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SPECIAL REPORT

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ABOUT THE REPORT

This report discusses recent efforts and future opportunities for using an Islamic perspective to promote women's rights in Afghanistan, based on interviews conducted between June and October 2013 with legal aid and women's rights organizations, activists, and donors. This research is part of USIP's women's access to justice portfolio in Afghanistan, which has focused on community-based means for women to seek justice.

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Sharia and Women's Rights in Afghanistan

Summary

- A major priority for international donors since 2002 has been to promote and protect women's rights in Afghanistan. Substantial progress has been made, including much stronger formal protections for women in law. However, in practice, these legal protections are uncertain to survive the coming transition as these laws are neither universally accepted within Afghanistan nor evenly applied.
- Many Afghan women's rights advocates are worried that the decrease in international funding and influence following international troop withdrawals in 2014 risks reversing some of the progress on women's rights. Resistance to Western-driven and Western-influenced rights programming, particularly with regard to women's rights, is increasing within the Afghan polity.
- The Afghan government is deeply mistrusted, viewed as lacking legitimacy and as a puppet of Western actors. Laws and programs associated with it are often reflexively opposed. That women have certain rights under Afghan law is therefore no longer considered a persuasive argument. It is unclear whether the 2014 presidential elections and the new administration that follows will reverse this mistrust.
- Absent a tolerance for these "Western" notions of rights, or state willingness to enforce Afghan law, women's rights advocates fear that communities will revert to customary norms and practices that frequently result in serious discrimination against women and girls. This has already begun to happen in many communities.
- In response, Afghan legal aid and women's rights organizations have increasingly looked to an Islamic legal framework to promote women's rights. Islamic law is viewed as more credible at the community level and as more progressive with regards to women's rights than most customary norms and practices.
- Greater assessment of how Islamic legal literacy, scholarship, and dialogue might help protect women's rights in the coming difficult period is crucial to increasing the acceptance of these rights and therefore their sustainability.

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MAY 2014

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ABOUT THE INSTITUTE

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Introduction

On paper, women in Afghanistan enjoy significant rights. The 2004 constitution extends equality to both men and women (Article 22). The Afghan Civil Code (1977) provides rights for women to inherit or own property, sets the minimum age for marriage (Articles 70 and 71), and codifies a woman's right to choose her partner (Article 80) or to initiate marital separation. The Afghan Criminal Code (1979) protects eloped couples by creating a distinction between elopement and kidnapping.¹ Election legislation protects women's right to vote and sets quotas for women to participate in elected bodies. A right to legal aid is guaranteed for women and the indigent.² A range of national programs and policies, including the Afghanistan National Development Strategy (2008), the National Action Plan for Women of Afghanistan (2008), and many ministerial strategies emphasize the importance of gender equality as a cross-cutting theme.

Some of these legal protections can clearly be seen in practice. In the 2011–12 academic year, nearly three million girls were enrolled in school (39 percent of all enrolled) and another 270,000 were enrolled in literacy and vocational schools (31 percent).³ In comparison, under the Taliban, only a few thousand girls had access to schools, all of which were underground.⁴ Women can now run for public office and vote. In the 2009 presidential and provincial council elections, two women ran for president and seven for vice president, 9 percent (312) of all candidates for provincial councils were women, and almost four thousand women were accredited as domestic observers.⁵ In the 2010 parliamentary elections, a third of seven thousand accredited local observers were women and 16 percent of all candidates were women.⁶ Women own and run businesses. Although only a small percentage, women are represented in the police, the army, the judiciary, and the attorney general's office.

Many of the legal protections, however, have failed to translate into practice.⁷ Despite the ban on child marriage, the Afghan Ministry of Public Health estimates that 21 percent of all women were married by age fifteen and another 53 percent by age eighteen.⁸ Women still face barriers in accessing education,⁹ which hinders their access to public life. Despite the declared goal that women fill at least 30 percent of civil servant positions, women are routinely excluded from civil service hiring, or when hired are denied promotion.¹⁰ Female victims of sexual violence and trafficking are frequently persecuted and incarcerated for moral crimes, and their predators are only infrequently indicted or incarcerated.¹¹

