, these documents are nevertheless considered instrumental in advancing and guaranteeing women's rights, particularly in the formative period of social, political and economic "state building" in Afghanistan. The advocacy efforts of international actors and of Afghan women themselves enabled both CEDAW and Resolution 1325 to bear some influence over the drafting of Afghanistan's new constitution and made a matter of priority by the Afghan Interim Government of Hamed Karzai (Brunet & Solon-Helal 2003; Oates & Solon Helal 2004).<sup>17</sup>

Afghanistan's history of engagement with CEDAW began on August 14, 1980 when the government of Babrak Karmal signed the Convention following the coup d'etat that removed the King and brought about Communist rule. By signing, a salutary endorsement was made whereby Afghanistan agreed to not undermine the spirit of the Convention while it carried out an internal review to determine whether or not to ratify.<sup>18</sup> Over the years of conflict and unrest, however, advancing the Convention was not a matter of priority, and it only regained attention in the months following the fall of the

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<sup>15</sup> For text of the UNSCR 1325 please see <http://www.ish.si/UN%20Resolution%201325.pdf> and for information about the UNSCR 1325, please see <http://www.peacewomen.org/wpsindex.html>

<sup>16</sup> For more information about the UNSCR 1325 please see [www.peacewomen.org](http://www.peacewomen.org)

<sup>17</sup> Because the US and its allies had used women's rights so extensively as one of the justifications for the attacks following 9/11, pressure was exerted on President Karzai and his Interim Government to include women's rights as a policy priority. Personal observations of the activities of UNIFEM while I was in Afghanistan in the spring of 2003.

<sup>18</sup> Basic Information about CEDAW and CEDAW in Afghanistan  
<http://www.stasek.com/alittlehelp/programs/cedaw.pdf>

Taliban and the arrival of the international community in the country. Almost immediately, UNIFEM and grassroots women's organizations began to provide training workshops on CEDAW and there was a growing interest among the Afghan women's movement to learn about the Convention and consider ways it could be used as an advocacy tool for women's rights in Afghanistan. In addition to this growing interest within civil society, the Interim Afghan Government wanted to demonstrate its commitment to gender equality in the face of intense international pressure to improve the situation of women in that country. It was within this climate that the Afghan Interim Government unexpectedly undertook measures to accede to the Convention, and formally ratify the Convention on March 5, 2003.

Afghanistan's ratification of CEDAW was an important milestone for women's rights not only in Afghanistan, but across the Muslim world. Afghanistan made history by becoming the first Muslim state to ratify CEDAW without reservations.<sup>19</sup> By ratifying the Convention, Afghanistan committed itself to fulfilling the objectives of the Convention by, for example, incorporating the principles of equality of men and women in their legal system, abolishing and replacing all discriminatory laws, establishing tribunals and other public institutions to protect women against discrimination, and eliminating all acts of discrimination against women by persons, organizations, and enterprises.<sup>20</sup>

The timing of Afghanistan's ratification of CEDAW was also especially significant. It preceded the drafting and adoption of the new Afghan Constitution in January 2004, thereby affording women's rights activists the opportunity to mobilize and advocate for the inclusion of important women's rights guarantees within the new Afghan Constitution, and the transnational feminist movement alongside national actors within the Afghan women's movement quickly organized to lend support and help embed CEDAW commitments within the new constitution. In the months leading up to the Constitutional Loya Jirga, much of their advocacy centered on demanding that international human rights principles pertaining to women, such as equality before the law, as well as advances in political rights be included in the Constitution. CEDAW advocacy did not come without its opponents, and there was a clear campaign to discredit the Convention as 'Western,' 'un-Islamic,' and incompatible with Afghan culture and religion. This was evident in the training sessions colleagues and I led in the Spring of 2003 in Kabul and Jalalabad, when questions from the participants pointed to incorrect information about the Convention being spread by Imams in communities and the media.

Despite great resistance by conservative elements before and during the Constitutional Loya Jirga (CLJ) however, international and local feminists achieved some successes that were celebrated by women in Afghanistan and their supporters around the world. Foremost at the time was the inclusion of the equality clause in the newly drafted Afghan Constitution, which in principle guaranteed men and women equal rights before the law. This was a major achievement, particularly in a Muslim state where according to strict interpretations of Sharia, men and women do not enjoy equal standing in the legal system. CEDAW chairperson, Ferida Acar noted:

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<sup>19</sup>Turkey is the only Muslim country that has removed all reservations to the Convention.

