



# Convention on the Elimination of All Forms of Discrimination against Women

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## Committee on the Elimination of Discrimination against Women

### Concluding observations on the third periodic report of Afghanistan\*

1. The Committee considered the third periodic report of Afghanistan (CEDAW/C/AFG/3) at its 1759th and 1760th meetings (see CEDAW/C/SR.1759 and CEDAW/C/SR.1760), held on 18 February 2020. The list of issues and questions raised by the pre-sessional working group is contained in CEDAW/C/AFG/Q/3, and the responses of Afghanistan are contained in CEDAW/C/AFG/RQ/3.

#### A. Introduction

2. The Committee appreciates the submission by the State party of its third periodic report. It also appreciates its written replies to the list of issues and questions raised by the pre-sessional working group. It welcomes the oral presentation by the delegation and the further clarifications provided in response to the questions posed orally by the Committee during the dialogue.

3. The Committee commends the State party on its high-level delegation, which was headed by the acting Minister of Information and Culture, Hasina Safi, and included the Permanent Representative of Afghanistan to the United Nations Office and other international organizations in Geneva, Nasir Ahmad Andisha, as well as representatives of the Ministry of Women's Affairs, the Supreme Court, the Ministry of State for Peace, the Ministry of Foreign Affairs and members of the House of Representatives of the People.

#### B. Positive aspects

4. The Committee welcomes the progress achieved since the consideration in 2013 of the State party's combined initial and second periodic reports in undertaking legislative reforms, in particular the adoption of the following:

(a) Law on Combating Crimes of Trafficking in Persons and Smuggling of Migrants, under which sex and labour trafficking are criminalized, in 2017;

(b) Criminal Code, which contains provisions regarding crimes against humanity, genocide and war crimes and under which rape, sex and labour trafficking, *bacha bazi* (sexual exploitation and abuse of boys) and the harassment of women are

\* Adopted by the Committee at its seventy-fifth session (10–28 February 2020).



criminalized, so-called “virginity tests” are prohibited and exemptions from criminal liability for the perpetrators of killings committed in the name of so-called “honour” are abolished, promulgated by presidential decree in 2017;

(c) Elections Law, under which 30 per cent of seats in the House of Representatives of the People and 25 per cent of seats in provincial and district councils are reserved for women, in 2016;

(d) Code of Criminal Procedure, which contains guidelines for implementing the Law on the Elimination of Violence against Women (promulgated by presidential decree in 2009) and provisions for witness protection and for investigating and prosecuting crimes of trafficking in persons and bringing their perpetrators to trial, in 2014.

5. The Committee welcomes the State party’s efforts to improve its institutional and policy framework aimed at accelerating the elimination of discrimination against women and promoting gender equality, such as the adoption of the following:

(a) Policy on girls’ education, in 2019;

(b) Second phase of the national action plan on Security Council resolution [1325 \(2000\)](#) for the period 2019–2022;

(c) Policy on women’s inheritance and property rights, in 2018;

(d) Ministry of Women’s Affairs strategic plan for the period 2018–2022, in which the Ministry’s priorities and the required resources and facilities are set forth;

(e) Third national education strategic plan for the period 2017–2021, which includes measures for addressing discrimination against girls in education;

(f) Reproductive, maternal, neonatal and child health strategy for the period 2017–2020;

(g) Strategy and national action plan for the elimination of violence against women for the period 2016–2020, which includes measures to eliminate harmful practices;

(h) Gender strategy for higher education institutions, in 2016;

(i) National health strategy for the period 2016–2020, the aim of which is to improve access to high-quality health-care services;

(j) National strategy on women farmers for the period 2015–2020;

(k) Safe Schools Declaration, in which it is acknowledged that schools and universities have been attacked to prevent the education of girls and in which the guidelines for protecting schools and universities from military use during armed conflict are endorsed, in 2015.

6. The Committee welcomes the fact that, in the period since the consideration of the previous report, the State party has ratified or acceded to the following international instruments:

(a) Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 2018;

(b) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, in 2014.

## C. Sustainable Development Goals

7. **The Committee welcomes the international support for the Sustainable Development Goals and calls for the realization of de jure (legal) and de facto (substantive) gender equality, in accordance with the provisions of the Convention, throughout the process of implementing the 2030 Agenda for Sustainable Development. The Committee recalls the importance of Goal 5 and of the mainstreaming of the principles of equality and non-discrimination throughout all 17 Goals. It urges the State party to recognize women as the driving force of the sustainable development of Afghanistan and to adopt relevant policies and strategies to that effect.**

## D. Parliament

8. **The Committee stresses the crucial role of the legislative power in ensuring the full implementation of the Convention (see [A/65/38](#), part two, annex VI). It invites the House of Representatives of the People, in line with its mandate, to take the necessary steps regarding the implementation of the present concluding observations between now and the submission of the next periodic report under the Convention.**

## E. Principal areas of concern and recommendations

### Visibility of the Convention

9. The Committee notes the State party's efforts to translate the Committee's recommendations into the national languages, share them with national and international organizations and raise awareness of the Convention among community and religious leaders. The Committee notes with concern, however, that those efforts have been insufficient to ensure that members of the House of Representatives of the People, the judiciary, public officials, law enforcement officials and lawyers are adequately informed about the rights of women under the Convention, the Committee's concluding observations, its jurisprudence under the Optional Protocol, its general recommendations and the concept of substantive equality of women and men.

