



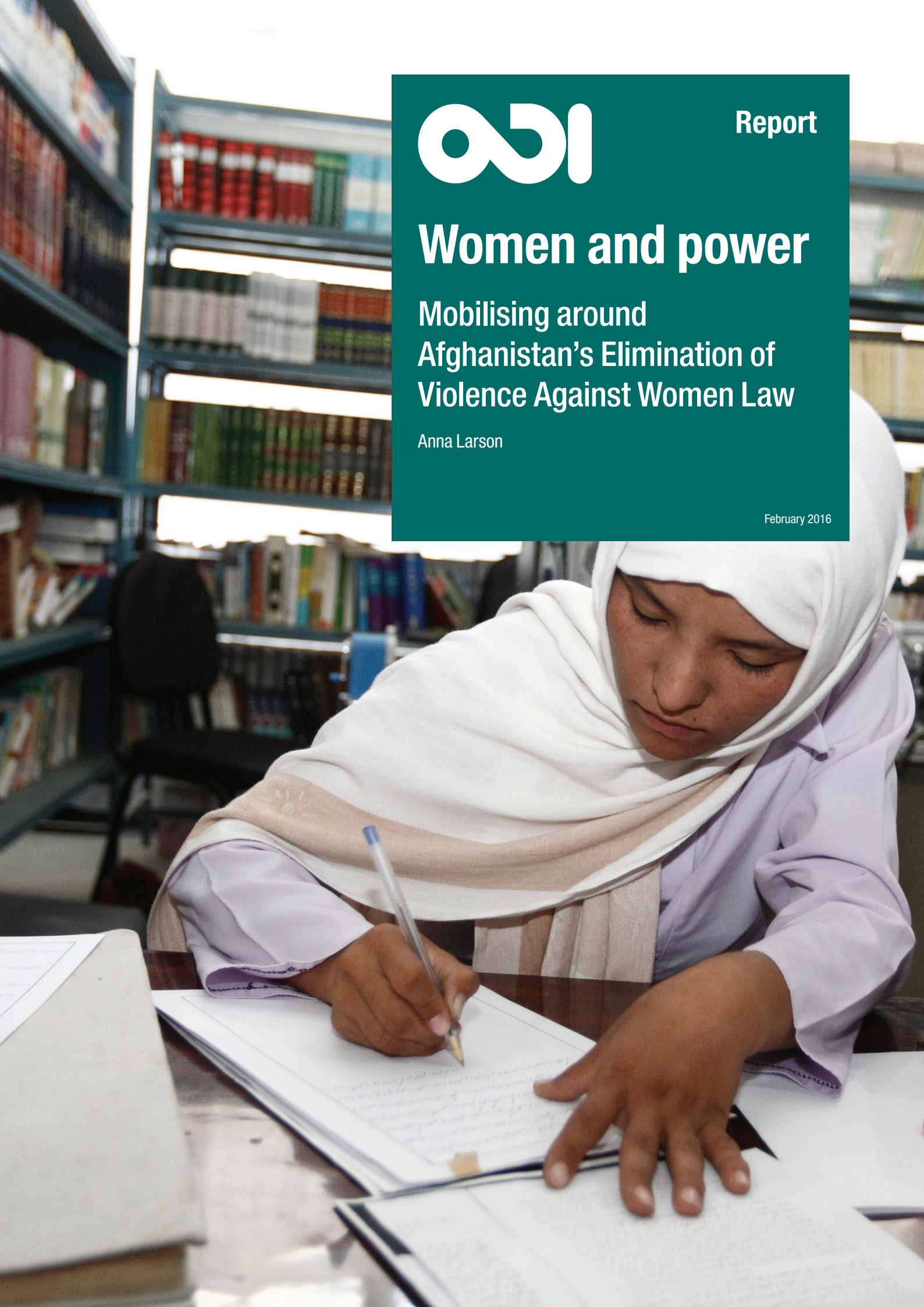
Report

Women and power

Mobilising around Afghanistan's Elimination of Violence Against Women Law

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About the research

This case study is an output from the Women's Voice and Leadership in Decision-Making project. This two-year (2014-16) evidence and learning project, funded by the UK Department for International Development, asks: (i) What enables women's substantive voice and influence in decision-making processes? (ii) Does women's presence and influence in decision-making improve outcomes for other women and advance gender equality? (iii) How can international actors better support women's leadership and decision-making? In answering these questions, the research has examined the relationship between women's political, social and economic power and resources, both individual and collective.

Project activities and outputs include:

- A global review of the evidence on women's voice and leadership, with thematic chapters on women's political participation, social activism and economic empowerment,
- A rapid review on women and girls' leadership programmes,
- A rapid review on women and girls' use of digital information and communication technologies,
- Five empirical case studies on women's leadership and decision-making power, in Afghanistan, Bangladesh, Gaza, Kenya and Malawi,
- A synthesis report and policy briefings.

More information can be found at:
odi.org/women-and-power

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Acronyms

ANDS	Afghanistan National Development Strategy
AWN	Afghan Women's Network
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CSO	Civil Society Organisation
DFID	Department for International Development
EVAW	Elimination of Violence Against Women
ICG	International Crisis Group
MJ	Meshrano Jirga (Upper House)
MOWA	Ministry of Women's Affairs
MP	Member of Parliament
NAPWA	National Action Plan for the Women of Afghanistan
NATO	North Atlantic Treaty Organization
NGO	Non-Governmental Organisation
NUG	National Unity Government
ODI	Overseas Development Institute
PGI	Practical Gender Interest
SGI	Strategic Gender Interest
SNTV	Single Non-Transferable Vote
SOAS	School of African and Oriental Studies
UK	United Kingdom
UN	United Nations
UNAMA	UN Assistance Mission to Afghanistan
UNDP	UN Development Programme
UNIFEM	UN Development Fund for Women
US	United States
USAID	US Agency for International Development

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Summary

This case study examines some of the changes to women's voice, leadership and access to decision-making that have taken place in Afghanistan over the past decade. In order to do so, as part of a broader study, it asks two central questions: (i) what are the enabling factors for women's voice, leadership and access to decision-making in Afghan political processes? And (ii) what do we know about whether and how women's voice, leadership and presence in decision-making roles within these processes actually result in greater gender equality for Afghan women? It looks at the role that international actors have played in this regard and identifies lessons learnt for future engagement.

The study focuses on one example of an attempt to achieve political change in recent years: the formation and promotion of the Law on the Elimination of Violence Against Women (EVAW), drafted in 2005, submitted to the Ministry of Justice in 2006, passed by presidential decree in 2009 and brought to parliament in 2013. The political processes involved highlight informal norms that shape how politics works around (but not in disregard of) formal procedures, the way women activists within and outside parliament work around structural and political limitations on collective action, the contributions of civil society actors and the impact of international involvement. The study is not an evaluation of all international involvement in supporting the EVAW law. However, looking closely at political processes allows for an analysis of how women legislators wield influence in the Wolesi Jirga (WJ), and whether this influence has the potential to contribute towards gender equality.

The passing of this law in 2009 symbolised clear achievements for women, in terms of both elite women's ability to influence and take advantage of broader political processes and gender equality outcomes for women in Afghanistan. The Ministry of Women's Affairs, women activists and international actors were able to lobby for the EVAW law in the wake of significant setbacks in gender equality through the passing by presidential decree of another law, the Shiite Personal Status Law, which undermined Shiite women's citizenship rights. Such a strategy was effective in bringing about the passing of the EVAW law at a time when it was unlikely to have been approved through the parliamentary process. In terms of outcomes, the law criminalised violence against women for the first time.

While its usage remains limited and uneven, it has changed perceptions already as to women's status in communities across the country and has the potential to do so further.

In unpacking the political processes and relationships that have determined the course of the EVAW law to date, the study makes several observations regarding women's greater influence over broader political processes; changes to their voice, leadership and access to decision-making; and donor involvement¹ in political processes over the past decade:

- 1. An increasingly personalised politics has been detrimental to the consolidation of collective causes:** In spite of the high number of seats reserved for women, formal and informal political structures – including the Single Non-Transferable Vote (SNTV) electoral system and the lack of formalised groupings or formal parties within parliament – define women legislators' behaviour as much as they do men's, and erode the possibilities for collective mobilisation over issues. However, while this is partly the result of an historical precedent for Afghan MPs to focus on advocating for local constituent interests over and above broader, legislative concerns, it has also been heightened over the past decade by an increasing personalisation of politics and the way certain individuals have been able to capture resources and garner control over key political processes. This has empowered individuals but further weakened collective action.
- 2. Influence over policy in parliament can be wielded by 'quiet' voices:** The relationship between voice, leadership and influence is not straightforward. As with politics everywhere, women legislators in the Afghan parliament with the loudest voices are also those who attract the most criticism – from other women MPs as well as men. While this is not in itself exceptional, it has particularly detrimental effects in Afghanistan in that women MPs as a collective feel tarnished by the actions taken by outspoken women individuals, and often refuse to associate with these individuals regardless of the cause being promoted. Further, the reactions that outspoken women incite from conservative male legislators can be such that significant setbacks to gender equality ensue. Women parliamentarians thus often consider 'quiet' voices to be more strategic in achieving equality

¹ The principal donors involved in supporting the EVAW law process have been Western European, North American and Australian bilateral aid agencies, the embassies of these countries and UN Women, UNDP and UNAMA. It is to these donors that the paper refers when it uses the term 'international actor' or 'international donor'.

– even if these seem on the surface to be compliant with patriarchal norms and practices. Donor approaches to support individual, outspoken women have been detrimental in this regard.

3. MPs' relationship with liberal-leaning civil society organisations is weak and unstructured: There is little incentive for MPs to engage with the few issues-based civil society groups that do exist because the electoral system allows them to generate adequate vote banks from their local community and/or ethnically homogenous factions. There is no need to prioritise general issues over highly localised concerns. Further, civil society itself is weak and fractured along ethnic and other lines. What has changed in recent years, however, is the way media organisations and civil society groups have taken a keener interest in investigative journalism and the exposure of corrupt officials. MPs appear to be taking these groups more seriously in this regard. Further, there has been greater uptake in the media of women's rights issues and the exposure of gender-based violence. Together, these present the opportunity for greater coordination between civil society and Afghan women legislators.

4. Until now, donors have prioritised particular outcomes over longer-term change processes, working within the parameters of politics as usual. This has been expeditious in the short term and has been successful in seeing the EVAW signed into law as a presidential decree, for example, and in streamlining assistance to parliament. However, it has exacerbated the personalisation of politics and existing divisions among women, while also failing to promote a broad-based movement that could advocate for women's gender interests in the longer term.