<sup>20</sup>[www.un.org/women\\_watch/daw/cedaw/index.html](http://www.un.org/women_watch/daw/cedaw/index.html)



The newly approved Constitution explicitly guarantees that men and women have equal rights and duties before the law. This is a significant victory for women and girls in Afghanistan who barely three years ago were completely excluded from all spheres of life and faced systematic violations of their human rights on a daily basis. Gender equality is a crucial factor not only in achieving sustainable peace but also in ensuring respect for human rights, democracy and the rule of law in all societies. Enshrining the principle of gender equality within the Constitution is a vital starting point for the transformation and reconstruction of Afghanistan. It legitimizes the important role played by women and girls in Afghanistan in reshaping their future and in rebuilding their country.<sup>21</sup>

Despite these great legal achievements both nationally (newly drafted Constitution) and internationally (CEDAW ratification), Afghan women activists were guardedly optimistic. While they celebrated the explicit inclusion of gender equality and other positive developments within the Constitution, they remained cautious “due to other constitutional provisions that proclaim Afghanistan an ‘Islamic Republic’ and declare that ‘the beliefs and provisions of the sacred religion of Islam’ have precedence over any law in Afghanistan” (Oates & Solon-Helal 2004). This provision places interpretation of Sharia above constitutional guarantees which undermine the strength of the equality clause as well as other key achievements in the Constitution. As activists anticipated, this apparent conflict has presented a significant challenge and obstacle to the advancement of women, and laid the foundation for weakening of women’s rights efforts in Afghanistan.

Women’s rights activists in Afghanistan and their partners abroad responded by seeking to strengthen the women’s movement in Afghanistan. They initiated awareness campaigns and sought to generate wide spread grassroots support for CEDAW and SCR 1325 in public and legal discourses. By becoming familiar with these international instruments, it was assumed that Afghan women’s organizations would be able to contextualize their own struggles and activism from within these political frames and diligently monitor government accountability and compliance. I had the opportunity to work on two such efforts in the Spring of 2003 when I worked with the Afghan Women’s Organization and then Rights and Democracy, providing workshops on CEDAW and SCR 1325 to Afghan women activists, NGO staff, and UNIFEM staff. This was a rewarding and inspiring experience. Our workshop participants inspired us with their intense interest, enthusiasm and serious consideration of the relevance and applicability of the Convention to Afghanistan. They raised critical questions and concerns about the strengths and weaknesses of the Convention, and imagined ways in which it could be operationalized in a country impacted by war for decades and patriarchy and sexism for generations. Drawing from our experiences working with formal (urban-based) and non-formal (rural-based) Afghan women organizations and networks from across the country, we found that in many cases introducing the contents of these international documents generated an overall positive response by many women who felt these documents were useful tools for advocating women’s rights. Training sessions also exposed confusion about and opposition to the Convention resulting from anti-CEDAW propaganda in the media, particularly through radio and local newspapers. The training sessions, which included close reading and examination of the Convention in both Dari and Pashto served to dispel some of the myths and misperceptions among the women and respond to their

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<sup>21</sup> <http://www.peacewomen.org/resources/Afghanistan/CEDAWAcar.html>

concerns and apprehensions.<sup>22</sup> To dispel fears and concerns around CEDAW, local women's NGOs in Afghanistan have been engaged in educational campaigns that serve two important purposes: first, to familiarize women with these international provisions and allow them to develop independent opinions about their content and relevance; and second, to encourage locally based plans of action to implement these provisions and ensure that CEDAW and SCR 1325 directly relate to the needs of Afghan women, and not be perceived as externally-imposed. These efforts have resulted in increased dialogue, particularly around CEDAW and Afghanistan's responsibilities as signatory.

One example of this was at a training I provided to UN staff. One of the women participants informed me that she and others were not supportive of CEDAW because they had learned that it promoted prostitution, though she could not say which part of the Convention did so. Rather than argue, I suggested we read the Convention in its entirety in the Dari language and stop at any articles that they felt were incompatible with Islam or Afghan culture. Upon completion of the exercise, she learned that the section she was concerned about was Article 6 which states, "States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women" (CEDAW, article 6) and that rather than promote prostitution, the article was actually asserting an end to the exploitation of women through trafficking and prostitution. This incident exposed the ways in which CEDAW articles are being manipulated by opponents to elicit widespread opposition by invoking Afghan sensitivities to women's honour and chastity.

It was not, and is not surprising to have seen the intensity of discussions around the suitability and applicability of the Convention in helping to transform gender inequities in Afghanistan. Various other Muslim states have raised concerns or opposed CEDAW specifically around particularly contentious issues such as woman's rights to free movement and nationality (article nine), and the other private sphere rights related to marriage and family life (article sixteen). Traditionally, the desire to limit a woman's role to that of wife and mother has prevented her from entering public life and being an active member of society through social and political participation. While working in Afghanistan, we saw some of the same issues raised by those concerned about CEDAW's impact on Afghanistan.