10. **The Committee recommends that the State party provide members of the House of Representatives of the People, judicial personnel and law enforcement officials with regular training on the Convention, including the Committee's concluding observations, to enable them to directly apply the Convention and interpret national legislation in the light of the Convention.**

### Constitutional and legislative framework

11. The Committee notes with concern that there is no reference in the Constitution to specific grounds of discrimination, including gender and sex. It is deeply concerned that the Law on the Elimination of Violence against Women of 2009 and the Criminal Code have yet to be debated in the House of Representatives of the People and that, following the adoption of the Criminal Code in 2017, the section on violence against women was removed. The Committee is particularly concerned about discriminatory provisions contained in the Civil Code of 1977 and the Shia Personal Status Law of 2009 with regard to child marriage, divorce, polygamy, inheritance and the guardianship of children, and about the criminalization of so-called "moral crimes", such as running away from home or adultery, under the Criminal Code.

12. **In accordance with its general recommendation No. 28 (2010) on the core obligations of States parties under article 2 of the Convention, the Committee urges the State party to amend its Constitution to include specific grounds of discrimination, including sex and gender. It recommends that the State party remove provisions that are discriminatory towards women and girls from the Civil Code, the Criminal Code and the Shia Personal Status Law.**

#### **Definition of discrimination against women**

13. The Committee is concerned about the absence of a definition of discrimination against women, in accordance with article 1 of the Convention, in the Constitution.

14. **The Committee recommends that the State party include in its Constitution and legislation a definition of discrimination against women, covering direct and indirect discrimination in the public and private spheres, including intersecting forms of discrimination, in accordance with article 1 of the Convention.**

#### **Transitional justice and access to justice**

15. The Committee is deeply concerned that women suffer disproportionately from a lack of justice as a consequence of conflict. It welcomes the establishment of the International Crimes Investigation Directorate by the Office of the Attorney General to ensure the prosecution of crimes against humanity, genocide and war crimes and takes note of the challenges faced by the State party in exercising effective control and ensuring security in certain areas, which has led to cases of gender-based violence against women being adjudicated by informal justice mechanisms such as jirgas and shuras. The Committee notes with great concern that gender-based violence against women and girls, including conflict-related sexual violence, persists in all spheres of life in the State party. While taking note of the draft law on conciliation of civil disputes, the aim of which is to regulate the jurisdiction of jirgas and shuras and their relationship with the ordinary courts, the Committee is concerned about the fact that:

(a) Many cases of gender-based violence and discrimination against women and girls are referred to jirgas and shuras for advice or resolution, especially in rural and remote areas;

(b) The decisions adopted by such informal justice mechanisms are frequently discriminatory towards women and do not comply with the Constitution or the Convention;

(c) Crimes against humanity, including gender-based violence against women and girls, continue to go unpunished.

16. **In line with its general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, and general recommendation No. 33 (2015) on women's access to justice, the Committee recommends that the State party:**

(a) **Provide mandatory training to judges and all prosecutors assigned to the International Crimes Investigation Directorate on the strict application of laws criminalizing conflict-related sexual violence;**

(b) **Revise the draft law on conciliation of civil disputes to ensure that cases of gender-based violence and discrimination against women are adjudicated by the ordinary courts rather than informal justice mechanisms such as jirgas and shuras;**

(c) **Clearly define the competence of informal justice mechanisms and ensure that women can appeal to the ordinary courts against any decision taken by a jirga or a shura;**

(d) **Collect, analyse and disseminate data on the nature and number of cases of gender-based violence and discrimination against women resolved by formal and informal justice mechanisms, disaggregated by sex, age, ethnic group, disability and relationship between the victim and the perpetrator;**

(e) **Develop partnerships with relevant non-governmental legal aid organizations and train paralegals to help women and girls, in particular those living in unsafe, remote and rural areas, to navigate parallel justice systems;**

(f) **Continue to raise awareness among judges, prosecutors, police officers, lawyers and the general public, including community and religious leaders, of the importance of addressing violations of women's rights through the formal justice system rather than through jirgas and shuras;**

(g) **Continue to increase the number of women judges and police officers;**

(h) **Ensure that conflict-related sexual violence is promptly investigated and prosecuted, that perpetrators are held accountable and that women's right to a remedy, including adequate and effective reparations for violations, is upheld.**

#### **National machinery for the advancement of women**

17. The Committee notes that a pilot project on gender-responsive budgeting has been launched in six ministries. The Committee remains concerned, however, about the limited human, technical and financial resources allocated to the national machinery for the advancement of women.