Both bilateral and multilateral donor agencies' support to women's political empowerment has had mixed results so far: it has contributed to short-term gains for women but not to longer-term strengthening of women's ability to mobilise in support of their interests. There is no sustainable legacy in terms of women's greater ability to mobilise collectively in future, in part because of the current political context. Donor support could be strengthened, however – particularly if it could be less prescriptive than it has been in the past. Changes to the way bilateral donor presence and activities are being conducted in Afghanistan after the military drawdown may provide an opportunity for a shift in focus and operating methods of these agencies, with a knock-on effect to the programmatic priorities of multilateral donors also.

Women's greater access to decision-making roles within parliament since 2005 represents a gender equality achievement in itself, when compared with their lack of any formal role in the public sphere since the early 1990s. Yet this symbolic representation has not been substantive: women's access to parliament cannot be linked directly to

the passage of the EVAW law, for example, and has had a limited impact on gender equality more generally. Informal norms still determine the outcome of formal processes, and it is largely men who control these processes. When women control them, it is individual women with their own political ambition, which other MPs perceive to override any concern to promote gender equality.

The findings from this study suggest there are significant contextual barriers to collective mobilisation in Afghanistan that limit the extent to which women MPs can influence political processes as a bloc. Similar barriers prevent civil society mobilising around issues – and, combined, there is little chance for groups of activists within and outside parliament to work together to push forward an issues-based agenda. Rather than see these factors as purely contextual, however, bilateral and multilateral donor agencies need to recognise how their own methods of funding civil society organisations and providing parliamentary assistance have exacerbated these problems over the past decade – for example through emphasising an output-based approach to aiding civil society, prioritising organisations and individuals who are proficient in speaking and writing proposals in English and channelling assistance funds through individual parliamentarians. There are few structural and political incentives to issues-based bloc formation on for example gender equality in parliament, civil society or between the two. Donors should work in ways that promote rather than discourage collective mobilisation.

To this end, and by extension to the goal of pushing the EVAW law forward to have transformative impact, the following key recommendations are put forward to bilateral donors, multilateral agencies and embassies:

- Bilateral donors and embassies should focus on political processes as well as the end product of interventions, considering changes (greater inclusivity, greater levels of civil society participation) to the process to be as valid a 'result' as the outcome of these processes (such as getting the EVAW law passed).
- In the context of an altered mandate for non- (or reduced) military presence, there is an opportunity for donors to coordinate justice and security programming to more consistently address contradictions and issues of risk on violence against women, all the more given ongoing conflict and the rise of armed local militia.
- Bilateral donors should use the opportunity of this new mandate in Afghanistan to move away from supporting politics as usual and toward an approach that can **help facilitate connections between MPs and between MPs and civil society**. This will involve a less prescriptive approach that allows women's organisations to define their own agendas. It will also involve smaller, core-funding grants to a broader range of actors, particularly smaller organisations, able to deliver more for less, over a longer period of time.

- Related to this, both bilateral and multilateral donor agencies need to acknowledge the political nature of pursuing gender equality, **to create outcome-focused, rather than output-based, incentives for the work they fund** and thus be **more selective in choosing partners with whom to work**.
- To identify the most appropriate partners, agencies should re-evaluate the ongoing funding of service-providing contractor non-governmental organisations for projects where they are likely to have less impact than more political organisations with a track record of being committed to one cause (e.g. voluntary organisations, pressure groups or student unions) (Stephan et al., 2015: 12-14).
- To support gender equality, donor agencies must also move towards core, long-term funding for women-led movements and away from projectised results. One example could include setting up a fund for MP–civil society alliances with few criteria as to the specific issue these groups must be willing to promote. Small grants might discourage those groups that would apply simply to gain donor funds. Proposals should be accepted in Dari or Pashto in order that groups without proficiency in English are not excluded.
- Multilateral donors such as UN Women and the UN Assistance Mission to Afghanistan (UNAMA) should continue to support civil society in the close monitoring of the implementation of EVAW law, tracking the ways it has been used, where and by whom, which clauses and for what purpose. It is also important to monitor where it is not used and why. This analysis needs to be conducted with the understanding that the EVAW law is highly political beyond its promotion of women's rights, and could be used as a way for some groups to gain

international backing for what is in fact an exacerbation of ethnic or other group tensions.

- Bilateral and multilateral donor agencies should push the government of Afghanistan to keep to its promise of revising the penal code (and incorporate some of the EVAW law articles within in) over the next year, and hold it to its stated timeframe for this.

In addition, Afghan women's activists and organisations should:

- Lobby donors to ensure their voice is heard and their presence felt, for example ahead of international conferences and on a more regular basis ahead of gender donor coordination meetings.
- Reassess operational strategies to ensure projects undertaken are consistent with their overall goals and objectives.
- Engage with parliament as an institution, rather than attempting to work with one or two individuals within it. They need to identify small groups of women and men MPs who are sympathetic to the promotion of women's gender interests and hold them to account over the way they vote in parliament. In particular, they should reach out to male politicians who may disagree with the ultra-conservatives.
- Continue to focus on and monitor the implementation of EVAW law at the local level, noting the problems women are experiencing, who is using the law and for what, and feeding information on this back into central-level discussions on how to take the law forward.
- Hold local prosecutors to account (e.g. through social media) when they do not use the EVAW law or when they do not use it properly.
- Use social media more to draw attention to violence against women when it occurs.

1. Introduction

This case study is part of the Women's Voice and Leadership in Decision-Making Project.² It examines some of the changes to women's political voice, leadership and access to decision-making in parliament and in civil society that have taken place in Afghanistan over the past decade. It frames its analysis around two central questions: (i) what are the enabling factors for women's voice, leadership and access to decision-making in Afghan political processes? (ii) What do we know about whether and how women's voice, leadership and presence in political decision-making actually results in greater gender equality for Afghan women? This report looks at the role international actors have played in this regard and identifies lessons learnt for future engagement.

The study focuses on one example of an attempt to achieve political change in recent years: the formation and promotion of the Law on the Elimination of Violence Against Women (EVAW). This law was initially drafted and submitted to the Ministry of Justice in 2006, passed by presidential decree in 2009 and brought to parliament in 2013. The political processes through which it was drafted, signed into law, implemented and later brought to parliament illuminate the informal norms that shape how politics works around (but not in disregard of) formal procedures; the interconnectedness of events in Afghanistan's lower house of parliament, or Wolesi Jirga (WJ); the way women activists within and outside parliament work around structural and political limitations on collective action; and the impact of international involvement.

The study is not an evaluation of all international involvement in supporting the EVAW law, and as such is

not exhaustive in its coverage of what aspects international actors have contributed to. However, looking closely at the political processes surrounding it enables an analysis of how women legislators make strategic decisions in the WJ, what factors influence the kinds of decisions they make, the nature of civil society's influence over these decisions and their potential impact on gender equality more broadly.

The study focuses specifically on the WJ as a decision-making arena because in recent years this has housed several highly controversial debates over pieces of legislation with a bearing on women's gender interests. These have brought to light interesting political dynamics among women MPs, between them and their male counterparts and between the parliament and civil society organisations (CSOs) outside it. Boasting a 27% female contingent as a result of constitutionally guaranteed reserved seats, the WJ has one of the highest proportions of female legislators worldwide. And yet this has contributed to presence-versus-influence debates that bring to light how significant numbers of women legislators do not in themselves lead to better outcomes for women, and debates on the nexus between descriptive, symbolic and substantive representation, which constitute a framework through which to analyse the kind of representation women legislators provide in a given political context (Larson, 2012; Wordsworth, 2007). In continually shifting processes that involve engaging with both formal rules of procedure and informal norms that govern how politics is done in the WJ, women MPs need to navigate a complex political landscape in order to shape political outcomes.

2 See Annex 3 for key definitions derived from the broader project.

2. The EVAW law in historical and political context

Over the past 40 years, women and girls' interests in Afghanistan have been shaped by and subject to shifting dynamics of violent conflict. Yet other features of the political landscape have a significant impact on these interests also. These include, for example, the country's aid dependency and consequent *rentier* state economy (Suhrke, 2011), which have an impact on the resources available to women (and which women they are available to). They also include a high-profile international military intervention that has been in operation over the past 15 years, and subsequent levels of international interest in Afghanistan disproportionate to international involvement in the domestic politics of other countries, owing to its being the focus of the post-9/11 War on Terror.

In addition, entrenched gender norms facilitate pervasive inequality and widespread violence against women, which contribute to high levels of maternal mortality and a poor developmental context for women. The lack of a cohesive, ideological women's movement is meanwhile reflective of weak horizontal linkages between social groups and individuals more generally. Finally, women and girls' interests are often beholden to periodic clashes between key power-holders who use simplistic ethnic or religious narratives to generate political capital in domestic politics (but in which the balance of power often depends on the backing of powerful regional and international players). These simplistic narratives, particularly when they come in the form of ultra-conservative stances against so-called 'Western values', can be deeply damaging to the interests of women and girls.

2.1 Features of the political settlement

Since the late 19th century, state–society relations in Afghanistan can be broadly characterised by what Olivier Roy (1990: 146) has called 'externality and compromise' – by which he means a relationship of continual negotiation between groups attempting to maintain autonomy from central state control but at the same time benefiting from central resources. In practice, this means that, while the government exerts *de jure* authority over all citizens, regional strongmen and tribal groups have periodically pushed back against state interference and extortion, whether in the form of tribal rebellion against the imposition of state policy or more recently in the rejection of presidentially appointed governors and other officials.³

Afghanistan's new constitution in 2004 facilitated the establishment of a highly centralised and executive-led presidential system, in which all major appointments (cabinet positions, governorships, supreme court judgeships) were to be made by the president, albeit with ratification by parliament (Barfield, 2010: 302–305). This allowed President Karzai to develop an extensive patronage network in which personal relations with the leaders of ethnic and tribal groups and with MPs determined how politics played out. In this way, the settlement the constitution represented – the result of formal and informal bargaining processes reflecting the balance of power between different actors during the Bonn Agreement – concentrated power in the office of the president and aligned his interests with a weak, unorganised parliament whose members' allegiance could be bought either with cash or through the provision of favours and services and whose members have few incentives to organise collectively.

3 For the former, see Barfield (2010: 321); for the latter, see news articles on protests against new governor appointments in Ghor and Daikundi (both women) and Bamiyan (a man replacing a popular female governor): Mashal and Ahmad (2015); Ahmad (2015).

Political parties were purposefully overlooked as potential threats to the fragile balance of power that Karzai constructed, and he consistently refused to form one of his own (Rashid, 2008: 258). They do exist in Afghanistan but are not part of the formal political process and party allegiance is not required for candidates in elections. Rather than allow political opposition to organise and present a challenge to central rule, Karzai's strategy was instead to co-opt or divide opposing voices. Similarly, rather than encourage group formation in parliament, the Karzai government divided loyalties through alleged payouts and promises to MPs.⁴ This contributed to the way the electoral system, historical precedent and the structure of parliamentary procedure all disincentivised the formation of issues-based blocs in parliament – something that has had a profound effect on the promotion of women's gender interests. The only real opposition to the Karzai regime that was able to mobilise consistently was that of armed opposition groups – most notably different factions of the Taliban and also the militant wing of Hezb-e Islami led by Gulbuddin Hekmatyar. This follows historical trends in which opposition in Afghanistan has largely been pushed to the fringes, with no political space allocated for it at the centre (ICG, 2005: 2).