While a great majority of women were eager to learn about these instruments and use them to their advantage, a very small group of equally passionate traditionalists (men and women) harboured suspicion of CEDAW as a 'Western imperialist agenda.' Others simply could not accept ideas which they perceived to be contrary to their spiritual and religious beliefs and duties. As in other Muslim states, the forces of opposition led by conservative politicians, clergy and their supporters have invoked religious grounds for non-compliance. Ariane Brunet and Isabelle Solon-Helal of Rights and Democracy who have worked extensively in Afghanistan suggest:

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<sup>22</sup> One of the major weaknesses of CEDAW which the women highlighted was the absence of any discussion about domestic violence. We explained that this was due to resistance and opposition, largely by Muslim states, against any inclusion of 'private' sphere rights of women in Convention. Other 'private' right articles such as marriage are highly contested by Muslim states and continue to have reservations attached to them. The feeling was that if an article about violence against women is added to CEDAW, the number of parties who would sign the Convention would greatly diminish, and it is better to have countries sign on and work with them toward full compliance than to alienate them.

In Afghanistan, women's rights are viewed as part of a Western agenda; they are used as a propaganda tool by all sides and linked to cultural and religious values. Every possible roadblock to the realization of women's rights and to the participation of women in decision-making processes has been installed: the perpetuation of warlordism, the lack of security, and the lack of effective gender policy coordination (Brunet & Solon-Helal 2003: 20).

One of the difficult tasks we encountered was over how to widely promote CEDAW across the country, without disavowing Afghan culture and religion, and simultaneously not supporting and strengthening the attitudes and structures that support patriarchy and undermine the rights of women. Although discussions around CEDAW are a platform for dialogue and critical engagement among women, as one Afghan women's rights activist recently noted, the task is not easy,

Despite years of CEDAW related activities in Afghanistan, most women's political activists were not really aware of what CEDAW is exactly about, but when we began our activities and campaigns for women's political rights, it became the discourse among political activists. But due to the sensitivity of the topic, we were always arguing based on all international human rights conventions signed by Afghanistan, and tried not to focus on CEDAW.<sup>23</sup>

A critical challenge remains addressing the very real suspicions Afghan men and women have about CEDAW, primarily as a western-imperialist imposition that will abruptly modernize and secularize Afghanistan's cultural and religious traditions. Clearly using international provisions to change and challenge women's and girls' realities in Afghanistan must therefore involve "ownership" of these instruments by Afghans themselves, and their full leadership and participation in efforts to translate its principles from paper to practice. This entails a multi-faceted approach whereby national and international actors work collaboratively with local organizations and activists and employ dialogue and action that engages CEDAW from within a negotiated cultural and religious framework. This is not say that Afghan women must concede to misogynist and extremist perspectives, but if women – and men – feel that international tools do not respect their religious and cultural traditions, they will not support their application in domestic practice.

We found a dichotomy in Afghanistan between those who felt these tools did not go far enough in protecting and promoting women's human rights, and those who were concerned about the impact of their application on the status quo. The former group for example, challenged CEDAW for not implicitly discussing violence against women in the private sphere as a human rights violation. This is especially important given the scope of domestic violence in Afghanistan.<sup>24</sup> They did not feel the United Nations Declaration on Violence Against Women went far enough in demanding that states make

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<sup>23</sup> Email communication with Afghan women's rights activist who wished to remain anonymous, November 16, 2007

<sup>24</sup> One recent report by Global Rights found that of those surveyed more than 85% are victims of one form of domestic violence or other on a regular basis. This would include psychological, verbal, physical and sexual abuse as well as a combination. Please see Global Rights, *Living with Violence: A National Report on Domestic Abuse in Afghanistan*, March 2008. Accessed at [http://www.globalrights.org/site/DocServer/Introduction\\_final\\_DVR\\_JUNE\\_16.pdf?docID=9805](http://www.globalrights.org/site/DocServer/Introduction_final_DVR_JUNE_16.pdf?docID=9805)

domestic abuse a criminal offence. One woman commented, “All the rights in the world are meaningless if I have to suffer abuse at the hands of my husband and his family on a regular basis. Why does this Convention not protect me from this?” On the other hand, another group of women attested that private sphere rights should not be codified in international law in order to preserve Afghan and Islamic cultural and religious practices pertaining to women’s familial and social roles. At times women seemingly resisted women’s rights in order to protect their own social status. This speaks to the reality of the diversity among women in any culture including Afghanistan and the fact that not all women in a society will have similar experiences, and beliefs. Afghanistan is not immune to the complexities of elitism, and the intersectionality of gender, class, and ethnicity and the ways in which social status impacts one’s relationship to the state and its apparatus. Obviously then, as Rostami-Povey argues, “The responsibility for the injustice and violence lies not only with the immediate family but also with individual communities, religious organizations, health and education institutions, professionals and law enforcers” (Rostam-Povey, 2003, p. 175)

Public discourse leading up to the Constitutional Loya Jirga clearly impacted the Constitutional Commission whose mandate called for “broad participation of women in the constitutional-making process,” and the inclusion of nine women members serving on the Constitutional Drafting Commission (Brunet & Solon-Helal 2003: 12). The mandate also made a commitment to work with the Women’s Ministry and UNIFEM to hold public education programs about the constitutional rights of women throughout the country in order to increase public awareness and to reach out to women. Without a doubt, the development of a national women’s movement is critical to promoting change. Brunet and Solon-Helal reflect on their extensive work in Afghanistan and suggest, in this capacity.