In other words, despite formal guarantees, the courts and society at large still act within the framework of conservative social norms that restrict women's rights in economic and political spheres. These restrictions include limitations on women's free movement as well as on rights to choose a spouse, divorce, and maintain child custody after a divorce. Lack of enforcement of women's economic rights—including women's rights to inheritance, land, and control over earned income—is widespread because women's economic independence is often not tolerated at the community level.¹²

Women's rights may be at even greater risk in the near future. The already limited public role for women has been reduced further in recent years in response to an increasing number of attacks (physical and political) on women who participate in public life. At least six high-profile women were assassinated in 2012 and 2013, a high number for a country with very few women in public life.¹³ Conservative politicians have used Islamic legal arguments to attack women's rights supporters and to roll back achievements or resist further progress on women's rights. Parliament refused to approve the Elimination of Violence Against Women Law in May 2013, which since 2009 has operated solely by presidential decree.¹⁴ The quotas for provincial council seats for women were reduced from 25 percent to 20 percent under the 2013 elections law.¹⁵

Rebutting these attacks with arguments based in Afghan or international law has not been successful because the Afghan government and its Western backers have lost legitimacy. Perceptions that the West has failed to deliver on promises of economic prosperity, reconstruction, good governance, and access to justice have contributed to growing disillusionment with Western assistance in recent years.¹⁶ Increasingly, Afghan media have portrayed Western assistance as a foreign imposition and Karzai's government as a puppet of the West. Many Afghans view the progressive rights agenda since 2002 as a tool of opportunistic foreign intervention. Politicians eyeing the significant political changes after the 2014 security transition have begun to distance themselves from many political and civic rights that have become associated with Western intervention, in particular women's rights.

In this environment, women's rights programs that continue basing themselves solely on Afghan and international law set themselves up to be labeled as alien and foreign-driven. In response, women's groups have sought another source of legitimacy by trying to associate women's rights with more broadly accepted community norms. This shift is also informed by the recognition that there are limits to the change that can be imposed on communities from outside and in a short period of time and that sustainable progress on women's rights will come only when communities accept and legitimize the practices in question.¹⁷ However, complete reliance on community-based norms is also problematic, given that customary or traditional views do not provide the same level of rights and protections for women as Afghan law.

A promising middle road appears to lie in Islamic law frameworks. Islamic law offers avenues for interpretations of women's rights that are more progressive than customary norms, but it enjoys much greater legitimacy and buy-in among communities than Western rights-based arguments.

Islamic Legal Literacy and Women's Rights in Afghanistan

Islamic law is a centuries-old legal system respected and adhered to by Muslims and Islamic governments worldwide. Although it is continuously evolving and dynamic, its foundation lies in the interpretation of key principles and instructions laid out in the sources of Islam, most importantly, the Quran, the holy book for Muslims, and the Sunnah, the example and behavior set by the Prophet Mohammed during his lifetime. The latter is derived by studying recorded testimony about the sayings of Mohammed—known as hadiths—as well as texts describing his actions during his life. Religious scholars study and interpret these principles and develop rules, known as *fiqh*, which collectively forms jurisprudence that guides all aspects of social and individual life. Because these interpretations may vary widely, different schools of Islamic thought have emerged over time, with the Hanafi, Maliki, Shafi'i, Jafari, and Hanbali among those most prominent today.¹⁸ Finally, although Islamic law and sharia law are sometimes used interchangeably, they are conceptually distinct. Sharia denotes the ideal of God's law and as such is considered perfect, while Islamic law involves different human constructs of God's law and so may be fallible.

Islamic law is considered the supreme law of Afghanistan. The constitution of Afghanistan states that “no law shall contravene the tenets and provisions of the holy religion of Islam in Afghanistan.”¹⁹ Other provisions of the Afghan constitution and legal code are strongly influenced by the Hanafi school of Islamic jurisprudence. Unlike provisions of Afghan law that are perceived to be heavily influenced by Western and international rights conceptions, those portions of Afghan law perceived as reflecting Islamic law tend to be embraced by communities and legal actors. Legal-aid providers who work in rural communities found that Afghan laws did not carry much weight at the community level unless it was

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first established how such laws were consistent with the Quran and the Sunnah. Similarly, legal-aid providers or paralegals armed with Islamic education were far more welcomed in the communities than those without Islamic legal credentials, even if their conclusions were identical. Legal-aid providers in women's rights organizations interviewed for this report say that in the past year, cases related to separation, divorce, maintenance, and inheritance based solely on provisions of formal Afghan law are rejected. Judges have started to insist that arguments defending women's rights must be explicitly based on the sources of Islamic law.