The lack of a functioning opposition has been particularly notable since the conclusion of presidential elections in 2014, which featured the formation of a National Unity Government (NUG). This was established as a way to overcome electoral stalemate between the two leading candidates after accusations of fraud threatened to derail the entire process. US Secretary of State John Kerry intervened to broker a deal between the two that would see Ashraf Ghani installed as president, with Abdullah Abdullah becoming his chief executive officer, at the end of an electoral process that had taken six months and in which no final results were ever declared. Ultimately, the opposition was co-opted into government and the central patronage network expanded twofold to include both Ghani and Abdullah supporters.

Pashtun leaders have ruled Afghanistan since the 18th century (with two very short-lived exceptions),

contributing to the widely held but unsubstantiated belief (even among non-Pashtun ethnic groups) that the country's leaders have always been Pashtun (Barfield, 2010). President Karzai (2004-2014) was known for his skill in fashioning the elite bargain to ensure each of Afghanistan's non-Pashtun ethnic groupings was apparently included in the distribution of power and resources. However, it was not so much ethnicities and ethnic sub-groups themselves that were represented but the various strongmen and armed formations that had emerged during the *mujahideen* period in the late 1980s and early 1990s. Deals were struck not only with group elders but also with the leaders of a variety of armed factions of different ethnicities, who then became self-appointed representatives of their ethnic group, with disastrous consequences.⁵

In addition, the Taliban had been Pashtun, and international allegiances at the Bonn Conference with the (primarily) non-Pashtun Northern Alliance, which had fought the Taliban, were clear. The result of that conference was the allocation of several prominent positions in the Interim Government to non-Pashtun leaders – some of whom were *mujahideen* strongmen themselves.⁶ This generated considerable resentment and, since this time, many Pashtuns have suspected Western donors of treating non-Pashtun groups more favourably. This perception was bolstered in 2014 during the elections when Abdullah Abdullah, the election frontrunner representing former Northern Alliance groups, appeared to generate Western backing for his claims of fraud against Ashraf Ghani's campaign (Smith, 2014).

While the NUG arrangement provides direct access to state resources to non-Pashtun groups, therefore, the bargain does not include all potential spoilers, and some excluded actors (including religious clerics and a number of prominent former warlords) have begun to mobilise against the government. Public opinion has deteriorated rapidly, and the availability of international funds also appears to be decreasing. Since its inception in 2014, the stability of the NUG bargain is still in the balance.

4 The author has heard reports of government intervention in the form of vote-buying in parliament frequently in interviews since 2006; such reports have become more frequent and increasingly reported in the media since the 2010 elections. One parliamentarian in 2007 described in an interview how the government had paid MPs to stand against Speaker of the House Yunus Qanooni, and how she had been tempted to accept the money because 'the government provides many services, like holidays to India, for MPs that support it' (interview, female MP, 28 January 2007). Other prominent examples of vote-buying include the government and ministerial candidates buying MPs' votes during the ratification of their nominations, most recently for the NUG's new cabinet in 2015. See Hasht-e Sobh (8am) (n.d.) and Qarizadah (2015).

5 For more on Afghan warlords, their rise to power and contribution to state formation, see Giustozzi (2009).

6 Rubin (2004: 168) explains some of the reasons why Pashtuns by and large felt excluded from power in Bonn – not simply because of the number of cabinet positions allocated to non-Pashtuns or the particular portfolios they were given but also because of the kinds of non-Pashtun leaders supported – those who were able to command entire networks of supporters across the country (as opposed to the technocratic Pashtuns, who were given cabinet roles).

A combination of individuals and groups wield influence in the political process in Afghanistan at present, both within and outside the NUG. These can be roughly categorised as:

1. **Technocratic individuals in government with international backing**, including the president himself and National Security Advisor Hanif Atmar, for example;
2. **Former Northern Alliance figures and/or their sons and the networks they command**, such as Chief Executive Officer Abdullah Abdullah; Abdul Rashid Dostum (the current vice-president and leader of the Uzbek minority group); Salahuddin Rabbani, current Minister for Foreign Affairs, son of the late former President Burhannuddin Rabbani and acting head of the Jamiyat political party); and Mohammed Mohaqqueq, one of the two main political leaders of the Hazara minority group and head of the Wahdat-e Islami-e Mardum party;
3. **Those rallying political opposition to the current government**, including a new grouping called the Council of Jihadis, which includes another former president, Sebghatullah Mojaddidi and former Vice-Presidents Karim Khalili and Ahmad Zia Massoud, and could provide a vehicle through which Hamid Karzai maintains influence over the political process (Husseinikhail, 2015);
4. **Taliban groups**, including the Peshawar Shura and the Quetta Shura;
5. **Other armed opposition groups**, including the Haqqani Network (allied with the Taliban), Hezb-e Islami Gulbuddin (the militant wing of Hezb-e Islami party led by Gulbuddin Hekmatyar) and ISIS/Daesh, apparently active in eastern Afghanistan.

Some women in parliament are aligned with individuals and groups in the first three of these categories, although few MPs – either women or men – choose openly to declare political allegiances, preferring to remain remaining publically ‘independent’ and as such avoiding association with divisive individuals.

2.2 Women’s rights and the political process

Women have had limited access to power and resources in Afghanistan historically, although this limitation has varied between and among urban and rural areas and under different political regimes. Indeed, the deep social structures that restrict women’s access to resources and

decision-making in Afghanistan are not static and are beholden to features of the political settlement – the broader political landscape, the nature of state–society relations, security levels and the influence of particular regional and international actors (Iran, Pakistan and Saudi Arabia; the West and Russia) at a given time.

Women’s status in society is political in Afghanistan particularly because of the way it lies at the heart of simplistic traditionalist versus modernist narratives, which different power-holders over the past century have used to generate political capital and resources.⁷ Conservative Islamist groups, such as Hezb-e Islami and Jamiyat-e Islami, have, since fighting to overthrow the Soviet occupation in the 1980s, claimed a monopoly over interpretations of Islam, partly because their stance against the invading, secular and socialist forces was greatly enhanced by a combination of religious fervour and nationalism.⁸ They were able to claim the moral high ground against the new social policies introduced by the Soviets (which led to, along with significant land reform, more women in urban centres unveiled, educated, working in factories and wearing non-traditional clothing, including miniskirts, as had been the case for some urban women in the 1960s and 1970s under Daoud’s government, and changes to inheritance laws that allowed women to claim an equal share of inheritance) by labelling these ‘unIslamic’ and an imposition of foreign values on a sovereign nation. This approach generated significant political capital across the country in the form of a national-level rebellion that, with the help of US funding through the Pakistani Inter-Services Intelligence, contributed to the overthrow of the Russian occupiers.

2.3 Background to the WJ and the legislative process

Afghanistan’s parliament was re-established in 2005 with the first parliamentary elections in 30 years. These elections were conducted according to the Single Non-Transferable Vote (SNTV), a form of majoritarian system that functions on a one-person-one-vote basis with multi-member constituencies (provinces) across the country. Any number of candidates can stand in a province for the seats available, the number dependent on rough population estimates. This system is not commonly used worldwide, other examples having been in Japan (1948–1993), Jordan, Vanuatu, the Pitcairn Islands and Taiwan (Reynolds and Wilder, 2004). Some of its many shortcomings include high levels of vote wastage, small margins between winners and

7 Kandiyoti (2005: 3) points out that describing the nature of state–society relations to date in Afghanistan purely in terms of traditionalist/modernist struggles is inaccurate, not least because it oversimplifies the country’s entry into and interaction with international state systems and overlooks the role of regional and international actors. As such, it is important to consider the traditionalist/modernist binary as a simplistic political narrative that different actors have used in Afghanistan’s recent history as a tool to generate public support – and not necessarily as an accurate reflection of ideological clashes between reformers and conservative voices.

8 During the Cold War, the US supported the *mujahideen* in their efforts to oust the Soviets but then discontinued this support once the war ended. At this point, with resources scarce, civil war between various *mujahideen* groups ensued (see Barfield, 2010: 249–255; Rashid, 2008: 12; Rubin, 2002: 272–274).

losers and the small number of votes required to secure a seat (*ibid.*). In addition, candidates do not need to have a party affiliation. The system was apparently chosen on account of its innate simplicity, but its lack of emphasis on parties was distinctly advantageous to President Karzai and aligned with US interests to create a strong presidential state that did not empower parties that were, at the time, led by warlords (Suhrke, 2011).

The choice of SNTV, along with government intervention to prevent strong opposition groups forming, has resulted in there being very little incentive for MPs to form sustained issues-based groups in parliament. In addition, there is historical precedent for MPs to prioritise local advocacy over general legislation, as documented by Marvin G. Weinbaum in 1972 (p.63). These factors, combined, have contributed to the way in which, in spite of considerable numbers of reserved seats, women's collective mobilisation in parliament has been sporadic and short-lived. Like their male counterparts, women MPs prioritise local interests that speak to the inter-sectionality of their identities – the ethnic, class, linguistic, religious and geographical groups they belong to and identify with at different times (Wordsworth, 2007). Indeed, the lines of difference that divide women have generally been stronger than those that hold them together – particularly in an institutional setting that does not insist on issues-based group formation.

The national assembly is not formally structured into party groupings. Instead, parliamentarians are all primarily individuals with connections to support networks, some of which include parties. In general, however, an electoral and political system that affords parties no formal role in government means parties do not generally campaign on issues but instead represent (vertical) group interests. Although some do have ideological stances – Islamist or nationalist, for example – these are not often translated into policies or programmes. More reactive than proactive, parties remain for the most part ethnically homogenous and unwieldy, rushing before elections to organise campaigns but doing very little in between. Tellingly, none have explicit positions on women's rights (either for or against their promotion), although some are more open than others to women's involvement in the higher structures of party authority. Women's participation in political parties across the board is fairly limited, although it appears to increase ahead of elections, during which parties can provide a source of some small funding and voter support (Larson, forthcoming 2016a). Backing women candidates is a potentially savvy strategy for parties, which can then make use of the reserved seats system.

For their part, MPs are not always keen to declare their party allegiances even if they are widely known to have them. Rather than being a declaration of

ideological alignment, membership of a party is often more an indication of which group has supported an MP's campaign and with which individual leader their political loyalties essentially lie. Even parties, however, cannot guarantee the support of their members on every internal parliamentary vote. Alliances that do exist within parliament are for the most part temporary and continually shifting.