18. **Reiterating its previous recommendations (CEDAW/C/AFG/CO/1-2, para. 19), the Committee calls upon the State party:**

(a) **To consolidate the Ministry of Women's Affairs and provide it with adequate human, technical and financial resources to fulfil its gender equality and women's rights mandate;**

(b) **To establish a clear time frame for consolidating and reinforcing the national and local capacity of the national machinery for the advancement of women;**

(c) **To continue gender-responsive budget training for all ministries and include it in all civil service training programmes.**

#### **National human rights institution**

19. The Committee welcomes the fact that the Afghanistan Independent Human Rights Commission was reaccredited with A status following the review by the Global Alliance of National Human Rights Institutions in 2019, that the Commission is headed by a woman and that four out of the eight remaining commissioners are women. The Committee is concerned, however, that the President exercises full prerogatives over the appointment of the Commission's members, including the Chairperson.

20. **Reiterating its previous recommendations (CEDAW/C/AFG/CO/1-2, para. 21), the Committee recommends that the State party ensure that the selection process for members of the Afghanistan Independent Human Rights Commission is transparent, participatory and based on merit, in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).**

**Temporary special measures**

21. The Committee welcomes the fact that a 50 per cent quota has been set for the participation of women in community development councils. It is concerned, however, about the lack of temporary special measures in areas such as credit and loans, health, education, employment, and peace and security, including for women and girls who face multiple and intersecting forms of discrimination.

**22. The Committee recommends that the State party adopt temporary special measures to ensure the full and meaningful participation of women in areas such as credit and loans, health, education, employment, and peace and security, and that such measures be directed at women, including rural, internally displaced and returnee women and women with disabilities, who face multiple forms of discrimination. The Committee further recommends that the State party develop an action plan for the design, application and evaluation of such measures.**

**Stereotypes and harmful practices**

23. The Committee remains deeply concerned about the fact that:

(a) Killings in the name of so-called “honour” continue to be carried out and that they are underreported;

(b) So-called “moral crimes”, including adultery and running away from home, are criminalized under the Criminal Code;

(c) The practices of child and forced marriage, *baad* (settlement of disputes by “giving away” girls) and *badal* (exchange marriages) continue and that perpetrators enjoy impunity for such crimes;

(d) Women and girls who try to escape from child or forced marriage or domestic violence are revictimized and that women and girls who are victims of rape are often charged with engaging in extramarital relations (*zina*);

(e) The legal age for marriage for women is set at 15 years, as opposed to 18 years for men, under the Civil Code and the Shia Personal Status Law;

(f) Publicly accessible information about the national action plan for the elimination of early and child marriage for the period 2017–2021 is lacking;

(g) So-called “virginity tests” continue to be performed and that their results are used to discredit the testimony of women in criminal proceedings.

**24. Reiterating its previous recommendations (CEDAW/C/AFG/CO/1–2, para. 25), the Committee urges the State party:**

(a) **To improve the collection and analysis of data, disaggregated by sex, age, disability and ethnicity, on killings committed in the name of so-called “honour”;**

(b) **To decriminalize so-called “moral crimes”, such as adultery and running away from home, under the Criminal Code;**

(c) **To raise awareness among traditional and religious leaders and communities, parents and the general public of the criminal nature of harmful practices and their impact on the capacity of women and girls to enjoy their rights;**

(d) **To raise the legal age for marriage to 18 years for women and men, without exception, under the Civil Code and the Shia Personal Status Law;**

(e) To address the root causes of child marriage, such as poverty, the lack of security and poor education; conduct rights-based awareness-raising campaigns to prevent child marriage; and take gender-responsive action to improve income-generating and employment opportunities for households, in particular those headed by women;

(f) To ensure that full budgetary provision is made to resource the national action plan for the elimination of early and child marriage for the period 2017–2021 and, in cooperation with civil society, to ensure that it is publicized and effectively implemented;

(g) To engage with religious leaders to convey to their congregations a positive image of women as active participants in society, thereby reinforcing their rights and eliminating gender-based violence against women;

(h) To prohibit so-called “virginity tests” and the use of their results as evidence in criminal proceedings.

#### **Gender-based violence against women**

25. The Committee welcomes the establishment of new courts dealing with violence against women and the appointment of women judges to them. It remains deeply concerned, however, about the extremely high levels of gender-based violence against women and girls, including conflict-related sexual violence, and about the lack of protection for victims and the impunity enjoyed by perpetrators of such acts. The Committee is particularly concerned about:

(a) The absence of provisions in the Criminal Code criminalizing gender-based violence against women;

(b) Provisions of the Code of Criminal Procedure of 2014, under which the onus for requesting protection is placed on the victim;

(c) Social stigmatization and judicial bias against women who are victims of gender-based violence, including sexual violence, as reflected in inappropriate questioning and comments made at trial about victims’ sexual behaviour and appearance;

(d) The absence of guidance for the judiciary and law enforcement officers on how to apply the Law on the Elimination of Violence against Women, and its limited enforcement, especially in rural and remote areas;