The elusive gains made with Afghanistan’s ratification of CEDAW, the very new concept of a Ministry of Women’s Affairs, the weak coordination among donor countries regarding women’s rights, the varied and contradictory gender policies proposed in a variety of UN/ATA documents, and the lack of gender-focused staff appointments at the United Nations Assistance Mission to Afghanistan (UNAMA), indicate that women’s human rights also need to be protected by civil society organizations and by the building of a women’s movement that is educated and capable of being a valuable interlocutor to a State that should be governed by the rule of law. This cannot happen over a few years, let alone over a few months (Brunet & Solon Helal, p. 7).

In our workshops on CEDAW and other relevant documents such as UNSCR 1325, and the Beijing Platform for Action, we found women expressing a desire to connect with women and women’s groups outside Afghanistan to share experiences and lessons, particularly in addressing the issue of Islam and law. Case studies of women’s activism in other Muslim countries as well as the rest of the developing world provides these organizations with encouragement, support, as well as valuable ideas about how to meet the challenges they face as Muslim women struggling to realize their rights within an Islamic framework. Our references to the work of women’s movements in Iran, Pakistan, Egypt, and other Muslim states were met with great enthusiasm and pride by the Afghan women we worked with who felt that they shared similar challenges to other Muslim women and would benefit from meeting with them on issues of women’s human

rights within Islam. Despite this need for regional cooperation and networking among women's groups, little effort has been made by the transnational women's movement to facilitate this process. A small number of NGOs are spearheading this effort (see *Women Living Under Muslim Laws*), but without international financial support these efforts will prove arduous.

The engagement of Afghan women is absolutely critical to creating frameworks that implement CEDAW and other international instruments that speak to women's lived realities in Afghanistan. Universal human rights norms come to life only when they find relevance to those they serve. Attempting to apply only one model will not only fail, but will give impetus to opponents of these valuable tools. Efforts to promote CEDAW and SCR 1325 must not only educate but also sharpen women's analytical abilities so that they might interpret the CEDAW within the framework of Islamic legal and cultural discourses.

### **Challenges to The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**

Although misunderstandings of CEDAW abound, the following discussion of key articles of CEDAW illustrates that international human rights need not be incompatible with Islamic customary and legal discourse, and that dialogue and education would serve to bridge the gap and benefit women in Afghanistan. The most challenged CEDAW articles include: article four on special measures, article five on sex role stereotyping and prejudice, article six on prostitution, article nine on nationality, article fifteen on law and article sixteen on marriage and family life. In our training programs, we were met with extensive questions about the meaning and intent of articles six and sixteen which had received negative press in the media and challenged by critics including various local and national Islamic scholars. Article five, for example, addresses the universality of women's human rights and encourages States Parties to the Convention to take appropriate measures to modify social and cultural patterns of conduct to eliminate prejudices and stereotypical roles for men and women or the idea of one sex as superior. This is a particularly challenging article in the Muslim world because of the debate around women's roles and responsibilities in Muslim society and the need to preserve cultural norms.<sup>25</sup> But Muslim scholars have debated this issue and argue that the question is not one of the universality of human rights but rather the application of universal norms to protect and preserve 'legitimate' cultural traditions that do not promote the suffering of groups based on ethnicity, sex, nationality, religion, and other distinctions.

Another revealing discussion about CEDAW dealt with article six which requires states to take all appropriate measures including legislation to suppress the trafficking of women and the exploitation of prostitutes. Media discussions of this article gave the impression that Article six "promotes" promiscuity. When we began to discuss this article in detail, the relevance of this article became increasingly clear to female participants who began discussing the plight of widowed women who had to turn to prostitution to earn a living, and the increasing number of trafficked women who work in Afghanistan since the arrival of foreign troops. Article nine on the right of women to hold a nationality independent of their husbands is particularly problematic in

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<sup>25</sup>For a fuller discussion of the challenge of women's human rights and cultural relativism, please see An-Naim, Mayer, Afshar, and Moghaddam.