This strategy of keeping one's allegiances ambiguous also allows for a certain flexibility when it comes to promising support to one group or another: if MPs are not solidly aligned with one group they may be solicited (and paid) by different sides for their potential support in an internal parliamentary vote, for example. It is certainly strategic in this sense for women MPs to remain unaligned. This strategy extends to the way women MPs choose to dress, also. Not demonstrating allegiance to the West or to liberal political values through appearing unveiled or in tight-fitting clothing in public, for example, has become the norm over time alongside increasing levels of insecurity, with MPs choosing instead more conservative outfits. Larger scarves that cover much of the upper body are worn specifically as a means to indicate religious piety and conservatism. Having said this, ethnicity and region play a role in public perceptions of MPs' allegiances, and as such whether or not women actively align themselves with ethnic and regional leaders they are considered to be associated with.

2.4 Women in Afghanistan 2001-2015: political participation and rights

In recent years, the dynamics of successive conflicts have had different, limiting effects on women's access to and influence over decision-making – from the widespread rape, maiming, murder and suicide of women during the civil war (Amnesty International, 1995: 2) to the brutal and oppressive, if 'safer', order imposed by the Taliban (Steele, 2011). However, women's combined experiences of these different kinds of oppression served to strengthen their voices when it came to reasserting their position in the public and political spheres, once the US invasion in 2001 – in part justified by a need to liberate Afghan women – saw the start of a new (supposedly) post-conflict era.⁹

The reconstruction of the Afghan state began in earnest in 2002, following the 2001 Bonn Conference, which laid out a set of milestones including the development of a new constitution and the instalment of an interim government. These milestones would culminate in presidential and then parliamentary and provincial council elections (in 2004 and 2005, respectively).

The Bonn process, as it came to be known, saw the establishment of political structures that guaranteed space

9 See, for example, Masuda Sultan's (2005) description of the way women fought for increased representation in political and public life (p.7).

for women's participation (ICG, 2003). As of 2004, 27% of the 249 seats in the WJ are reserved for women through a constitutional provision (Article 83), along with one-sixth of seats in the 102-member upper house (Meshrano Jirga, or MJ) (Article 84). Provincial councils also have a reserved seats provision, although this is stated in the electoral law and not the constitution, and was reduced in 2013 from 25% to 20%, as we discuss in more detail below. Combined, these provisions form a considerable political space for women and, to date, their participation in elections as voters (averaging around 36% over five elections) and candidates (around 10% of all candidates in parliamentary and provincial council elections) has been notable in a context where many rural women rarely leave the family compound, for example.¹⁰

However, the roles women have played in government have remained relatively symbolic. Alongside their presence in parliament, they have been allocated space in national level decision-making institutions such as the Constitutional Loya Jirga in 2003, the Peace Jirga of 2010 and the High Peace Council formed thereafter, and have been given some ministerial positions and governorships (between one and three cabinet positions and governorships in successive cabinet shuffles). However, they have been afforded little influence over decision-making and proceedings.

Some women have more influence than others, particularly if they are family members of those in prominent groups who push them forward, taking advantage of the reserved seats for women. Nevertheless, even these women do not have access to the spaces in which decisions are often made and are more commonly instead informed of the position they are to take after the fact. This is partly because of the informal nature of political bargaining in Afghanistan, which is often conducted over lengthy dinners in the private homes of prominent (male) politicians – spaces from which women are categorically excluded on account of prevailing social norms. This is true of local-level politics also, although some women (usually older women who are well known in their community) appear to play more substantive roles than they do at the national level in dispute resolution, for example, or intervention to prevent defection to the Taliban through negotiations inside families.

President Ghani has a reputation, however, for talking about increasing women's participation in politics and

promoting women's rights more generally, and his wife, Rula Ghani (who has her own office inside the Presidential Palace), has been outspoken in her support of women's groups.¹¹

Although the formal space for women's participation has changed significantly since 2001, a range of restrictions on women's autonomy and capabilities remain. For example, most women do not drive or work in many public professions (such as shop-keeping) – and this is true in urban and rural settings and across different social classes. This relates to widespread perceptions concerning women coming into contact with un-related men, particularly after marriage, when a woman's autonomy is subject to the discretion of her husband's family. Running a women's beauty parlour, then, remains an acceptable profession for married and unmarried women, as does primary teaching or midwifery.

Freedom of movement has become increasingly restricted over the past decade, with rising levels of insecurity and the accompanying narrative that posits women as being at greater risk than men. While for the most part civilian men are statistically at greater physical risk as a result of the conflict than civilian women (given their greater presence in public spaces and their greater likelihood of involvement in personal disputes that end in violence and that take place frequently under the guise of 'the insurgency', for example), the incidence of women being harmed by the conflict is rising.¹² Furthermore, the erosion or general lack of rule of law in Afghanistan accompanying the rise in insecurity is linked to the frequent occurrence of rape with impunity – contributing to families' increasing reluctance to allow women to work outside the home in certain areas. Violence against women more generally is widespread, particularly within the home but also in public (and even included a mob execution in Kabul in 2015).¹³

While women enjoy *de jure* equal citizenship rights with men in the constitution, there exist laws – such as the Shiite Personal Status Law – that simultaneously undermine this status by allowing men to take their wives to special Shia courts for refusing to dress according to their wishes or for withholding sex, for example. Further, women are systematically discriminated against because of informal norms and practices that limit their access to decision-making. This is clear in the case of custody rights, for example, after divorce: according to civil codes of law, children are permitted to stay with their mother until the

10 Statistics compiled by the author based on Independent Electoral Commission estimates, available at www.iec.org.af. In comparison, in the 1960s, few women stood as candidates for parliament and fewer were elected (four in 1965). Those who were, and women voters, were mostly concentrated in urban areas (Dupree, 1980: 590). Very few women were represented at the highest levels of government (see cabinet lists, 1963–71, Dupree, 1980: 691).

11 This can be directly compared with Karzai's wife, Zeenat Karzai, who never accompanied the president in public.

12 The UN recently reported that women had increasingly become victims of violence against civilians, with a 23% increase in women civilian casualties in the first half of 2015 as compared with the same time period in 2014 (UNAMA, 2015: 5).

13 For a detailed account of the Farkhunda killing on 19 March 2015 and the criminal proceedings that followed, see Clark and Qaane (2015). For a more complete picture of development indicators for women in Afghanistan, see the 2007 Human Development Report for Afghanistan, 'Bridging Modernity and Tradition', which states that 12.6% of adult women are literate and that maternal mortality stands at 1,600 deaths per 100,000 live births (UNDP, 2007: 4–5). In addition, according to the World Bank (2014), in 2013 women made up 16% of the labour force in Afghanistan.



age of seven for boys and nine for girls, at which point they are automatically transferred to their father's family (Nojumi et al., 2009: 97).

In general, community councils (*shuras* or *jirgas*) are the preserve of male heads of households, although there are exceptions to this rule and some studies have found communities perceive women's influence over male council members, albeit informal and in the home, to be quite considerable – especially when it comes to dispute resolution over family affairs (Smith, 2009: 4). Discrimination between different groups of women occurs primarily along the lines of wealth and status, with elite, well-connected women commanding greater access to public influence and decision-making than their poorer counterparts – albeit also incurring higher reputational risks. Conversely, poorer women who need to work may have higher levels of mobility than middle-class or wealthy

women, although labour force participation should not be treated as a proxy for authority within the family.¹⁴

These limitations are the product of a complex set of rules and norms that govern gender (and other) relations and outcomes for women. Some of these are written, formal laws – such as the Shiite Personal Status Law, which explicitly subjugates Shiite women to the authority of male family members.¹⁵ But most are unwritten or informal social norms and practices that cut across ethnic and social divides. It is not illegal for women to drive in Afghanistan – but it is socially unacceptable in many areas and very uncommon – among elite Kabuli women just as much as among rural village women in other parts of the country. Similarly, family restrictions keep women out of the workplace after marriage, when a woman moves to live with her in-laws and often becomes wholly economically dependent on them (Rahimi, 1991).

14 For more on challenges to the link between women's labour force participation and domestic authority, see Vera-Sanso (2000).

15 For more on this and the process through which it was passed into law, see Oates (2009).

3. The EVAW law: political process 2005–2015

Looking at the processes through which the EVAW law was drafted and passed into law illuminates the kinds of strategies women MPs and their counterparts in civil society have adopted in order to pursue strategic interests. It demonstrates the extent of the contextual limitations that hinder collective mobilisation and also brings to light lessons that can be learnt as to donor engagement with women activists and MPs.

3.1 Content of the law

The EVAW law comprises 44 articles and effectively criminalises violence against women formally, for the first time in Afghanistan's history.¹⁶ Eighteen articles directly concern criminal provisions and punishments, citing the country's penal code. These articles address sexual assault, forced prostitution, forced marriage, underage marriage and beating, among other forms of violence against women, as well as polygamy, the denial of inheritance and prohibition of access to education, work and health services (Ministry of Justice, 2009). The most inflammatory articles are seen to be those dealing with polygamy (which the law treats as punishable, contrary to the widely held belief in Afghanistan that Islam permits a man to marry up to four wives simultaneously, in extenuating circumstances); the right of a victim to access a shelter – because women's shelters are often considered to encourage girls to elope; penalising underage marriage with a two-year prison sentence (the legal age for marriage currently stands at 16 for girls and 18 for boys, although this is currently not enforced); and up to six months' imprisonment for preventing a woman from working or receiving an education outside the home.

One of the main limitations of the law outlined by women's groups is the extent of some of the punitive measures specified for perpetrators, which could have unintended effects. For example, a prison sentence for domestic abuse may inadvertently prevent women from taking their case to court, because living with a violent

husband is a better economic choice than living without an income. As one lawyer working for a civil society organisation described,

I think there are some problems with EVAW. If a man beats his wife, EVAW says he should be imprisoned for three months. When a woman I know heard about this she did not register her case and said that it would be better that my husband beats me than spends three months in jail. She is not pursuing her case.¹⁷

These issues have become the subject of much debate among CSOs, which for the most part agree, however, that, while revising the content of the law would be a step forward, it would also risk jeopardising its current decree status.

3.2 The drafting process

The EVAW law was first drafted in 2005 by the Ministry of Women's Affairs (MOWA) Legal Department, in coordination with MOWA's EVAW commission and supported by the UN Development Fund (UNIFEM) (Wimpelmann et al., 2011). While providing technical support to the drafting process, UNIFEM intentionally kept its involvement to a behind-the-scenes role in order that ownership of the law would rest solely with MOWA and collaborating women's organisations and would not be attributed to a foreign agency (ibid.). Even at this early stage, when Afghans across the country generally supported the international intervention, the negative associations international involvement could carry – particularly on 'sensitive' issues that could be framed as Western imposition – had the potential to derail the EVAW law process.

The first draft of the EVAW law was submitted to the Ministry of Justice in 2006. At this point, other women's organisations in Kabul were consulted as to the content of the law and divisions emerged between them, with a number claiming ownership over the draft.¹⁸

16 Afghanistan has been signatory to CEDAW since 2003, but this commitment has not been implemented in any systematic way. No formal domestic processes have systematically penalised perpetrators of violence against women.