(e) Underreporting of gender-based violence owing to the subordinate role of women in Afghan society, victims’ fear of stigmatization and retaliation by their families and communities;

(f) The failure by the police to register complaints;

(g) The failure by judicial authorities to issue written warnings and grant protection orders against perpetrators;

(h) The impunity enjoyed by perpetrators, in particular those of high social rank, and the occurrence of concealment or destruction of evidence and bribery by public officials;

(i) The large number of cases of gender-based violence against women and girls resolved through mediation, often without the victim’s consent and offering her no meaningful relief, and the widespread use of traditional dispute resolution mechanisms for mediation, including in cases of femicide, which exacerbates impunity, enables the reoccurrence of violence and erodes women’s trust in the justice system;

(j) The concentration of women judges and police officers in Kabul, Herat, Mazar-e Sharif and Jalalabad, owing to the lack of security in other regions, the dearth of trained female police officers assigned to family response units, and their assignment to clerical tasks;

(k) The lack of a consolidated database on violence against women and girls;

(l) The lack of coherent coordination and funding to ensure the implementation of the strategy and national action plan for the elimination of violence against women for the period 2016–2020.

**26. In line with its general recommendation No. 35, the Committee urges the State party:**

**(a) To amend the Criminal Code to include provisions criminalizing all forms of gender-based violence against women;**

**(b) To amend articles 22 to 39 of the Law on the Elimination of Violence against Women to introduce ex officio prosecution for crimes of gender-based violence against women and to make provisions for protection orders;**

**(c) To ensure that all alleged violations of international human rights and humanitarian law, including conflict-related sexual violence, are investigated promptly, effectively and in a transparent manner in order to hold the perpetrators to account;**

**(d) To ensure that all perpetrators of gender-based violence against women, including those of high social rank and public officials, police officers and members of the armed forces, are prosecuted and adequately punished;**

**(e) To adopt gender-sensitive guidelines for the judiciary on the enforcement of the Law on Elimination of Violence against Women, gender-sensitive investigation and interrogation methods and measures to prevent and punish the concealment or destruction of evidence, including forensic evidence in cases of sexual violence, and investigate and adequately punish the acceptance of bribes by public officials;**

**(f) To abolish the provisions in the Code of Criminal Procedure that place the onus for requesting protection on the victim;**

**(g) To guarantee that women and girls who are victims of gender-based violence are provided with immediate access to effective remedies, shelter, legal assistance and reparation, including compensation;**

**(h) To address cultural norms and discriminatory stereotypes that lead to social stigma associated with gender-based violence against women and girls through education, information and communication campaigns, in collaboration with civil society, women's organizations, traditional and religious leaders, and men and boys;**

**(i) To secure adequate State funding for accessible shelters and protection centres for women throughout the country and support non-governmental organizations running shelters and providing support services to women who are victims of gender-based violence;**

**(j) To ensure that the national consolidated case management database on violence against women and girls is made operational;**

**(k) To increase the number of women judges assigned to units prosecuting violence against women and assign female police officers to family response units throughout the country, ensuring their protection, in particular in provinces and districts where security is poor;**



(l) **To allocate adequate funding and strengthen coordination mechanisms to ensure the implementation of the strategy and national action plan for the elimination of violence against women for the period 2016–2020.**

#### **Trafficking and exploitation of prostitution**

27. The Committee commends the State party on the establishment in 2017 of the High Commission for Combating the Crimes of Abduction and Human Trafficking or Smuggling and 33 provincial offices. It notes with concern, however, that:

- (a) Women and girls who fall victim to trafficking are often treated as criminals and charged with so-called “moral crimes”;
- (b) Women who are victims of trafficking often lack access to formal justice;
- (c) There are few measures in place for the early identification and referral to the appropriate services of victims who testify as witnesses, or to protect them;
- (d) Information on the extent of trafficking and exploitation of prostitution in the State party, disaggregated by sex, age, nationality, ethnicity and disability, is lacking;
- (e) Trafficking in persons still goes unpunished;
- (f) Shelters for victims of trafficking in persons are lacking.

28. **Reiterating its previous recommendations (CEDAW/C/AFG/CO/1–2, para. 27), the Committee urges the State party:**

- (a) **To collect and analyse data, disaggregated by sex, age, nationality, ethnicity and disability, on the prevalence of trafficking in persons within and from the State party;**
- (b) **To develop a standard operating procedure to ensure the early identification of trafficking victims and their referral to the appropriate services;**
- (c) **To provide mandatory training for judges, prosecutors, the police and other law enforcement officers at the local and provincial levels on the strict application of anti-trafficking legislation, the gender-sensitive treatment of victims and identification, protection and law enforcement strategies;**
- (d) **To ensure that adequate resources and funds are allocated for the proper care and rehabilitation, including through the provision of accessible shelters, of trafficking victims;**
- (e) **To ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and the South Asian Association for Regional Cooperation Convention on Preventing and Combating Trafficking in Women and Children for Prostitution.**

#### **Participation in political and public life**

29. The Committee welcomes the efforts undertaken by the State party to further increase the participation of women in the civil service, but notes that most appointments have been in the field of teaching. The Committee is concerned that the overall number of women civil servants in high-level positions remains low and that only about 3 per cent of applications for senior positions are from women. The Committee is also concerned about:

(a) The comparatively low representation of women in the House of Representatives of the People, which decreased from 28 per cent in 2017 to 26.4 per cent in 2018;

(b) The underrepresentation of women in the Supreme Court, where only one out of nine judges is a woman;

(c) The low turnout among women voters in presidential (38 per cent in 2018) and parliamentary (32 per cent in 2016) elections;

(d) The absence of female candidates during the 2019 presidential elections.