Afghanistan and the Muslim world where a woman's – and her children's – nationality and their freedom of movement is tied to her husband or father. Article sixteen allows women to decide whether to get married and to choose her spouse. It allows her the power to decide the number of children she would like to have and their spacing as well as an equal say in their custody and guardianship. She would also have equal rights to ownership, acquisition, management, and administration of property. Despite opposition to the rights articulated in this article, Afghan women noted that Shari'a law already provides Muslim women with many of these rights. Our discussion included consideration of the ways in which extreme interpretations of Shari'a law and women's ignorance of their Islamic rights lead to disagreements about the roles and responsibilities of Muslim women in the family.

Indeed, the Muslim world is not a homogenous entity, and religious precepts are clearly influenced by historical, regional and cultural factors which in turn impact the interpretation and the practice of religion. As Abdullah An-Na'im argues, "it is not difficult to establish the responsibility of many Islamic states to change aspects of religious law in accordance with their obligations under international law. The question is how to effect such change in practice" (An-Naim, 1992, p. 182). I would argue that a good place to start effecting change is for transnational feminists working in Afghanistan to build solidarity through creating more spaces for the exchange of ideas, critical reflection and mutual learning. Through engaging, and not disavowing, traditional religious sources of the Quran and Sunnah, in addition to centering the nuances of culture, our discussions with Afghan women were perhaps able to move into those difficult spaces whereby a closer reading of each article helped to clarify and contextualize the varied meanings and purposes behind each article. Our collective and mutually determined assessment that these principles could be applied in a culturally and religiously appropriate manner served to overcome many of the initial concerns, skepticism and doubts.<sup>26</sup>

### **Recent Developments**

Recent developments in Afghanistan offer glimpses of increased hope for the advancement of women's rights. The first of these is the replacement of Chief Justice Faisal Ahmad Shinwari (2001-2006) with Mr. Salam Azimi in May 2006. Mr. Shinwari's tenure confirmed concerns by women's rights activists regarding the Constitutional provision that gave Sharia supremacy over the new Afghan Constitution. The Chief Justice of the Supreme Court is the primary person responsible for interpretation of the Constitution and Mr. Shinwari, a conservative cleric with no higher education or legal training was a disconcerting choice as the first Chief Justice under the new Afghan government. As Chief Justice, Shinwari called for segregated schooling for girls and boys, banned cable television and was responsible for the re-instatement of the notorious Ministry for the Promotion of Virtue and the Prevention of Vice in 2003.<sup>27</sup> His narrow interpretations of Sharia posed severe limitations on advancing women's rights under his tenure and confirmed concerns by women's rights activists about the impact that including the sharia provision has had on promoting and protecting women's rights.

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<sup>26</sup>Women Living Under Muslim Laws is an excellent organization doing work in this area.

<sup>27</sup> Please see news articles: <http://www.eurasianet.org/resource/afghanistan/hypermail/200301/0069.shtml>; <http://www.eurasianet.org/resource/afghanistan/hypermail/200301/0068.shtml>;

When the Afghan Parliament did not endorse the re-appointment of Mr. Shinwari, President Karzai replaced him with Mr. Abdul Salam Azimi. Mr. Azimi, is a well-respected and educated man with a background in Sharia Law from al-Azhar University in Cairo, Egypt who also studied in the United States. He served as a legal advisor to President Karzai and participated in the drafting of the Afghan Constitution in 2004. Mr. Azimi has had an unremarkable tenure in terms of tangible advancements in women's rights. Thus far, his main concern has been to end corruption within the judiciary, which in itself has implications for women's rights. He has not taken any major steps toward either advancing, nor preventing women's rights.

The importance of the Chief Justice in relation to CEDAW and women's rights issues are two fold. First, upholding Constitutional guarantees of equality is fundamental to protecting and promoting women's rights in Muslim states given that the vast majority of the reservations attached to CEDAW are entered by Muslim governments which argue that Islamic Sharia law supersedes international law, therefore preventing them from fully complying with CEDAW. And although Afghanistan has not entered reservations to CEDAW, the Constitution gives Sharia supremacy over the Constitution. Furthermore, in addition to these concerns about narrow Sharia interpretation taking precedence over Constitutional/legal provisions, there have been efforts in the new Afghan Parliament to revisit the 2003 ratification of CEDAW.<sup>28</sup>

A group of conservative parliamentarians who are opponents of CEDAW are arguing that the Interim Government of 2003 was not an elected body and therefore did not have the mandate to ratify international covenants on behalf of Afghanistan. They are also raising questions about the process – if any – undertaken by the Interim Government to ratify the Convention. This was something I was concerned about in 2003 when I worked in Afghanistan. My interview with an Afghan human rights activist revealed that the opposition is coming from the conservative elements within the Afghan parliament and it began even before the creation of the parliament. She explained that actually