17 For further support of these points, also see Wimpelmann (2015a).

18 Several respondents interviewed for this research stated that their own group had been solely or primarily responsible for drafting the law.

One of the many discussions held among MOWA, UNIFEM and these groups was on how and when to achieve parliamentary ratification for the law, given that its contents were likely to provoke considerable debate and potential opposition from religious conservatives in parliament. All laws in Afghanistan are subject to parliamentary approval before they are published in the official Gazette. Yet exceptions have been made to this process for documents not strictly categorised as 'laws' – for example for international accords such as the Convention for the Elimination of All forms of Discrimination Against Women (CEDAW), to which Afghanistan is signatory but without parliamentary approval, and for the National Action Plan for the Women of Afghanistan (NAPWA), a document that exists alongside the country's National Development Strategy (ANDS, roughly equivalent to the country's Poverty Reduction Strategy Paper). Again, in these cases, it was thought the parliamentary ratification process might delay or derail gains for women because of the way conservative actors see (or portray) women's rights as being indicators of Western imperialism.

Exceptions are also made, however, in the case of presidential decrees, which the president makes in urgent cases during parliamentary recess. These are generally used sparingly, so as not to completely undermine the democratic process, although President Karzai used this method of passing laws more often than had been done historically.¹⁹ Following its return from recess, parliament has 30 days to reject or amend a presidential decree before it automatically becomes law. Presidential decrees also have disadvantages, however. Aside from how they undermine parliament's role, they are also not afforded the same status as laws passed through the parliament. As one representative of UN Women described, '*Presidential decrees are perceived as being easy to revise and brought back into the parliament, as compared with standard laws, which, after being ratified are hard to change. It takes a long time for normal laws to be revised.*'²⁰

In July 2009, before it was submitted to parliament for discussion, the EVAW law was passed by presidential decree. The process through which it came to be passed in this way, however, reflected particular political circumstances. Six months earlier, Karzai had signed the notorious Shiite Personal Status Law, which prompted international outcry for its apparent subjugation of Shiite women to their husbands and condoning of marital rape. In

response, MOWA and UNIFEM supported the formation of a joint commission to pressurise the government into changing the law, possibly with the strategic intention to push through the EVAW law as a decree at the same time. As a result, Karzai signed a modified Shiite Personal Status Law and the EVAW law as a presidential decree on the same day. Wimpelmann et al. (2011: 112) consider the latter a concession to the joint commission. Wimpelmann (2015: 101) further argues the signing of the law represents more of 'a favour bestowed on women by the President (and NATO [North Atlantic Treaty Organization] countries)' than it does the outcome of collective social action, because of the personalised, hierarchical nature of Afghan politics over the past 15 years and donor preoccupations with outputs (rather than outcomes). This was not so much a failure on the part of the women's organisations but an indication of the phenomenal barriers that hindered their ability to mobilise as a bloc.

Parliament did not reject the law in the 30 days that followed, and, as a result, it was published in the official Gazette in August 2009. Plans were then made by women's organisations to begin raising awareness of the now-implementable law across the country.

A number of prominent activists still considered the law very vulnerable in its position as a decree. One parliamentarian, the head of the Women's Commission, Fauzia Kufi, spearheaded a campaign in 2012-2013 to bring the EVAW law to parliament for ratification in order to further legitimise its legal status. This campaign also coincided with her own declaration to run as a presidential candidate in the 2014 race.²¹

Several attempts to dissuade MP Kufi from bringing the law to parliament, on the part of other MPs, civil society MPs and UN Women, whose common position at this point was protective of the achievement that had been made in getting EVAW into law (regardless of the process), were unsuccessful. As the head of the Women's Commission in parliament, she was able to bring the law to a meeting of all heads of commission and then include it on the parliamentary agenda.

Ahead of its plenary appearance, several MPs gathered support to reject the law, indicating that MP Kufi's expectations of what she could achieve in parliament had been misguided. While she has prominent connections to the Jamiyat political party²² and has been influential in parliament in the past, serving as the (elected) second deputy speaker in 2006-2007, she was unable to exert

19 This has been the case historically also (Weinbaum, 1972: 65).

20 Interview, UN Women representative, 26 June 2011.

21 Ultimately, Kufi was unable to compete in the race as a result of being a few weeks too young, 40 being the minimum age for candidates. She defends her position on the EVAW law and outlines her reasons for pushing for parliamentary ratification in a 2015 Foreign Policy article: 'It's Time to Act for Afghan Women: Pass EVAW'.

22 The Jamiyat-e Islami party is an Islamist political organisation formed in the 1970s by Burhannudin Rabbani. The group rose to prominence in response to the Soviet invasion of Afghanistan in 1979, and the majority of its supporters are Tajik and based in the north of Afghanistan. Since Rabbani's assassination in 2011, his son Salahuddin Rabbani has led the party (Rubin, 2002: 218-220).

this influence to garner enough support ahead of the plenary session. According to one respondent interviewed, this could have been partly because of one or two other prominent women MPs attempting to derail Kufi's efforts and thus deprive her of the political capital she would gain if successful.²³ At this point, UN Women intervened with a personal visit by the then country director to the home of the speaker of parliament, during which she reportedly appealed to him to cut the following day's discussion of the EVAW law short before it became subject to a vote.²⁴ This is a standard and accepted practice for the speaker within the WJ and is implemented fairly regularly if debates are considered to be too unruly, for example. Resorting to such measures of intervention, however, demonstrates the extent to which UN Women realised how definitive a vote to reject the EVAW law would have been.

The speaker of the house did then forestall a vote on the EVAW law, after several MPs (including Qazi Nazir Ahmad Hanafi, well-known for his ultra-conservative views) had made their positions against the law clear in speeches to this effect. However, whether this was the result of international pressure (there were a number of international representatives present in the gallery on the day of the vote) or the efforts of women and men MPs supporting the delayed vote themselves is unclear. The law was left to be discussed at a later date, and, since this time, civil society actors have coordinated to ensure it does not reappear on the parliamentary agenda. Fauzia Kufi was held by civil society actors to be largely responsible for the debacle and has continued to argue with conservative groups in parliament over the issue. She stepped down as head of the Women's Commission (but regained the post in 2015).²⁵

with caveats. Recently, a proposal has been put forward to include 14 articles of the law (those dealing with criminal prosecutions for violence against women) within a revised penal code, which would potentially lend greater legitimacy to these articles, given that the penal code is used for every criminal prosecution in Afghanistan. It would thus avoid the side-lining that could affect a stand-alone EVAW law. On the other hand, this would mean abandoning the remaining 31 articles of the law, which deal with important women's rights issues such as the custody of children after divorce, the existence of women's shelters (safe houses) and other critical aspects of women's citizenship rights in Afghanistan.

Donor views appear to support the former option, whereas civil society is divided as to which would be most effective and seem to consider the two options mutually exclusive. It is possible, however, that both a revised penal code and a revised EVAW law could be worked on simultaneously, with the latter a longer-term goal. President Ghani has voiced support to women civil society activists for including the EVAW law in the penal code. While this may be the most pragmatic option, it will still take time, with a second revision of the penal code currently being undertaken and not scheduled to be ready for parliamentary consideration until 2016. Once there, it could take months if not years to pass, as has been the case with laws in the past. In the meantime, civil society will need to continue to ensure the EVAW law does not reappear on the legislative agenda. Like CEDAW and NAPWA, the EVAW law stands little chance of surviving a parliamentary vote as it currently stands.

3.3 Proposed changes to the EVAW law

Since 2013, EVAW in general and the EVAW law specifically have become a cause championed by a range of multilateral actors and bilateral donors, all of whom are still interested to see the law formally ratified, but

23 Interview, member of the parliamentary secretariat, 16 August 2015.

24 Interview, UN Women representative, 26 June 2011.

25 In a further development, four days later an amended electoral law was brought to parliament for ratification. What passed unnoticed by women MPs was that the provision for women's reserved seats in provincial councils had been removed entirely. When this came to light, women MPs in the WJ alongside international actors, including UN Women, lobbied the MJ to reject it. When they had done so, as per procedure, a joint committee was formed between the two houses to come to an agreement as to how to proceed. Heading this committee was Qazi Hanafi, the most vocal of the conservative critics of the EVAW law. According to one respondent interviewed, who had helped organise these proceedings, the women MPs attending resorted to crying and begging Hanafi to have the seats reinstated. He ceded 20%, 5% lower than the original number of reserved seats. Since this time, President Ghani has called for further reforms to the electoral law and full reinstatement of the 25% of seats reserved for women.

4. The role of women's voice and influence in the EAW law process

This section analyses the role of women's voice throughout the EAW law process and the extent to which women have been able to wield influence within it.

Notwithstanding the limitations noted above, the fact that a law now exists and has evaded parliamentary rejection is an achievement on the part of women activists who have coordinated with one another, within and across government ministries and within parliament in order to preserve the law. Getting to the point at which the EAW law was ratified by presidential decree involved a concerted and coordinated effort between Afghan ministries, civil society actors and UN Women, and was dependent on these actors taking advantage of a particular policy window – after presidential approval of the controversial Shiite Personal Status Law – to put pressure on President Karzai. Later, women activists mobilised around the introduction to the parliament of the EAW law, and also in reaction to the changes to the electoral law that followed.

Given the constraints to collective mobilisation in the political system discussed above – including the SNTV electoral system; the lack of formalised political party or issues-based blocs in parliament; and the way politics has become more personalised and patronage-based over the past decade – this is no mean feat and speaks to a certain quality of women's voice that is able to react cohesively in the face of imminent crises, albeit with Western backing. Furthermore, as the law has become increasingly politicised, women activists have had to develop shifting strategies to adapt to new challenges that have come up.

All the way through the process, trade-offs have been made that have reflected the political conditions of the context but have compromised longer-term gains to women's voice, leadership and access to decision-making. Avoiding the legislative process was one such trade-off – seen by many women activists as a necessary measure to ensure the establishment of a law. While this choice resulted in the successful passing of the law by presidential decree, without drawing too much unwanted attention to the law's contents and to the subsequent implementation of the law across the country, it was nevertheless a risky strategy in a context in which perceived legitimacy can rest

on the following of formal procedure (albeit manipulated by those who can control the process).

Within parliament, certain strategies have been more successful than others for women MPs, and different women have chosen to adopt different strategies depending on the perceived risks associated with these strategies. Speaking out fervently on a controversial or sensitive issue, for example, is really an option only for women who can afford to alienate potential allies or lose some of their political support – women who have the backing of parties or powerful male leaders or who have significant financial resources available to them. MP Kufi's loose connections to the Jamiyat party (and broader former Northern Alliance members) are a case in point.