**30. In line with article 4 (1) of the Convention and the Committee's general recommendations No. 23 (1997) on women in political and public life and No. 25 (2004) on temporary special measures, the Committee recommends that the State party:**

**(a) Increase the number of qualified women in the civil service beyond the 30 per cent target set for 2020, including in high-level national and subnational government positions and in fields traditionally occupied by men;**

**(b) Implement existing and adopt new temporary special measures, such as statutory quotas and preferential recruitment of women candidates in the civil service in case of equal qualification, to ensure that at least 30 per cent of members of the House of Representatives of the People are women, to promote the participation of women candidates in presidential elections and to accelerate the appointment of women as judges, including to the Supreme Court;**

**(c) Undertake a study to identify the specific barriers to the full and equal participation of women in the House of Representatives of the People;**

**(d) Conduct campaigns for political, traditional and religious leaders, the media, the ulama and other influencers, and the general public to raise their awareness of the fact that the full, equal, free and democratic participation of women on an equal basis with men in political and public life is a requirement for the full enjoyment by women of their human rights and for achieving political stability and economic development;**

**(e) Support women who are running for election, including by providing training for women candidates;**

**(f) Conduct a transparent and gender-sensitive review of the security, technical and administrative challenges that were faced by women voters and candidates during the parliamentary and presidential elections.**

#### **Women and peace and security**

31. The Committee welcomes the participation of 11 women in the preliminary Afghan peace talks that were held in 2019 in Doha. The Committee is concerned, however, about the lack of gender-responsive budgeting, funding and cooperation for the implementation of the national action plan on Security Council resolution [1325 \(2000\)](#) and about the fact that Afghan women are systematically excluded from formal peace negotiations, such as the 2018 Kabul Process and the negotiations that followed the conference held in Geneva in 2018. It also notes with concern that, of the 30 staff members of the newly established Ministry of State for Peace Affairs, only 2 are women.

**32. The Committee recommends that the State party work with representatives of women's civil society organizations from the different provinces:**

(a) To ensure that the implementation of the national action plan on Security Council resolution 1325 (2000) takes into consideration the full spectrum of the Council agenda on women and peace and security, as reflected in resolutions 1325 (2000), 1820 (2008), 1888 (2009), 1889 (2009), 1960 (2010), 2106 (2013), 2122 (2013), 2242 (2015), 2467 (2019) and 2493 (2019);

(b) To strengthen coordination between national and provincial structures and mechanisms established for promoting peace and security and ensure that they include women;

(c) To conduct a gender analysis of the annual budgets of all ministries based on the strategic objectives of the national action plan, strengthen interministerial cooperation to implement it at the national and provincial levels and ensure that adequate human, technical and financial resources are available for its implementation;

(d) To develop indicators for regular monitoring and evaluation of and progress reporting on the implementation of the national action plan and provide for the establishment of accountability mechanisms;

(e) To ensure that at least 30 per cent of staff members of the Ministry of State for Peace Affairs are women;

(f) To ensure that women, including those belonging to ethnic and religious minorities, can participate meaningfully in peace, transitional justice and reconciliation processes, such as formal and informal peace talks, and in the implementation of the national action plan and monitoring progress in that regard.

33. The Committee is concerned about the multiple forms of discrimination faced by women and girls with disabilities, whose numbers are increasing as a consequence of conflict, and the failure to adequately protect them or consider their needs with regard to gender-based violence and access to services.

34. **The Committee recommends that the State party ensure that the needs of women and girls with disabilities, including those who become disabled as a consequence of conflict, are protected and that their needs are duly taken into consideration in all policies and strategies for women in relation to gender-based violence and access to services.**

#### **Human rights defenders and journalists**

35. The Committee is deeply concerned about the fact that women human rights defenders and journalists are targeted for their work on women's rights, face gender-based violence, threats and stigmatization, including by their communities, and lack protection, and that women journalists are subjected to targeted killing. It is also concerned about the restrictions placed on the freedom of movement of women human rights defenders and the adverse effect of violence and intimidation on their work and on their right to participate meaningfully in processes relating to women's rights.