Their opposition began in 2004 and continued afterwards when parliament was created. One of the reasons for the opposition is that there are provisions within CEDAW which are against Islamic values, and the Constitution says there can be no law against Sharia. They are opposed to the fact that no reservations were attached to CEDAW and they would like to see reservations sent to the CEDAW committee. But I don't think this will happen in the life of the current parliament because right now they are busy making political coalitions and preparing for elections which are upcoming in May 2010.<sup>29</sup>

My respondent further described how

“these opponents ... shockingly, some are knowingly opposing CEDAW and others unknowingly. Some who became MPs and started to travel to other countries – especially Islamic countries – and they began to hear about the reservations and they were asked wow, why did you sign without reservations so they began to raise questions about it and it became a big issue in those Islamic

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<sup>28</sup> Interview with Afghan woman Parliamentarian who wished to remain anonymous, February 18, 2008.

<sup>29</sup> Interview with female human rights activist, former director of human rights NGO in Afghanistan, November 12, 2009.

countries why Afghanistan ratified without reservations so they carried this message back to the parliament.<sup>30</sup>

When asked specifically about who these opponents are, she explained that,

The conservative elements, all are mujahedin leaders and commanders who are now members of parliament. Two of these at the front line of opposition are Professor Sayyaf<sup>31</sup> and Alemi Balkhi who studied in Qom. He (Balkhi) was very involved in the shia status law. Another conservative is Qanuni who is mujahedin and current speaker of the house. Interestingly, he is very careful what he says and he hasn't said anything against CEDAW.<sup>32</sup>

During my work in Afghanistan from April to June 2003, just months after the CEDAW was ratified, I explored the issue of CEDAW ratification, in particular the ratification process and those involved. I was curious because I had not heard about Afghanistan undertaking the formal ratification process which usually involves consultation and adoption of the Convention within the legislative branch of the state joining the Convention. It was clear to me that either there was a lack of clarity within the government itself about who had actually ratified CEDAW and how or that there was a concerted effort to detract attention away from this sensitive issue. Those to whom I spoke at the Ministry of Women's Affairs directed me to the Ministry of Foreign Affairs, and when I went there, I was told to discuss the matter with the Ministry of Women's Affairs. Despite a number of visits to the Ministry of Women's Affairs (MOWA) and the Ministry of Foreign Affairs (MOFA), I was unable to determine who had initiated the ratification process, and how it had been carried out. I ascertained that there is a unit within the MOFA responsible for international covenants, but attempts to glean information from its staff proved unfruitful. In fact, my interviews with staff at both Ministries revealed that no one in fact knew that the Ministry of Foreign Affairs was pursuing CEDAW ratification until the announcement was made in March 2003.<sup>33</sup>

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<sup>30</sup> Interview with female human rights activist, former director human rights NGOs in Afghanistan. November 12, 2009.

<sup>31</sup> Abdul Rabi Rasul Sayyaf is Wahabi Pashtun warlord who led the Mujahedin faction known as the Islamic Union for the Liberation of Afghanistan. During the Afghan civil war he was responsible for gross violations of human rights including ethnic cleansing (interview with female human rights activist November 12, 2009), and is known to have received support from Saudi Arabia where he recruited fighters including Osama Bin Laden (London Telegraph, December 3, 2001 accessed at <http://www.telegraph.co.uk/news/worldnews/asia/afghanistan/1364206/Former-bin-Laden-mentor-warns-the-West.html> on November 15, 2009). For further reference on Sayyaf's brutal history and reputation please see *Warlords of Afghanistan* <http://www.warlordsofghanistan.com/abdur-rab-rasool-sayyaf.php>, Report of the Afghanistan Justice Project, "Casting Shadows: War Crimes and Crimes Against Humanity: 1978-2001" which documents and analyzes gross violations of human rights during the Afghan civil war. Accessed on November 15, 2009 at: <http://www.afghanistanjusticeproject.org/warcrimesandcrimesagainsthumanity19782001.pdf>

<sup>32</sup> Interview with female human rights activist, former director of human rights NGOs in Afghanistan. November 12, 2009.

<sup>33</sup> One development expert whom I interviewed by telephone suggests that to the best of her knowledge, and based on her extensive work and meetings in Afghanistan with women's activists and politicians, President Karzai ratified the Convention on Afghanistan's behalf due to pressure from the United States. I have not found any documents to support this contention but doubt it would be confirmed in documents in the public domain.