Within the current political context of the WJ, however, women stand a greater chance of influencing political processes by maintaining a low profile so as not to attract the resentment of other women MPs or the criticism of conservative male colleagues. As with politics everywhere, the women legislators in the Afghan parliament with the loudest voices are also those who attract the most criticism – from other women MPs as well as men. This has particularly detrimental effects in Afghanistan, in that women MPs as a collective feel tarnished by the actions outspoken women individuals take and often refuse to associate with these individuals regardless of the cause being promoted.

Further, the reactions outspoken women incite from conservative male legislators can be such that significant setbacks to gender equality ensue. Women parliamentarians thus often consider 'quiet' voices to be more strategic in influencing political processes – even if these seem on the surface to be compliant with patriarchal norms and practices. 'Quiet' strategies for increasing influence in parliament among women MPs include gaining educational qualifications such as masters' degrees at evening classes in private universities or taking courses in English or computing so as to improve their chances of building relationships with international actors. Higher degrees afford women gravitas and respect in the face of some male MPs' accusations of their being 'quota women', for example (and thus not as legitimate as their male counterparts).

In addition, ability to influence the political process around the EVAW law – whether through prominent, ‘loud’ voices or understated, ‘quiet’ ones – has not all contributed to the same collective goal. Getting the law drafted and submitted to the Ministry of Justice in the first place relied on coordination among MOWA staff and the behind-the-scenes support of UNIFEM *remaining* behind-the-scenes, so as not to brand the endeavour an international project. Presenting the bill through parliament in 2013, however, was the result of the unilateral influence of one individual, and efforts to counter this were a product of other women and men MPs mobilising against the individual alongside international pressure in the form of UN Women’s interventions and international actors’ presence in the parliamentary gallery. Ongoing efforts to keep the EVAW law out of parliament are reliant on the collective activities of civil society and women in parliament monitoring the parliamentary agenda and, when necessary, holding the secretariat to account to ensure it does not appear for discussion.²⁶ What these different aspects of the process indicate is that women (or groups of women) can have influence and act strategically without all women being on board – indeed, when facing influential opposition from individuals (men or women) seeking to control the political process.

The EVAW law process was always going to be political, given the context and the way narratives of nationalism, Islam and women’s rights have been brought together and used by conservative actors to bolster their own political capital. The so-called ‘backlash’ seen at various points in Afghanistan’s recent history against gains to women’s rights – in the 1920s-30s in response to Amanullah’s reforms, in the 1970s-80s in response to Soviet occupation and the secularisation of the state and over the past decade in response to the international intervention – have been just as much a case of conservative internal actors and their external patrons reacting to threats to their hold on moral and religious authority and power as they have been representative of ideological opposition to increased freedoms for women. In one sense, the fact that the EVAW law has come across political opposition is a necessary feature of its inherent challenge to that authority and power. Nevertheless, what the EVAW law process has not been able to do has been to challenge or overcome the barriers to collective mobilisation that exist in the Afghan political system at present. Women activists have managed to mobilise in spite of these, but only just – and have been held back by the way the increasingly personalised nature of

politics over the past decade now rewards those individuals who can control the political process monetarily.

This increasingly personalised politics has been detrimental to the consolidation of women’s collective cause in the EVAW case and has undermined the quality of women’s political voice. The political capital that could potentially be generated by being seen as the person able to command the support of parliamentarians over the EVAW law, for example, was significant, and appears to have bolstered rivalries between different prominent women in parliament that overrode considerations for the collective cause of eliminating violence against women. In addition, in the name of expediency, donors have opted to work within the system as it currently is – for example by supporting individual women (e.g. channelling all international parliamentary assistance through Fauzia Kufi’s office) – rather than to seek to alter incentive structures and encourage the formation of broad-based social activism.²⁷

In broader society, the law has become a reference point, in the media and in public debate, creating part of a new discursive field that women’s rights activists have used, to a greater or lesser extent, in their campaigns, in spite of the lack of ratification by parliament. Violence against women has attracted increasing coverage in the media, and women activists’ influence over the EVAW law process has helped facilitate this. This is important because the media uptake of issues concerning the law indicates a degree of public interest that could be harnessed to further these campaigns in future.

Connections more generally between liberal-leaning CSOs and parliament, however, remain weak, unstructured and personalised. There is little incentive for MPs to engage with the few issues-based civil society groups that do exist because the electoral system allows them to generate adequate vote banks from their local community (village or district). There is no need to prioritise general issues over highly localised concerns. As there are no real constituency gains from aligning with national-level organisations, the investment of time and resources in supporting them would be unlikely to yield results at the ballot box. Further, civil society itself is weak and fractured along ethnic and other lines, and has developed around the expansion of the international aid economy. The effort and resources that would be involved in convincing MPs to support an organisation and continue to do so over a period of time would also risk the organisation being seen as ‘political’ rather than ‘independent’ (a stance highly valued by CSOs

26 One director of a women’s research organisation with presence in parliament reported in interview (24 June 2015) that she had already challenged the secretariat once when she noticed EVAW being included on the legislative agenda. According to this respondent, the secretariat had simply listed it as a matter of course along with all other bills the parliament had not yet ratified.

27 In 2005, Fauzia Kufi was elected second deputy speaker for a one-year term and from this point onwards assumed responsibility for international assistance to parliament, which was *all* subsequently channelled through her office. Initially, donors saw this as a strategic move that would help coordinate and streamline such assistance. One member of an international agency providing technical assistance to parliament explained in an interview, ‘We have to share all the plans for our training programmes with a member of Ms Kufi’s office [...] At the beginning of every month we send our plans over to her’ (7 January 2007).



in Afghanistan) and would not result in any tangible gains for the organisation.

The term ‘civil society’ in Afghanistan is relatively new and is generally used to denote West-leaning organisations funded by international donors. Very few volunteer agencies exist, primarily because the day-to-day operational costs of running an organisation in Kabul are so high (e.g. in terms of rents for offices) that some external funding is normally required to meet them (Larson, 2011). Social movements that cut across different social groups are few and far between and have not been the focus of donor support (Stephan et al., 2015). Most CSOs are registered with the Ministry of Economy and implement projects for international donors as well as pursuing their own agendas. Inevitably, however, this often leads to a project-based approach that is donor-dependent and responds to short-term calls for proposals rather than defining a particular stance or issue to promote.

Women’s CSOs represent a broad spectrum of organisations focusing on a range of issues, including advocacy for women’s rights, implementation of women’s health projects, legal aid for women, research and provision of shelters for victims of domestic abuse, among many

others. Like political parties and other CSOs, however, women’s organisations tend to be highly personalised, and there are many barriers to collective mobilisation in the form of a loosely unified women’s movement.

The Afghan Women’s Network (AWN) is one group of women’s organisations that has become particularly successful in terms of its ability to attract donor funding for its work and its influence at the state level (e.g. being invited by President Ghani to a discussion about EVAW, albeit one in which AWN members were largely invited to listen to the president’s own perspective on the best way forward)²⁸ but at the same time generating resentment from smaller agencies that feel excluded in spite of having membership.²⁹ Nevertheless, the combination of women’s organisations that work from a roughly oppositional political stance and those that work strategically with the state could potentially be a force for change if greater links could be forged between them. Again, however, as is the case with divisions among parliamentarians, the personalisation of politics, alongside increasing gaps between those groups that have been able to tap into international and other sources of funding and those groups who have not, appears to be widening.

28 Interview, director of an AWN member organisation, 30 June 2015.

29 Interview, director of a small women’s organisation, 28 June 2015.

5. Changes in gender equality and better outcomes for women through the ERAW process

Over the past 10 years, the ERAW law has been devised, drafted, brought into law and partially implemented. This process has brought about change – particularly as, before the law existed, no legal structures existed to criminalise violence against women. CSO representatives interviewed in this study considered the implementation of ERAW to have been a considerable achievement for Afghan women:

The achievement of ERAW is that in the past women did not have any law to support their rights and protect them against violence, and now we have the ERAW document to support women. Since ERAW was implemented, many women have found the courage to seek divorces from violent marriages (interview, prominent women's activist).

After developing this law we now have a written document to support our argument if we want to take a woman's case to court. I think this represents significant progress for all women activists, especially prosecutors. Our organisation works to promote women's rights, especially in the field of sexual harassment. This law will help us every single day [...] Although it has not been approved by parliament yet, it is still applicable in resolving women's issues in court and that helps the prosecutors investigate [...] While it has not yet made a big difference to women's lives in Afghanistan, if we can get the law ratified by parliament we will be able to use it as a tool to decrease violence against women across the country (interview, head of Justice for All Organisation).

Domestic violence is at present normalised to the extent that many in civil society see the introduction of the ERAW law as having a potentially radical effect on women's perception of violence against them simply in labelling it as criminal. As one women's activist said, '[Until the introduction of ERAW] women were reluctant to report violence committed against them by their husband or family members, partly because they were not confident that this kind of violence constituted a crime.'³⁰ Generally speaking, the public/private divide in Afghanistan – as in other societies where gender segregation (*purdah*) is enforced, by either law or less coercive means – is physically and psychologically stark, to the extent that walled compounds keep all homes the exclusive preserve of family members and protect women from the presumed predatory eyes of unrelated men. This being the case, the ERAW law is again remarkable in its direct contradiction of the public/private barrier, bringing privately committed violence into the public sphere for prosecution.

That the law is actually being used is also an indication that it is making some difference towards gender equality goals. A UN study conducted in 2012-2013 found that, in 16 provinces, prosecutors reported 650 cases of violence against women during the year; of this total, 109 (17%) used the ERAW law. Of these, 60 (55%) resulted in courts actually applying the law (UNAMA, 2013: 2-3). Clearly, this does not indicate whether the law was used consistently or whether punishments were actually administered, but it demonstrates a significant degree of usage and indicates that women's perceptions about their citizenship rights may be changing as a result of having the ERAW law in place.

³⁰ Interview, former UN Women employee and WJ commissions coordinator, 2 July 2015. 22 Articles of the ERAW law assign criminal punishment for acts of violence against women for the first time in Afghanistan's history, according to one UN report (UNAMA, 2013: 2).

Women's increased presence in public life and in decision-making bodies like the WJ is a measure of some progress toward gender equality in and of itself, and is changing perceptions as to women's capabilities. Presence is a necessary condition for influence, although by no means sufficient to guarantee it. Getting the EVAW law passed can be seen as a gender equality gain that has resulted directly from women occupying more space in public life, both within and outside parliament. This gain may also have symbolic or discursive impact, with the potential to change gender stereotypes and expectations in society. Setting aside the means through which women have held onto the EVAW law temporarily, the fact that they have done this against the odds points to other potential gains in future and may inspire aspiring women politicians.

The symbolic value of the EVAW law is high – because it represents a sea change in government policy towards the categorisation of violence against women. While more consistent monitoring of how the law is being used is necessary, and while there are problems concerning disincentives that the law creates to reporting cases of violence against women, the law has the potential to affect gender relations by providing an extra measure of support to women experiencing violence. It sends the message that perpetrators of violence can no longer guarantee their impunity to prosecution, which may prove to be some deterrent.