36. **The Committee urges the State party to protect the life, personal liberty and security of women human rights defenders and journalists, to guarantee their freedom of movement and expression, to prosecute acts of murder or gender-based violence and intimidation committed against them and to adequately punish the perpetrators of such crimes. The Committee recommends that the State party work with civil society organizations to raise the awareness of political leaders, communities and the media of the importance of the work of women human rights defenders.**

**Nationality**

37. The Committee notes that a new citizenship law is being drafted and commends the State party on its efforts to raise awareness of the importance of obtaining a national identity card (*tazkira*). The Committee notes with concern, however, that many women continue to face difficulties in obtaining identity cards owing to the lack of security, restrictions imposed by male family members, limited mobility or the lack of financial means, a situation that in turn impedes their access to State services and employment. It notes with concern the specific obstacles, including administrative barriers and corruption, faced by women heads of households, widows, divorcees and internally displaced and returnee women in obtaining identity cards.

**38. In line with its general recommendation No. 32 (2014) on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, the Committee recommends that the State party:**

**(a) Ensure that under the new citizenship law women and men are granted equal rights with respect to nationality, including the right to transmit it to their children;**

**(b) Work with traditional and religious leaders and the media to raise public awareness of the importance of civil registration of birth and personal identity documents for the exercise of human rights by women and their children;**

**(c) Amend the Civil Registration Law to remove barriers faced by women, including women heads of households, widows, divorcees and internally displaced and returnee women, in obtaining identity documents;**

**(d) Consider ratifying the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.**

**Education**

39. The Committee commends the State party for including education on women's rights and gender equality in the school curriculum for grades 1 to 6 and for its efforts to improve literacy among women and girls, including through the skills-based enhancement of literacy in Afghanistan III programme for the period 2014–2018. It also welcomes measures to recruit 30,000 female teachers, including in remote areas. The Committee remains deeply concerned, however, about the fact that schoolgirls and schools for girls continue to be targeted in the course of armed conflict. It notes with concern the disproportionately high rate of illiteracy among girls, especially in rural areas, the socioeconomic and cultural barriers faced by girls in gaining access to and continuing education, the sexual violence and harassment faced by female pupils and teachers, the long distances to schools in remote areas, the lack of adequate school infrastructure meeting the hygiene needs of girls, such as separate sanitary facilities, in particular in rural and conflict-affected areas, and the lack of female teachers. The Committee is also concerned about the fact that girls lack access to secondary and higher education and to non-traditional fields of study, including science, technology, engineering and mathematics.

**40. Reiterating its previous recommendations (CEDAW/C/AFG/CO/1–2, para. 33), the Committee recommends that the State party:**

**(a) Continue its efforts to staff schools for girls with female teachers, including by improving their salaries and job security, ensuring their personal safety and protecting them from sexual violence and harassment;**

- (b) **Scale up, in coordination with the relevant ministries, the skills-based literacy programme of the Ministry of Education;**
- (c) **Enhance access by girls to education, including in conflict-affected areas, through measures such as the community-based education model;**
- (d) **Implement the Safe Schools Declaration of 2015;**
- (e) **Raise awareness among parents, teachers, traditional and religious leaders and girls and boys of the importance of educating girls for their economic empowerment, personal development and autonomy;**
- (f) **Establish and enforce procedures to tackle violence against women and girls in and around educational institutions;**
- (g) **Ensure that schools are physically accessible and located within a safe distance of pupils' homes, in particular in rural and remote areas;**
- (h) **Eliminate all forms of discrimination against girls and women with disabilities by identifying and removing legal, physical, social, financial, attitudinal, communication and language barriers in educational institutions and the community;**
- (i) **Provide affordable hostels and transportation for girls where the distance between home and school impedes access to education and protect them from sexual and other forms of abuse;**
- (j) **Improve sanitation facilities and make them accessible, install sex-segregated toilets and washrooms in all schools and ensure access to safe drinking water;**
- (k) **Institute measures to increase the participation of women and girls in science, technology, engineering and mathematics programmes at all levels of education by providing incentives such as scholarships and adopting temporary special measures;**
- (l) **Ensure that women and girls have the same level of access to secondary and higher education as men and boys.**

### **Employment**

41. The Committee notes with concern that laws protecting women's labour rights are lacking, that the level of women's labour force participation remains low and that women are concentrated in the informal economy, especially in agriculture, domestic work and unpaid care work, and have no access to social protection.
42. **The Committee recommends that the State party:**
- (a) **Put effective mechanisms in place to implement legal provisions on women's rights in employment, in particular, those in the Constitution (arts. 8 and 50, para. 4) and the Labour Law (art. 9, para. 1, and arts. 54 and 123–125);**
  - (b) **Undertake an analysis of the barriers to women's employment, in particular in the formal economy, to inform strategies and policies on boosting their participation in formal employment;**
  - (c) **Ensure that women working in the informal economy are covered by labour legislation and social protection and monitor working conditions for women in agriculture and domestic work through regular workplace inspections.**
43. The Committee welcomes the approval given in 2019 by the Minister of the Interior for an internal harassment complaint mechanism for policewomen in the Ministry and the fact that legislation on combating the harassment of women is being

drafted. It is concerned, however, that sexual harassment remains prevalent in the State party in the public and private sectors.