I would argue that this lack of clarity on the ratification process could potentially present a threat to CEDAW in Afghanistan. Recently, several MPs, opponents of CEDAW, have raised the validity of the ratification in Parliament arguing that the Interim Government – as an unelected body – did not have the mandate to ratify international covenants on behalf of the Afghan state and its citizens. While in Kabul, I raised this issue with a number of women’s rights activists. Their response was that the Parliament has not taken any action as of yet, and women’s rights activists are acting very carefully not to bring undue attention to the Convention in this climate of opposition and resistance. At the time of writing in the summer of 2008, I learned through a friend working at UNIFEM Afghanistan that an Afghan woman, Zohra Rasekh, was elected to serve on the CEDAW Committee effective January 1, 2009, the first woman to represent Afghanistan on a treaty body as an expert. Afghan Ambassador to the UN Zahir Tanin called her election “a significant development for the war-devastated country” and saw this development as an indication of “continuing support of UN member states for Afghanistan” and a reflection of “attempts of the Afghan government, the Ministry of Foreign Affairs, and the Permanent Mission of the Islamic Republic of Afghanistan to the UN at strengthening the role of Afghanistan in the international arena.”<sup>34</sup>

Ms. Rasekh’s appointment is a significant development with important implications for advancing CEDAW in Afghanistan. Having a national serve as an expert on a treaty body brings both prestige and scrutiny to a state party to a Convention and it will be very interesting to see if and how Ms. Rasekh’s appointment to the CEDAW Committee will impact her country’s efforts to advance the Convention. It is also yet to be seen whether her appointment will silence or embolden opposition among CEDAW opposing Parliamentarians who may either enjoy the esteem that comes with treaty body membership or question the political motivations behind the successful election of Ms. Rasekh.

On the other hand, the deteriorating security situation in Afghanistan poses the greatest threat to the advancement of women’s rights and the implementation of CEDAW. While military presence immediately following the fall of the Taliban brought some measure of security to Afghanistan, and especially Kabul, the security situation has severely deteriorated since 2004 as the Taliban and their allies have regained their numbers and strength, and succeeding in increasingly bold and destructive acts of violence against NATO, civilians, and increasingly against Afghan and foreign aid workers, especially those working for the improvement of women’s lives. The presence of NATO ISAF forces, and the counter-insurgency efforts in the South have not proved successful and are instead emboldening Taliban fighters who have successfully taken control over pockets of territory in the South and are expanding their sphere of influence.

This deteriorating security situation has serious implications for women’s rights and continues to threaten efforts to promote women’s rights and full participation in public life. Insecurity poses a barrier to freedom of movement, freedom of thought, speech and expression making it only marginally possible for women to demand changes to the status quo without fear of threat. Lack of security is preventing women from enjoying freedom of movement, and the necessary sense of safety to speak to their experiences and demand their rights without threat. This was clearly demonstrated in both Loya Jirgas where women delegates experienced verbal abuse and threats to

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<sup>34</sup> Please see *Afghan Woman Elected to CEDAW* <http://www.onlinenews.com.pk/details.php?id=131366>

physical safety because of their outspoken demands for rights and their criticism of the status quo. The lack of security has heightened in recent years as attacks on women's rights activists have increased resulting in a number of high profile deaths. Many of these brutal murders occurred after months of threats and efforts to silence these activists. These have included the killing of journalist and human rights activist Zakia Zaki on June 6, 2007, Safia Ahmed-jan, the provincial director for the Ministry of Women's Affairs in Kandahar on September 25, 2007, and a television host 24 year old Ms. Shaima Rezayee murdered in her home on May 19, 2005, and most recently the killing of three women aid workers, two of whom were from Canada and working with the International Rescue Committee on promoting the education of girls.<sup>35</sup> Such attacks on women have become a daily occurrence in Afghanistan.

As UNSCR 1325 and other international documents note, security is necessary to women's well being in conflict and post conflict zones, and the ongoing efforts to limit women's access to public space and public participation has long term implications for the development of an Afghan women's movement and their ability to have a unified voice in combating patriarchy and advancing women's rights.

## Conclusion

This chapter has introduced the human rights regime with particular focus on the United Nations Convention on the Elimination of All Forms of Discrimination Against Women in preparation for a discussion around the use of religion and culture to justify violations of women's human rights regardless of the human right regime and its requirements. The chapter provided an overview of the Convention, its Committee and various aspects of its oversight mechanisms, an introduction to the reservation regime and its relevance to CEDAW, as well as a discussion of CEDAW in Afghanistan. Despite the Convention's weaknesses and the challenges faced by the Committee, the world and its female citizens likely are better off for having the Convention, and it is becoming a powerful tool for improving the lives of women.<sup>36</sup> While it may appear that the impact of CEDAW and other treaty bodies have been negligible given the continued gross violations of human rights around the world, "when comparing the world as it is with what it would have been without the treaties, treaties have made a huge difference" (Heyn & Viljoen 2001, p. 54). Admittedly, progress has been slow but since the Convention first came into force, the human rights of women have received greater attention, and in many parts of the world improved in relation to the situation prior to the adoption of the Convention. This situation will continue to strengthen and develop with internal reforms and external strengthening of women's rights activists and other civil society actors. The Cold War period was a challenging time for CEDAW as well as the entire human rights regime as "ideological differences and other divisions between members prevented the Committee from making effective use of its functions and found

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<sup>35</sup> Please see news reports: [http://www.qantara.de/webcom/show\\_article.php/\\_c-478/\\_nr-633/i.html?PHPSESSID=](http://www.qantara.de/webcom/show_article.php/_c-478/_nr-633/i.html?PHPSESSID=); <http://www.iansa.org/regions/scasia/Safia.htm> ; <http://www.timesonline.co.uk/tol/news/world/article524399.ece> ; <http://www.cbc.ca/world/story/2008/08/13/afghan-attack.html> . One of these aid workers was my friend Dr. Jacqueline Kirk of Montreal.

