

IMPLEMENTING THE EVAW LAW AT A CRITICAL JUNCTURE

Understanding the stakes of the Elimination of Violence Against Women Law (EVAW) in Afghanistan



The Elimination of Violence Against Women (EVAW) Law is an Afghan law passed by presidential decree in 2009 that criminalises acts of violence against women. Since March 2013, EVAW Law implementation has stagnated, jeopardising progress achieved. What has caused such a drastic change? Is it public perception that hinders acceptance of this law or does the root of the problem lie deeper?

In 2013, Samuel Hall conducted an evaluation of UN Women's support to the Government of the Islamic Republic of Afghanistan (GIRoA) in implementing the EVAW Law through the EVAW Commission Project. The project is designed to support 3 key structures: EVAW Commissions, resource centres, and Women's Protection Centres (WPCs). This document shares some of Samuel Hall's analysis of the current stakes for the EVAW Law, while the full report evaluates the activities of the UN Women EVAW Commission project.

Why is the EVAW Law controversial?

Controversial since its inception, a faction of Afghan society views certain components of the EVAW Law to be contradictory to Sharia law. The GIRoA made slow but steady progress implementing the law from 2009-12. Progress is at risk ever since the Afghan Parliament re-opened debates around the legitimacy of the law in May 2013. Vocal opponents within Parliament condemned the law, arguing that WPCs should be abolished, women should be forced to obtain permission from their husbands to work, and that early or forced marriage should not be criminalised. The Parliamentary debate

may have irreparably weakened the law by rallying its opponents and demonstrating the lack of political will to enforce it.

What is the impact of the controversy around EVAW?

Stagnating implementation

Many government officials have started to distance themselves from the EVAW Law, with devastating consequences for implementation. Implementation of the law has stagnated in mid-2013 due to uncertainty as to whether all, parts or none of the law should be enforced.

The debate around the EVAW Law has interrupted the implementation process at a crucial stage. Just as the GIRoA was gaining the capacity to implement the law, this debate has undermined the will to do so. This shift threatens to undo results achieved thus far.

Reduced access to justice for women

By failing to implement the EVAW Law, government officials are denying women access to justice and sending a message that women should not seek assistance. This reinforces attitudes that attach shame to victims rather than perpetrators of violence against women. Violence against women remains 'a widespread and undeniable reality' in Afghanistan.¹ Victims demonstrate an acute need for protection, legal counsel and other forms of support and assistance provided by WPCs. While many women have been helped by existing services, many more are unable or unwilling to seek assistance due to lack of awareness, fear of retribution or

¹ AIHRC (2012), 'Violence Against Women in Afghanistan: Biannual report 1391,' <http://bit.ly/1cxYF8c>.

lack of access, demonstrating a need for improved awareness, referrals and EAW enforcement.

Public perception of the EAW Law

This lingering uncertainty about the law's legitimacy is having widespread consequences on public opinion, down to the community level. Although the debates focus on particular components of the EAW Law, criticism is undermining the legitimacy of the law as a whole. By failing to defend or implement the EAW Law, the GIRA is sending a message to the public that the different forms of violence against women are not criminal. This inaction gives credence to opponents' claims rallying support against the law.

Recommendations

Address the controversy

The controversy about whether the EAW Law contradicts Sharia Law should be addressed and resolved as an utmost priority. The EAW High Commission, a high-ranking inter-ministerial group designed to lead implementation, should develop a strategy for addressing the uncertainty about the law within the government.

The EAW High Commission needs to arm provincial Commissions with clear, easy to understand messages with which they can defend the law from a religious standpoint. For example, they should explain to those doubting the legitimacy of the law that the EAW Law Drafting Committee members consulted Sharia scholars from Indonesia and Afghanistan during the drafting process.

Enhance the presence of male counterparts in the process.

Too often, programming on gender issues focuses exclusively on women, neglecting the fact that men must be

part of the solution when addressing issues such as domestic violence and forced marriage. Community outreach requires a more balanced approach to advocating women's rights to men, women, boys, and girls.

Combat WPC rumours

Access to shelter services is limited in part by negative public attitudes about WPCs. Rumours abound about WPCs and their residents. These misperceptions need to be addressed through public awareness at the local level, as they vary from province to province. Messages need to be tailored to the local context and delivered by respected, opinion leaders.

Reassess donor support

Given the rapid decline in political support for the EAW Law in recent months, further provision of financial, technical or material support for the EAW Commissions should be contingent on improved efforts on the part of the GIRA to support and implement the EAW Law. The government has demonstrated that it is a lack of will, rather than a lack of capacity, that is currently the biggest barrier to EAW Law implementation. While there is a need for activities that support implementation, resources would be better spent elsewhere if the government fails to demonstrate the will to implement the EAW Law.

Support for WPCs and free legal counsel for women, especially through pooled funding mechanisms, should continue regardless of the government's stance on the EAW Law, as they provide a vital service for women victims of violence.

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