**44. The Committee recommends that the State party:**

**(a) Establish effective and confidential complaint mechanisms for victims of sexual harassment in the workplace and protect women from retaliation when they bring complaints;**

**(b) Take measures, such as more regular workplace inspections, to ensure that victims of sexual harassment are adequately compensated and perpetrators appropriately punished;**

**(c) Systematically collect and analyse disaggregated data on sexual harassment in the workplace, including on the number of complaints received and investigated and the number and nature of the penalties imposed on perpetrators;**

**(d) Ratify the International Labour Organization Violence and Harassment Convention, 2019 (No. 190).**

### **Health**

45. The Committee commends the State party on its efforts to reduce maternal mortality and improve access to family planning. It also welcomes the training of female health personnel and midwives by the State party and their deployment to remote areas. The Committee is, however, deeply concerned about the limited access that women have to health care, in particular sexual and reproductive health-care services and information, especially in rural and remote areas, the persistently high rate of maternal mortality and the disproportionate impact of conflict on women's health. It also notes with concern:

(a) The limited access that women with disabilities have to health care;

(b) The high number of women who suffer from obstetric fistula owing to obstructed labour;

(c) The lack of comprehensive sexual education and limited access to family planning and modern forms of contraception;

(d) The lack of gender-sensitive mental health services and facilities to provide high-quality psychological and psychosocial assistance to women with mental health challenges.

**46. In line with its general recommendation No. 24 (1999) on women and health, the Committee recommends that the State party:**

**(a) Continue to reduce the rate of maternal mortality and ensure that women have access to skilled birth assistance and high-quality obstetric care, especially in rural and remote areas;**

**(b) Conduct awareness-raising campaigns to eliminate cultural barriers preventing women from obtaining access to sexual and reproductive health-care services and information, in particular in rural and remote areas;**

**(c) Take appropriate measures to ensure that health-care services are accessible to women with disabilities, that they take into account their needs and that they are respectful of their human rights and dignity;**

**(d) Increase the availability of mental health and addiction rehabilitation services for women;**

(e) **Increase budgetary allocations to ensure that women throughout the country have access to obstetric fistula treatment;**

(f) **Educate women and girls, and men and boys, on sexual and reproductive health and rights, including family planning and responsible sexual behaviour, and ensure that affordable and modern contraceptives are available throughout the country;**

(g) **Coordinate all activities with humanitarian and development actors in a comprehensive approach, without duplication of efforts, to health care and ensure that disadvantaged populations, including those in remote and rural areas, have access to health care.**

#### **Abortion**

47. The Committee notes with concern that abortion for non-therapeutic reasons continues to be criminalized in the State party. It is also concerned about the large number of unsafe abortions carried out in the State party, which is one of the main causes of the high rate of maternal mortality.

48. **The Committee recommends that the State party legalize abortion in cases of rape, incest, threats to the life or health of the pregnant woman or severe fetal impairment, abolish punitive measures imposed on women who undergo abortion and enhance measures, such as through family planning and sexual education, to prevent unwanted pregnancy. It also recommends that the State party ensure affordable and confidential access to safe abortion and post-abortion services for women and girls without parental authorization or fear of stigma.**

#### **Rural women**

49. The Committee is concerned that rural women and girls are disproportionately affected by poverty and have limited access to education, health care and water and sanitation. The Committee notes with concern the lack of initiatives to expand the scope and scale of rural women's entrepreneurship, the focus of which is mainly on traditional micro-level and home-based activities. The Committee is further concerned that rural women have limited access to land, productive resources, agricultural equipment, markets, finance or technology, all of which limits their ability to invest and accumulate assets. It is also concerned that rural women are not able to participate fully and meaningfully in decision-making on all issues affecting their lives, despite the 50 per cent quota established for the participation of women in community development councils. The Committee notes with concern the prevalence of gender-based violence against rural women and girls and the limited access that they have to formal justice mechanisms.

50. **In line with its general recommendation No. 34 (2016) on the rights of rural women, the Committee recommends that the State party:**

(a) **Enhance the involvement of rural women in decision-making on land distribution and agricultural reform, including by further increasing their participation in community development councils;**

(b) **Conduct a study on the barriers preventing women from fully participating in those councils;**

(c) **Intensify measures to ensure that rural women and girls have access to education, health care, clean water and sanitation and other basic services;**

(d) **Facilitate access for rural women and girls to formal justice mechanisms and legal aid and strengthen the response of police, including through training, to gender-based violence against women in rural areas.**

#### **Disadvantaged groups of women**

51. The Committee is deeply concerned about intersecting forms of discrimination and violence faced by internally displaced women and returnees.