Limiting the overall progression of gender equality in Afghanistan (as elsewhere, perhaps) is the lack of a coherent understanding among women's activists concerning what the end goal actually is. A great deal of debate has emerged among women's groups in civil society and in parliament as to the meaning and implications of equality – whether it means women should be the same as men or whether it is ok to have different roles. A study on gender mainstreaming in Afghanistan made the following observation on the basis of interviews conducted with ministry staff (Larson, 2008b: 23):

Male and female respondents tend not to distinguish biological sex from its social attributes. For example, it is often assumed that the positions of men and women in society are determined by a natural order and not by a socially constructed one. This assumption can engender inflexible attitudes towards the sexual division of labour within social practices, which can also be accompanied by a resistance to change in the social roles that men and women are able to assume.

While perceptions are changing, women who take on public roles in Afghanistan do so in addition to their domestic and reproductive roles within the home, although the extent to which they are required to do this depends on their age and social status (older women pass on domestic duties to daughters and daughter-in-laws; wealthy women hire other women to assist with these tasks). The double burden of work that many women MPs and civil society activists take on rarely incentivises male family members to contribute to domestic work within the household, even when men are formally unemployed.

Gender equality gains that women MPs make are likely to be localised more than they are collective, overarching strategic gains for women in general. A role that women MPs could quite feasibly take up could be that of supporting female constituents and their families in pursuing prosecutions for gender-based violence. However, these issues often involve feuds between one or more local families (e.g. those connected by marriage) and thus the MP would have to be careful not to alienate a proportion of her constituency by taking sides or emphasising divisions between families. Current punishments stipulated in the EVAW law are such that they can provide disincentives to pursuing cases, and, as such, might prompt interlocutors to see a negotiated solution rather than a prosecution.

6. International involvement in the EVAW law process

6.1 The aid environment

Afghanistan is a *rentier* state, with foreign aid the central resource that allows state actors to de-prioritise direct taxation of the general public and generation of domestic revenue more generally (Suhrke, 2011: 15). Between 2002 and 2009, the country received around \$46.1 billion in aid in total, increasing towards the end of this period (ibid.: 121). Aid levels went on to peak in 2010/11 alone at around \$15.7 billion.³¹

This is an indication of the way donor security concerns have often overridden those of sustainable state-building processes, human rights and, critically, justice (Suhrke, 2011: 185). While the continuing insurgency has necessitated much greater international spending on security and nation-building than was initially envisaged,³¹ the way international involvement has attempted to combine an active combat role with the simultaneous rebuilding of the state has involved several contradictions—such as attempting to keep known warlords and human rights abusers aligned with the government and international security forces rather than as threats to it, and as such negotiating with these figures (Suhrke, 2011: 15).³² Expediency in terms of short-term security gains—for example in arming local militias and villages in the form of the Afghan Local Police to support the National Security Forces³³—has determined much of the international intervention.

The way Afghanistan has been in the international spotlight for such a sustained period of time (14 years) has led to a great deal of international attention to its

domestic affairs. In 2011, 50 NATO-contributing countries represented with troops in Afghanistan (Rogers and Evans, 2011),³⁴ a number of them with their own diplomatic missions and aid agencies based in Kabul. There have been problems with coordination of funds and overlap of projects, alongside the overfunding of some CSOs to the detriment of others. Some basket funds have been formed to channel international funding, for example the World Bank's Afghanistan Reconstruction Trust Fund, the UN Development Programme Enhancing Legal and Electoral Capacity Programme, which administers international support to the Afghan elections, and its Law and Order Trust Fund, which coordinates support to the police in coordination with the Ministry of Interior.

6.2 International involvement in women's empowerment

International interest in and definitions of women's empowerment have fluctuated over the intervention years, although acknowledgement of the importance of supporting Afghan women has remained fairly consistent, peaking at moments of crisis (e.g. when a controversial bill undermining women's rights is on the parliamentary agenda).³⁵ Stances on how Afghan women can and should be supported by foreign aid have varied over time and, importantly, between donors, with some, such as the World Bank, attempting to maintain a largely apolitical stance³⁶ and others, such as UN Women and the Scandinavian donor agencies, taking a more transformative approach.

31 This figure includes spending on the Afghan National Security Forces (the bulk of the figure) and civilian aid but not spending on international military forces (World Bank, 2014: 2).

32 As indicated by the UN's intention to keep its presence contained to a 'light footprint' (Rashid, 2008: xxxviii).

33 See, for example, the case of Pacha Khan Zadran in Paktya or Ahmed Rashid Dostum, who is now the vice-President.

34 For a detailed account of this, see Goodhand and Hakimi (2015).

35 The Shiite Personal Status Law, for example, provoked international outcry in 2009 when it emerged that the Law contained an article condoning marital rape, among other articles that seriously undermined women's stance as equal citizens. See Oates (2009).

Overall, there has been considerable confusion over the years, with donors often opting to take a number of ostensibly contradictory stances as a result of their security focus, as mentioned above – for example in backing the increased powers of (and creating new) local councils (*shuras*) to administer justice while at the same time hearing Afghan women's organisations highlight the potentially problematic relationship between non-state, locally administered justice and women's rights (Wimpelmann, 2013b: 408-410). The creation of MOWA in the early intervention years was intended as a means to support gender mainstreaming across ministries, but without the professional capacity or organisational structure or influence it would need to effect change in other ministries, it was side-lined, and 'women's issues' with it (ICG, 2003: 1). Even as late as 2008, the lack of a coordinated gender and development strategy between donors, and between donors and the national government, contributed to a vague, poorly prioritised approach to women's empowerment in ANDS (Pain and Kantor, 2009: 12).

Simply by association, donor support can undermine the credibility of women's groups because – particularly if they are involved in mobilising against domestic violence, creating women's shelters or advocating to change legislation – they are seen, or portrayed, as part of a political device by (often externally funded) anti-Western activists as puppets, promoting secular values in an Islamic country.³⁷ This is an easy jibe for conservative elements in parliament, for example, to make, and it remains persistently potent. To some extent, also, this perception depends on the nature of the activity in which they are involved; for example, civil society actors fault other projects for reinforcing women's domestic roles, such as income generation through embroidery, carpet-weaving or raising poultry. Either way, donor support to women's groups can incur controversy. Having said this, such controversy has contributed to pushing women and girls' interests into the media spotlight, which, if nothing else, has fuelled debate across the country and ensured acknowledgement of these interests is present in government policy-making.

Having said this, the past two years have seen heightened donor interest in supporting women and girls both globally and specifically in Afghanistan, given speculations as to what negotiations with the Taliban might entail for the gains made for women and girls during

the intervention years (2001-2015). Accordingly, donor spending on women's empowerment has increased. The UK Department for International Development (DFID) introduced a stand-alone women and girls portfolio in 2014 (currently allocated £3.1 million). The US Agency for International Development (USAID) introduced in 2014 its largest single programme ever implemented specifically to promote women's empowerment, globally, with a commitment of \$216 million from the US government and a further \$200 million pledged by other donors for the five-year programme in Afghanistan (USAID, 2014).

UN Women has taken a central role in attempting to coordinate donor support to women in Afghanistan over the intervention years, through regular gender donor coordination meetings and chairing the UN Country Team Gender Working Group. No overall basket fund exists for women in general, and donors generally work within their own thematic parameters. UN Women Afghanistan does operate a Special Fund for the Elimination of Violence Against Women, which supports ERAW initiatives country-wide and through which multiple stakeholder funds can be channelled. Several accounts of respondents for this study (along with the author's own experience of gender donor coordination meetings in 2007-2009) suggest coordination between donors on gender issues and on support to women specifically has much improved.

International involvement in the ERAW law

The UN Women ERAW Special Fund, which includes assistance on the ERAW law, is a broader initiative that aims to combat violence against women more generally and is not limited to the law specifically. A number of donors are involved in providing support to advocacy around the law (e.g. to CSOs working on raising public awareness about it), to building the capacity of women parliamentarians on the law's details or to the monitoring of how it is being used in practice. ERAW is a regular feature of gender donor coordination meetings and forms a key component of UN Women's work in Afghanistan at present also.³⁸

The impact of international support

Supporting empowerment in any context as an international donor is a difficult task, primarily because pathways to empowerment are varied and by definition must be self-driven, not imposed. Afghanistan presents a

36 In its Interim Strategy Note for Afghanistan in 2007-2008, the World Bank defined its approach to supporting women in the following terms: 'The Bank's strategy is to lend support to the government's policy of gender mainstreaming, continuing to pursue the least confrontational lines and build opportunities into the Bank's portfolio where tangible gains can be made. This will involve strengthening women's involvement in the sectors where they already have an acceptable presence including health, education and the civil service' (in Larson, 2008a: 11). This stance is interesting given that the Bank is the primary donor to one of the most potentially transformative programmes ever implemented in Afghanistan, the National Solidarity Programme. This began in 2002 as a way to allow communities autonomy over localised aid spending, and required the formation of community development councils to make decisions on and apply for (with the help of locally based aid organisations) small grants for local development projects. Electing members to the councils was mandatory, as was the inclusion of women councillors (Boesen, 2004).

37 These kinds of negative associations have led MOWA staff and women's organisations to be cautious in advertising their connection with UN Women, for example, and likewise have made UN Women careful to maintain a behind-the-scenes approach to supporting them (Wimpelmann et al., 2011: 112).

particularly challenging environment, not least because the military intervention and the often contradictory, cascading objectives of the international project (Suhrke, 2011) have served to undermine some of the gains made for women. Until recently, the global spotlight on international intervention that has run parallel to the military presence there has engendered output-driven projects that are short term and often short sighted. Channelling all parliamentary assistance through the office of one individual, for example, for the sake of convenience, may have helped avoid project overlap between donors but it also allowed one individual to assert control over resources when an entire committee should have made decisions about how to spend these resources (Larson, forthcoming 2016b).

Nevertheless, there is little doubt that international assistance contributed significantly to the emergence of the EVAW law and its being passed as a presidential decree. One former employee of UN Women said that, while Afghan civil society was aware of the need to formally recognise violence against women, it was international actors who proposed and helped develop the law:

Most [Afghan] NGOs [non-governmental organisations] and government organisations realised that the level of violence against women had increased and that many kinds of violence against women were not actually recognised as violence in Afghan society. Then the international community proposed EVAW as a practical way to address this problem, and civil society organisations got behind this and are now strongly advocating for the law.

The same respondent went on to describe how a lack of coordinated political mobilisation among women activists in Afghanistan necessitated international support:

I think it would be much better if we could mobilise our own political support, and push the law through internal political channels ourselves. We could mobilise a group of women to support one candidate in the election or take a strong position as a women's group. But unfortunately everything has become personalised in Afghan politics, to the extent that we need the effort and pressure of the international community to pass laws because we cannot coordinate ourselves politically as a strong group.