The evidence from the field has led some women's rights groups to argue that women's empowerment strategies based on Islamic law might carry more weight with communities than Western rights-based approaches. In interviews conducted between June and October 2013, legal-aid and women's rights organizations, activists, and donors involved in the field repeatedly noted emerging opportunities for using Islamic law approaches to increase the acceptance of women's rights.

The biggest legal-literacy project applying sharia-based principles in Afghanistan was funded by USAID and implemented by Checchi Consulting. This program, which began in 2010 and ran through February 2014, educated traditional dispute resolution forums on provisions of Afghan law and taught the basics of Islamic law. Women's rights under Afghan law were explained by providing parallel provisions within Islamic law, illustrating concepts using quotes from the Quran and the Sunnah. The program allocated part of its focus to discussing the role of women, as outlined in Afghan law and sharia, including a need for women's consent for marriage, protection of women's inheritance, and land rights. Women's rights were framed as a discussion about family and the obligations each family member has toward others as envisioned by Islamic law. In this way, the program was designed to engage with an acceptable existing paradigm and thus incrementally normalize women's rights.

Checchi commissioned and published an evaluation of this project in 2011,²⁰ which found the approach and the program to be largely successful. A key finding was that once formal laws were explained from an Islamic legal perspective, they were more acceptable to communities. Community councils that had received Islamic law training through Checchi later reversed some of their discriminatory decisions and showed other signs of greater respect for women's rights, Checchi reported.²¹

Other organizations running legal-awareness and legal-literacy programs based on Islamic law also reported success stories when interviewed for this report. The Asia Foundation ran a program engaging mullahs in five provinces in Afghanistan between 2009 and 2011. One of the primary components was exposure tours for the mullahs and religious leaders to India, Egypt, Malaysia, and Turkey, where they could observe examples of liberal interpretations of sharia law firsthand. Exchange seminars and debates on women's rights between religious leaders from several provinces in Afghanistan were other pivotal components of the program. The Asia Foundation said as a result of their programs, conservative leaders appeared more willing to change their stances on the role of women in the communities.²² A number of other nongovernmental organizations running similar religious leader outreach and discussion programs also reported that once religious scholars became engaged in a lengthy debate about women's rights, they shifted how they argued and viewed women's rights. These include such organizations as Afghan Women Education Center, Afghan Women's Network, Da Qanoon Ghustonky, Medica Afghanistan, and Women for Afghan Women.

Beyond rights-awareness programming, women's rights groups have also sought to encourage mullahs to promote women's rights themselves. Religious leaders in Afghanistan usually enjoy a high level of trust and authority in communities. To further the acceptance of women's rights, legal-aid providers employ mullahs and religious scholars who also have some legal education

to head their legal-aid offices in provinces and to educate communities. A number of women's rights organizations said that between 2003 and 2005, they consulted with religious leaders on the content of the Universal Declaration of Human Rights and the Convention on the Elimination of All Forms of Discrimination Against Women. Reportedly, in all consultations, after some debate, the religious leaders found no conflicts between the provisions of these documents and key principles of sharia.

Another area of engagement has been programming aimed at increasing the availability of resources that discuss women's rights under Islamic law. Examples include publications produced by the Voice of Women Organization, Afghan Women's Network, The Asia Foundation, and Medica Afghanistan. These publications discuss in some detail how women's rights are protected under sharia and under Afghan law. Some were reviewed and approved by the Afghan Ministry of Hajj and Religious Affairs. Most women's rights organizations have developed training materials that help community organizers and paralegals couch their work in Islamic terms. These sharia-based women's rights materials had a limited effect, in part because use of these materials is sporadic at best. This could be partially explained by the high rates of illiteracy in Afghanistan, including among mullahs. The bigger factor is that Afghanistan has a strong tradition of oral debate. Writing is usually reserved for poetry, scientific discussion, and administration at high levels of government. It is referenced only rarely in community-level debate of political and social matters. Hence those engaged in this type of work said they found promoting legal awareness through workshops, discussion sessions, community theater, and radio and television programs has proven more effective than through the distribution of printed materials.