52. **The Committee urges the State party:**

(a) **To safeguard internally displaced and returnee women and girls from gender-based violence, including forced and child marriage and trafficking in persons, and investigate and prosecute all instances of gender-based discrimination and violence, child marriage and trafficking that occur in all phases of the conflict-related displacement cycle;**

(b) **To provide internally displaced and returnee women and girls who are victims of gender-based violence, including child marriage and trafficking in persons, with free and immediate access to medical services, legal assistance and a safe environment, as well as to female health-care providers and services, such as reproductive health care and counselling.**

#### **Economic empowerment of women**

53. The Committee commends the State party for launching the women's economic empowerment and rural development programme for the period 2018–2023 and initiating in 2018 the policy on women's inheritance and property rights, which was endorsed by the Legislative Committee in 2019. Its aim is to broaden access to land and to boost the social and economic empowerment of poor rural women. The Committee notes with concern, however, the impact of unpaid care work on women's economic empowerment.

54. **The Committee recommends that the State party:**

(a) **Develop an action plan to implement the inheritance and property rights policy of 2018;**

(b) **Expand business opportunities, the scale of production and markets for women by aggregating them into small-scale industries and providing common facilities for women producers;**

(c) **Conduct time-use surveys as part of the national household survey to collect statistics disaggregated by gender on time spent on activities in the household and at work with a view to measuring and putting a value on the unremunerated domestic activities of women, and use such information as a basis for additional policies on the advancement of women;**

(d) **Quantify and include the unremunerated domestic activities of women in gross national product.**

#### **Marriage and family relations**

55. The Committee remains concerned that many marriages and divorces are not registered in the State party, and notes with concern that the Civil Code does not stipulate the non-validity of unregistered marriages. Moreover, the Committee is concerned that women and girls are discriminated against in legal provisions with regard to marriage and family relations, in particular the following:

(a) Article 86 of the Civil Code and article 91 of the Shia Personal Status Law, under which Sunni and Shia men may marry up to four wives at one time;



(b) Article 71 (1) of the Civil Code and articles 99 (2) and 99 (3) of the Shia Personal Status Law, under which girls under the age of 15 years may be married;

(c) Articles 71 (1), 252, 256 and 268 of the Civil Code and article 45 of the Shia Personal Status Law, under which priority is given to the father with regard to the guardianship of children;

(d) Articles 135 to 145 of the Civil Code and articles 158 to 161 of the Shia Personal Status Law, under which the husband may, unilaterally and without giving grounds, repudiate his spouse, while the wife must resort to a judicial divorce, which is granted only on certain grounds for which she has the burden of proof;

(e) Articles 2007 and 2019 of the Civil Code and articles 219 and 222 of the Shia Personal Status Law, under which women do not have equal rights with men with regard to inheritance.

**56. In line with its general recommendations No. 21 (1994) on equality in marriage and family relations and No. 29 (2013) on the economic consequences of marriage, family relations and their dissolution, as well as article 16 of the Convention, the Committee urges the State party:**

(a) **To repeal all discriminatory provisions against women, in particular articles 71 (1), 86, 135 to 145, 218, 252, 256, 268, 2007 and 2019 of the Civil Code and articles 91, 99 (2), 99 (3), 158 to 161, 132, 219 and 222 of the Shia Personal Status Law;**

(b) **To ensure that the draft family law and the draft registration of marriage and divorce law provide for equal rights of women and men in all matters relating to marriage and family relations, in particular with regard to their responsibilities within the family, property and inheritance, divorce and the guardianship of children;**

(c) **To raise women's awareness of their equal rights in marriage and family relations;**

(d) **To ensure mandatory registration of all marriages, facilitate standard processes for marriage and divorce registration and ensure that all family law cases are adjudicated by civil or family courts rather than traditional justice mechanisms.**

#### **Optional Protocol to the Convention**

**57. The Committee encourages the State party to ratify the Optional Protocol to the Convention.**

#### **Beijing Declaration and Platform for Action**

**58. The Committee calls upon the State party to use the Beijing Declaration and Platform for Action and to further evaluate the realization of the rights enshrined in the Convention in the context of the 25-year review of the implementation of the Declaration and Platform in order to achieve substantive equality between women and men.**

#### **Dissemination**

**59. The Committee requests the State party to ensure the timely dissemination of the present concluding observations, in the official languages of the State party, to the relevant State institutions at all levels (national, regional and local), in particular to the Government, the ministries, the House of Representatives of the People and the judiciary, to enable their full implementation.**

**Technical assistance**

60. **The Committee recommends that the State party link the implementation of the Convention to its development efforts and that it avail itself of regional or international technical assistance in this respect.**

**Ratification of other treaties**

61. **The Committee notes that the adherence of the State party to the nine major international human rights instruments<sup>1</sup> would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (2003) and the International Convention for the Protection of all Persons from Enforced Disappearances (2010), to which it is not yet a party.**

**Follow-up to the concluding observations**

62. **The Committee requests the State party to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 18 (a) and 32 (c) above.**

**Preparation of the next report**

63. **The Committee invites the State party to submit its fourth periodic report, which is due in February 2024. The report should be submitted on time and cover the entire period up to the time of its submission.**

64. **The Committee requests the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (HRI/GEN/2/Rev.6, chap. I).**

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<sup>1</sup> The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.