<sup>36</sup> For a sampling of literature on the positive impact of treaty bodies in general and CEDAW in particular, please see Heyns & Viljoen 2001, McPhedran, Brazilli, Erikson, Byrnes 2000, Rassekh-Milani 2004, and "Impact of CEDAW worldwide" at <http://www.cedaw-iran.org/cedaw-impact/>.

developing an effective voice for women's rights difficult" (Evatt 2002: 520). But with the end of the Cold War and more profound understanding of the depth and breadth of violations of women's human rights, a new era for the promotion and protection of these rights was introduced in the 1990's. In my interviews with CEDAW experts in 2001, one of them explained,

there has been a lot of positive changes between the 80s and today. States Parties are changing how they interpret and implement the Convention, and women have learned how to push and call for implementation of the Convention. Political will [on the part of States Parties] will arise from demands of people and these demands will come from education and knowledge.<sup>37</sup>

In Afghanistan, women are organizing to push for the promotion and protection of their rights as guaranteed in the Afghan constitution and Afghanistan's international human rights obligations.

Women's organizing is not a new phenomenon in Afghanistan. Afghan women have a long tradition of activism and resistance in the face of insecurity and grave human rights abuses. Their activities continued throughout twenty-three years of protracted conflict, and although these efforts have not led to an 'organized' women's movement in the country, there are a large number of women's rights activists and NGOs committed to the advancement of Afghan women and their full enjoyment of their most basic rights including access to education, health, and economic opportunity as well as important civil and political rights. My interviews in 2003 and 2008 revealed that there are many factors impeding the development of a strong and unified national women's movement including: the difficulty of national action due to geographic, cultural and security constraints which challenge women's ability to get together; the absence of a unified vision and agenda due to differing experiences, viewpoints, opinions, priorities and approaches; and in my opinion, most importantly, the impact of the aid apparatus on discouraging cooperation and collaboration among women's groups who are often competing for the same scarce grant funding and other resources.<sup>38</sup>

According to the Beijing Declaration and Platform for Action, "Equality between women and men is a matter of human rights and a condition for social justice and is also a necessary and fundamental prerequisite for equality, development and peace."<sup>39</sup> In Afghanistan, "The low social status of women, and the consequent power imbalances between women and men that it generates, are the underlying reasons for harmful and discriminatory practices and physical and sexual abuse against girls and women in Afghanistan" (Rostam-Povey, 2003, p. 175). The international feminist movement has a strategic role to play in supporting and building solidarity networks with the existing women's movement in Afghanistan. However, it is critical to note that the global-local complexities and contradictions that underpin the gender agenda in Afghanistan can also backfire, with the very real possibility of a "backlash" against Afghan women considered to be betraying Afghan culture and traditions just by their participation in women-targeted foreign aid projects. At the very least, international actors working to promote

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<sup>37</sup> Interview with CEDAW Expert, July 18, 2001, UN Headquarters, NY.

<sup>38</sup> Interviews and conversations in 2003 and 2008 with women activists in Kabul and Jalalabad.

<sup>39</sup> United Nations Beijing Declaration and Platform for Action, (2001). New York: Department of Public Information

gender equality need to be aware of perceptions on the part of *both* Afghan women and men, that equate women-centered and gender-targeted programs as a direct challenge and erosion of traditional culture and religion. Arguably, the expansive internationally-directed gender agenda across Afghanistan is perhaps already fuelling and further legitimizing rigid interpretations of sacred texts, in order to “rescue” Afghan women from perceived (or real) western neo-colonial quests to reconfigure Afghan womanhood. Both local and international actors must therefore be attentive to the complexities of advancing and improving the lives of Afghan women and girls in the current post-conflict and encourage collaboration and dialogue to facilitate a mutually-defined and shared goals to further improve and promote the overall well-being of Afghan women in Afghanistan. This represents the way forward in promoting and protecting women’s rights in Afghanistan within a manner that would be both mindful and respectful of the cultural and religious context of Afghanistan, while at the same time seeking to transform the inequities rooted in these same social and cultural traditions, and religious interpretations.

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