The majority of those interviewed believed that programming on women's rights was more effective when it incorporated an Islamic legal perspective. However, these findings are either the product of self-assessments or anecdotal evidence. Few external evaluations of the impact of programs relying on Islamic laws are available publicly, if conducted at all. In addition, such programs hope to achieve change in the way that people think and act. Such a change, by its nature, is longitudinal and difficult to track, especially within two- to three-year project cycles.

Challenges

Although there is at least anecdotal evidence that taking an Islamic legal approach was effective in entrenching the notion of women's rights at the community level, this approach nonetheless faces numerous challenges.

The Islamic interpretations currently used in Afghan communities—as well as those that influence formal court deliberations—are too often a conflation of conservative (often tribal) traditions with a veneer of Islamic argument.²³ Judges, prosecutors, and even women's defense lawyers argue that the legal positions they take are in compliance with and based on Afghan law and Islamic law—when in fact they are not. For example, many argue that women running away from home must be incarcerated, despite the fact that running away is not a crime under the Afghan penal code or under Hanafi jurisprudence.²⁴

Those invoking the supremacy of Islamic law in order to promote a more progressive understanding of women's rights could and have been accused of heresy and blasphemy. Islamic law is based on dialogue and interpretation of the sources of Islam, but the form of Islamic teaching now pervasive in Afghanistan is largely intolerant of dialogue. Between 2003 and 2007, in at least five cases those who attempted to publicly debate interpretations of Islam were prosecuted on blasphemy charges.²⁵ The armed Afghan opposition assassinates many moderate mullahs as heretics. Hardcore Islamist groups insist that their

interpretations of Islamic law, which often conflate extra-Islamic practices with Islamic law, are the only acceptable interpretations.²⁶

Some rights advocates and rule of law practitioners, mistrustful of coexisting normative legal frameworks, have feared that engaging either with Islamic legal systems or community-based justice mechanisms (for example, tribal or customary dispute resolution) would undermine application of the Afghan law and redirect resources from its enforcement. This objection is based on the perception that any acknowledgment that there could be another source of law other than state law will undermine the central authority and the legitimacy of the Afghan state. Such an objection is based on a state-centric view of the legal system that fails to acknowledge the legal pluralism in place in Afghanistan, or indeed the primacy of Islamic law within the Afghan constitution. Throughout the country, formal state law is only one of many overlapping legal orders, including customary norms and practices and various interpretations of Islamic law.

More secular-oriented groups within the women's rights and legal-awareness community are concerned that basing promotion of women's rights on Islamic law, rather than Afghan or international law, will result in curbs in legal protection because even the most progressive forms of Islamic law at this point do not afford women full equality. An Islamic law-based approach, they argue, would in effect be a regression, allowing a lower bar for women's rights than for men's. In addition, although some aspects of women's rights may be effectively protected under most interpretations of Islamic law, others are not as easily sustained. Critics of embracing the Islamic approach therefore argue that acquiescing to a debate on securing women's rights based on Islamic discourse would limit their ability to advocate for those rights that are less easily supported under Islamic law.

These are valid concerns, but arguments that Islamic law would necessarily result in lesser standards than Western-influenced Afghan law are premised on an unrealistic appraisal of how well Afghan law currently protects women's rights. The formal law is not being enforced, certainly not in ways that comport with international standards. In many cases, even the most conservative interpretations of Islamic law offer many more progressive protections to women than the current versions of customary laws do.

Many of the secular arguments for divorcing Islamic perspectives from women's rights protection fail to account for the fact that the majority of the Afghan population, especially in rural areas, want to live under Islamic law and reject secular laws as alien. The desire to invoke Islamic jurisprudence is also a demand of progressive Muslims—men and women alike. Many rights organizations in the Muslim world call themselves Muslim-feminists.²⁷ As one Muslim feminist, Aziza Al-Hibri argued,

The only way to resolve the conflicts of these women and remove their fear of pursuing rich and fruitful lives is to build a solid Muslim feminist jurisprudential basis which clearly shows that Islam not only does not deprive them of their rights, but in fact demands these rights for them.²⁸

Collaboration between advocates, activists, and religious leaders may well result in a greater protection of women's rights by making them seem less foreign and more familiar and legitimate.

Engagement in Islamic discourse, even if fraught with challenges and difficulties, is necessary if headway is to be made with those parts of society most reluctant to accept the advancement of women's rights. Bringing about change in attitudes toward gender equality is a lengthy process and, at the moment, religious dialogue appears to be the modality that resonates most with Afghan communities. Secular rights advocates who refuse to engage in Islamic dialogue are missing opportunities to engage communities on their own recognizable and accepted terms. Collaboration between advocates, activists, and religious leaders may well result in a greater protection of women's rights by making them seem less foreign and more familiar and legitimate. Building such strong alliances, however, will require many years of careful programming and community organizing and some degree of patience.

Opportunities for Future Work

Despite the challenges, using Islamic law concepts has significant potential to advance women's rights in ways that may be more sustainable because they better reflect what Afghan communities actually want.

First, greater cooperation and discussion between women's rights advocates and religious scholars may shift the debate on women's rights. Currently, the most prominent proponents of Islamic jurisprudence are conservative actors who use the cover of Islam to censor dialogue and attack women's rights. The absence of a counterargument that women's rights are consistent with Islamic legal principles cedes the rhetorical terrain to these actors. A counterargument, backed by women's rights advocates and religious leaders, would be critical to advancing the idea that the protection of women's rights and Islamic law can not only coexist but also make Islamic societies stronger.

Second, the high demand for greater Islamic legal learning in Afghanistan provides a rich opportunity for improving legal awareness and promoting gender equality. Anecdotal evidence suggests that legal and religious literacy is potentially one of the strongest tools to promote women's rights in conservative communities. However, it is still unclear what programs were successful and how successes could be applied elsewhere. Greater investment in such approaches, together with greater monitoring and analysis of what is effective, could yield immediate short-term benefits for women in the coming period of uncertain transition and could raise awareness and protection of women's rights in the long term.

Third, religious leaders have significant potential to influence the normative framework surrounding treatment of women, for good or for ill, over the long term. Religious leaders might encourage more egalitarian interpretations of Islam in local community forums or negotiations or could act as entry points into the community for women's rights advocates. The governing norms of community behavior are mainly set through oral debates among male community authorities and religious leaders. Even the best books, manuals, and training handouts on sharia-based principles will not substitute for the authority of religious and community leaders on how women should be treated. It is not enough for women to make their case; they must persuade their communities that their case ultimately benefits the construction of an Islamic society and must convince men to make this case.

A major weakness in relying solely on religious leaders to promote women's rights is that there might not be enough religious scholars willing to publicly defend those rights. Some religious scholars might privately agree that sharia principles require protection of women's rights. They are not, however, always prepared to publicly defend either these principles or the rights. These scholars, especially if they are elected into local or national bodies, cite the conservative nature of their constituencies as the main reason for their inability to accept women's rights arguments. It is also common for progressive mullahs who openly support liberal ideas to be threatened or even assassinated by the armed opposition or other conservative forces (as outlined earlier).

Exchanges with other Islamic countries to expose community and religious leaders to a variety of legal interpretations of sharia might help encourage a more open Islamic dialogue, and facilitate a change in thinking over time. An Islamic lawyer interviewed for this report indicated that most of the sensitive questions about existing practices are extremely difficult to discuss within the boundaries of Afghanistan because of the lack of safe space and the absence of positive Islamic practices that have resolved similar issues.

At a national level, sharia and law faculties (law schools that train legal professionals) or other organizations might encourage dialogue on Islamic law's role in Afghan social and political life. International Islamic scholars might provide examples of how similar conundrums in women's rights issues have been resolved in other countries.

Currently, the most prominent proponents of Islamic jurisprudence are conservative actors who use the cover of Islam to attack women's rights. A counterargument, backed by women's rights advocates and religious leaders, would be critical to advancing the idea that the protection of women's rights and Islamic law can not only coexist but also make Islamic societies stronger.

In conclusion, developing an engagement strategy on women's rights in Afghanistan that fully incorporates and builds on an Islamic framework, though challenging, is feasible and recommended. Demand for a sharia-based approach is not new and has intensified in recent years because of widespread mistrust of government and state laws. The strongest argument for an Islamic framework is that such a framework is both familiar and acceptable to communities. Avoidance of such an approach solely because it might further curb women's rights ignores the fact that such restrictions are already happening because formal laws are often not enforced. A well-thought-out approach that embraces Afghanistan's strong Islamic legal tradition might help shift conservative attitudes to accept the legitimacy of women's rights within Islamic law and the importance of respecting them.

Recommendations

- Greater exploration of linkages between women's rights organizations and activists and progressive sources of Islamic law is needed, including engagement with both sharia and law faculties, clinical programming focused on women's rights under Islam, and outreach to religious leaders at a community level.²⁹
- Women's rights organizations, activists, and legal aid organizations have noted that they would benefit from greater access to legal resources and experts on sharia. Such demands might be met by institutes of learning, international donors, or Islamic legal professionals.
- Engagement needs to be expanded between criminal defense and family law lawyers who frequently defend women's rights on the one hand and sharia law faculty or other proponents of Islamic law on the other. These engagements could be built into legal clinics at universities or incorporated in annual conventions hosted by the Afghanistan Independent Bar Association.
- Women's rights activists and organizations should evaluate their engagement with religious leaders, especially at the community level, to determine whether their current work might benefit from or be harmed by engaging with wider Islamic legal arguments.
- An independent evaluation of community legal and religious literacy programs should be the cornerstone of further engagement on religious dialogue. As such evaluations are carried out, they may generate lessons learned and best practices on Islamic engagement to promote women's rights that should then be widely disseminated. Further legal and religious literacy programs should be designed in line with findings of independent evaluations.
- Donors should continue to support both public legal awareness of women's rights under Islamic law and practical assistance to enforcement of those rights at a community level.
- All further advocacy and public campaigns on legislative changes in Afghanistan should consider explicit discussion on how these changes are in line with Islamic legal norms.
- Given the greater need for dialogue and discussion, donors and other interested organizations should consider support workshops, conferences, or exchanges that generate discussion of broader interpretations of women's rights under Islam.

Notes

1. Article 425: "A person who carries off a girl, who is sixteen years or over, at her own will from her parents' residence for the purpose of lawfully marrying her, shall not be deemed as having committed an act of kidnapping."
2. These include the Law on Organizing Affairs of Defense Attorneys (1999) and Legal Aid Regulation (2008).
3. EMIS Directorate, Department of Planning and Evaluation, 1390 (2011/2012) EMIS Statistical Analytical Report (Kabul: Afghan Ministry of Education, 2012).
4. Ashley Jackson, "High Stakes: Girls' Education in Afghanistan" (Kabul: Oxfam International, 2011), www.oxfam.org/sites/www.oxfam.org/files/afghanistan-girls-education-022411.pdf.
5. "Islamic Republic of Afghanistan Presidential and Provincial Council Elections 20 August 2009," OSCE/ODIHR Election Support Team Report (Warsaw: Office for Democratic Institutions and Human Rights, 2009).
6. "Islamic Republic of Afghanistan Parliamentary Elections, 18 September 2010," OSCE/ODIHR Election Support Team Report (Warsaw: Office for Democratic Institutions and Human Rights, 2010).
7. Afghan Women's Network, "UNCEDAW Afghanistan Shadow Report" (Kabul: Afghan Women and Kids Education and Necessities, 2013), http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/AFG/INT_CEDAW_NGO_AFG_14232_E.pdf
8. Afghanistan Mortality Survey 2010, table 3.11, "Age at First Marriage" (Afghan Ministry of Public Health, 2010), 52.
9. Jackson, "High Stakes."
10. "Initial and Second Periodic Report on Implementation of Convention on Elimination of All Forms of Discrimination Against Women" (Kabul: Ministry of Foreign Affairs, 2011).
11. Human Rights Watch, *I Had to Run Away: The Imprisonment of Women and Girls for "Moral Crimes" in Afghanistan* (Kabul: HRW, 2012).
12. Shaharazad Akbar and Taiba Pirzad, "Women's Access to Property in Afghanistan: Law, Enforcement and Barriers" (Kabul: Qara Consulting, 2011).
13. These include Nigar, subinspector, Afghan National Police, Helmand, September 16, 2013; Sushmita Banerjee, writer, Paktika Province, September 6, 2013; Islam Bibi, lieutenant, Afghan National Police, Helmand, July 4, 2013; Nadia Sediqi, acting head of provincial directorate of Laghman Department of Women's Affairs, December 10, 2012; Sima Akakhel, school principal, Kabul, August 10, 2012; and Hanifa Safi, provincial director of Laghman Department of Women's Affairs, July 13, 2012.
14. Theresa Donovan, "Afghanistan Parliament Blocks Women's Rights Legislation," *Juris.org*, <http://jurist.org/paperchase/2013/05/afghanistan-parliament-blocks-womens-rights-legislation.php>.
15. Jed Ober, "Afghanistan's New Election Laws," *The AFPak Channel: Foreign Policy*, August 6, 2013, http://afpak.foreignpolicy.com/posts/2013/08/06/afghanistans_new_election_laws.
16. Keith Shawe, *Afghanistan in 2013: A Survey of the Afghan People* (Kabul: Asia Foundation, 2013), <http://asiafoundation.org/country/afghanistan/2013-poll.php>.
17. One of the failures of the justice-sector reform stems from limited stakeholder and community consultations. Promotion of women's rights requires a broader approach than purely legal. Women's access to justice is one strategy within a multidisciplinary approach to promoting women's rights. Further, any strategy needs to be oriented toward changing social norms relating to gender. Recent studies have found that social norms are the most significant determinate of gender equality, and social norms are only marginally affected by legal institutions. When relevant parts of society are not willing to embrace women's rights, neither formal nor traditional justice institutions will deliver. See Astri Suhrke and Kaja Borchgrevink, "Negotiating Justice Sector Reform in Afghanistan," *Crime, Law and Social Change* 51, no. 2 (2009): 211–30.
18. For more, see Hamid Khan, *Practitioner's Guide: Islamic Law* (Washington, DC: International Network to Promote the Rule of Law, July 2013), 32–34. http://inprol.org/sites/default/files/publications/2013/islamic_law_guide-july_2013_final_0.pdf.
19. Constitution of the Islamic Republic of Afghanistan, ratified January 26, 2004, chap.1, art. 3. The unofficial translation to English is available on the website of the Embassy of Afghanistan to Washington, DC, at www.embassyofafghanistan.org/page/constitution.
20. The 2011 final assessment report, "Evaluation: Afghanistan Rule of Law Stabilization Program (Informal Component)," is available at USAID: http://pdf.usaid.gov/pdf_docs/pdact372.pdf. RLS-I Checchi progress reports and project-related information are also available at USAID's Results and Data, Data Resources, Development Experience Clearinghouse (DEC), under RLS-I Checchi: <https://dec.usaid.gov/dec/home>.
21. Interview with Checchi Rule-of-Law staff, July 2, 2013.
22. Asia Foundation, "Impact Assessment Summary: Women's-Rights and Access to Justice Programs 2009–2011" (internal document, 2012).
23. Hamid Khan, Manal Omar, Kathleen Kuehnast, and Susan Hayward, "Fostering Synergies for Advancing Women's Rights in Post-Conflict Islamic States: A Focus on Afghanistan, Egypt, and Libya," *The Brookings Project on U.S. Relations with the Islamic World, U.S.-Islamic World Forum Papers 2013* (Washington, DC: Brookings Institution, November 2013), <http://www.brookings.edu/~media/research/files/papers/2013/11/us%20islamic%20world%20forum%20publications/womens%20rightsenglishweb.pdf>
24. Hamid Khan, *Practitioner's Guide*.
25. This included two people who published and procured an unofficial translation of the Quran, one student-journalist for distributing articles that criticized the treatment of women in Islamic societies and a journalist who challenged punishments imposed on women in Islamic societies.
26. Interview with Islamic lawyer, November 13, 2013.
27. For an extensive discussion of women's rights, Islamic law, and Muslim feminism, see Asifa Quraishi, "What If Sharia Weren't the Enemy? Rethinking International Women's Rights Advocacy on Islamic Law," *Columbia Journal of Gender and Law* 22, no. 1 (2011). See also Hamid Khan, Kathleen Kuehnast, Manal Omar, and Susan Hayward, "Fostering Synergies."
28. Azizah al-Hibri, "Islam, Law and Custom: Redefining Muslim Women's Rights," *American University International Law Review* 12, no. 1 (1997): 1–44.
29. Hamid Khan, Kathleen Kuehnast, Manal Omar, and Susan Hayward, "Fostering Synergies."

eISBN: 978-1-60127-226-3

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