International support has raised the profile of violence against women, prompted the possibility of a change in attitudes towards it and served as a stop-gap to ensure that, temporarily, at least, divisions among prominent women and women's groups have not erased some of the gains that have been made.

UNIFEM's (and later UN Women's) approach to supporting MOWA covertly in the development of the EVAW law was strategic and made sense given the environment – already hostile to the promotion of women's rights and especially so when this occurred at the hands of international actors. Conservative Islamists have easily been able to brand women's rights programmes 'unIslamic' because they can portray them as Western imports. Likewise, donors' support to individuals, and their recognition that existing political structures make personalised politics more successful than the attempt to create and maintain issues-based groups, simply reflects the nature of the political landscape and thus a pragmatic approach to assistance in the short term.

However, at the same time, women such as MP Kufi who, on paper at least, have attained significant levels of influence in parliament are not the ones actually achieving change therein because they attract too much opposition, particularly from among women MPs. This then presents a problem for donors: on the one hand, supporting women in positions of power is important; on the other, in a context where power means controlling political processes as an individual and not as a collective, there is a limit to which these women will be able to push forward collective agendas for women in general (even though they may claim to do so).

There is a tension between short-term achievements and longer-term, systematic change, with donors prioritising particular outputs over longer-term change processes. Working within the parameters of politics as usual – for example UN Women quietly assisting with the EVAW law and donors supporting individuals and contracting NGOs to provide services in short-term projects on EVAW (e.g. DFID's funding of a helpline on VAW) and intervening to put pressure on them at moments of crisis – has been successful in the short term. However, this approach has also generated resentment towards the individuals supported, who have actually had less influence in advancing gender equality gains than women who have quietly pushed for these from the side-line. Working within politics as usual has left the *status quo* unchallenged: it has failed to help facilitate the development of a broad-based social movement that could cut across social groups and promote the EVAW law in the longer term.

Stephan et al. (2015: 12-14) point out that this kind of outcome instead requires a 'movement mindset', which in turn necessitates changes in the way donors currently function. The authors argue international actors need to reassess what they envisage locally generated change to comprise and which actors they engage with (there is a distinct favouring of 'traditional' NGOs over unions, activist networks and cultural associations); provide smaller grants to these and other non-traditional actors;

38 See Annex 4 for a list of some of the main international actors involved in supporting the EVAW law and examples of their activities.



Afghans head to vote in historic elections. Photo: © Jalil Ahamd / UNAMA

employ more nuanced monitoring and evaluation tools that avoid reliance on outputs over outcomes; emphasise trust (over control); and reward focus rather than catch-all service provision.

While for many years these kinds of shifts in the way programming has functioned in Afghanistan would have been unrealistic, given the expansive mandate and priorities of donors engaged in fighting an insurgency, now, with a greatly reduced troop presence, some of these changes could be more feasible. Donors may be able to take a more transformational approach to supporting empowerment now their programmes and objectives are more streamlined. As one representative of a bilateral donor agency commented, *'The military pull-out will*

mean people focus on our programmes differently. There is less public focus on our work at home now [...] We have recognition now for the importance of women and girls and we need to be doing something strong on this' (interview, 24 June 2015). The fact that DFID has introduced a new stand-alone programme on women and girls is indicative of the organisation's commitment to Afghan women but also its ability to situate ERAW within a more holistic empowerment portfolio. The streamlining of donor programmes as a result of the military drawdown, alongside a shared international preoccupation with women and girls in the current political climate, may well lead to programmes that are more clearly defined.

7. Conclusions

This study began by asking two questions. First, what are the enabling factors for women's voice, leadership and access to decision-making in Afghan political processes? Second, what do we know about whether and how women's voice, leadership and presence in political decision-making actually result in greater gender equality for Afghan women?

In answer to the first of these, the study has demonstrated that women's voice and access to decision-making in Afghanistan, as with their male counterparts, results from a combination of their connections to influential individuals and groups, their ability to navigate a complex political environment and their ability to use their voice 'quietly' so as not to alienate others. The latter of these is particularly important for women MPs, who are more easily targeted as outspoken individuals and held responsible for the reputations of other women. Leadership, then, among women, is elusive, as it requires enough charisma and individuality to command people's attention but not so much that this attention alienates other women. In a political set-up that provides few incentives for group formation around issues, no formal political role for parties and an electoral system that emphasises existing accountability structures based on advocacy for localised interests rather than cross-cutting national issues, the opportunities for women leaders to emerge through compromise and coalition-building are few and far between.

Turning to the second question, this presents a problem for the promotion of women's gender interests, which are by definition collective. The case of the ERAW law demonstrates clearly how women activists in MOWA, in women's organisations and within parliament have struggled to achieve consensus over a law that appears to uphold fairly basic human rights for women. This is a result not merely of flaws in the formal political system, however, but also of the increasingly personalised manner in which politics now functions and of how a lack of rule of law in Afghanistan has meant there are few disincentives to resource capture or the misappropriation of aid monies, for example, by individuals.

This is also problematic for donors, because working with the system is expeditious and can be successful in the short term, unlike attempts to build issues-based blocs, which require a great deal more time and a willingness to engage in the realpolitik of parliamentary affairs. Bypassing the parliamentary process – a decision made by MOWA and women's organisations in coordination with UNIFEM – was a successful means of achieving a

ratified law. Working with the office of one individual to provide parliamentary assistance streamlined the process and avoided duplication of projects. On the other hand, this kind of approach can exacerbate divisions among women – by favouring some individuals (e.g. those who speak English) over others. In addition, it fails to promote the longer-term goal of facilitating the development of a broad-based social movement that might pursue gender equality goals in the longer term.

Attempts to encourage issues-based group formation to date – for example in different international organisations' attempts to form a 'women's caucus' – have been short-lived, simply because the social, political and economic divisions that separate women from one another are stronger than many abstract notions of women's rights or the strategic interests of women in general, and as such are more difficult to overcome. Afghan women MPs are the bearers of multiple identities aside from their gender. However, groups of women have managed to mobilise over some issues, and the key question then relates to understanding why and at what points women choose to mobilise around gender-specific concerns (or not). A very important dynamic is whether cross-gender coalitions can form around these issues and whether male MPs align with and support some of their claims. There is little evidence of this happening regularly in the Afghan parliament, although in civil society and the media a number of prominent men have been involved in women's rights activism (e.g. at the *Hasht-e Sobh* newspaper and in campaigns run by certain NGOs, such as the Cooperation Center for Afghanistan). Political coalitions across gender lines are important. Ultimately, success will have to be measured by the degree of buy-in by male constituencies as well as female ones.

This report therefore contends that women's greater access to decision-making roles within parliament has had a limited impact on gender equality. Informal norms still determine the outcome of formal processes, and it is largely men who control these processes. When women control them, this is individual women with their own political ambition, which generally overrides any concern to promote gender equality. Having said this, if improved and implemented consistently, the ERAW law itself has the potential to contribute significantly to greater gender equality. Simply by criminalising violence against women in a written law, it has changed perceptions already as to women's status in communities across the country. Further, the law can act as a resource: it will be important

to continue to document who uses it as such, at what levels and for what purposes. Evidence such as this should inform the process of revising the law.

Ensuring this change continues, however, will rely on the coordinated efforts of civil society, MPs and international actors to ensure the law (i) does not appear on the parliamentary agenda again before a new

parliament is elected and (ii) is revised to address the current disincentives preventing women from pursuing their cases. Donors could contribute in more effective ways by adopting a ‘movement mindset’ and shifting focus to longer-term, smaller grants that are less prescriptive than they have been in the past.

8. Recommendations

The critique of the EVAW law process put forward in this paper does not imply there is no role for international parliamentary assistance or donor support to empowerment more generally, particularly if it could be less prescriptive than it has been in the past. Nor does it suggest that the limitations to collective mobilisation in civil society or in parliament are insurmountable. Changes to the way donor presence and activities are being conducted in Afghanistan after the military drawdown may provide an opportunity for a shift in focus and operating methods.

In line with Stephan et al.'s recommendations, one way to encourage organic group formation and focus, along with the prioritisation of trust over control, could be to develop a form of funding initiative specifically for MP-CSO alliances to propose joint action groups for international support, leaving the topic of activism unspecified in the Call for Proposals. Proposals might be accepted in Dari or Pashto, to allow those groups without competent English the same opportunity to compete for funds as others more accustomed to the donor funding application process.

A small amount of funding could be provided for meeting room hire, but not much more beyond this, to discourage groups that might submit proposals only for the sake of the funding. Donors could then choose from the proposals they receive the ones they feel most likely to build a sustainable bloc or to promote democratic values (which should be defined in the RFP). An alliance based on EVAW would be an ideal fit – if one were to apply. To implement a programme like this, however, donors would need to change some of the ways funding is currently allocated – they would need to accept local language proposals, for a start, and also be willing to consider administering several small grants with potentially unknown actors rather than the more straightforward task of overseeing large grants. They would need to remove the prescription of project proposals that currently determines CSO agendas. They must also accept that assistance of this kind would inevitably be political, as well as technical, as with the promotion of liberal democracy in any context.

Other recommendations to bilateral and multilateral donor agencies and embassies include the following:

- Bilateral donors and embassies should focus on political processes as well as the end product of interventions, considering changes (i.e. greater inclusivity or greater levels of civil society participation) to the process to be

as valid a 'result' as the outcome of these processes (such as getting the EVAW law passed).

- In the context of an altered mandate for non (or reduced) military presence, there is an opportunity for donors to coordinate justice and security programming to more consistently address contradictions and issues of risk on violence against women, all the more given ongoing conflict and the rise of armed local militia.
- Bilateral donors should use the opportunity of this new mandate in Afghanistan to move away from supporting politics as usual and toward an approach that can **help facilitate connections between MPs, and between MPs and civil society**. This will involve a less prescriptive approach that allows women's organisations to define their own agendas. It will also involve smaller, core-funding grants to a broader range of actors, particularly smaller organisation, that are able to deliver more for less, over a longer period of time.
- Related to this, both bilateral and multilateral donor agencies need to acknowledge the political nature of pursuing gender equality, **to create outcome-focused, rather than output-based, incentives for the work they fund** and thus be **more selective in choosing partners with which to work**.
- To identify the most appropriate partners, agencies should re-evaluate the ongoing funding of service-providing contractor NGOs for projects where they are likely to have less impact than more political organisations with a track record of being committed to one cause (e.g. voluntary organisations, pressure groups or student unions) (Stephan et al., 2015: 12-14).
- To support gender equality, donor agencies must also move towards core, long-term funding for women-led movements and away from projectised results. One example could include setting up a fund for MP-CSO alliances with few criteria as to the specific issue these groups must be willing to promote. Small grants might discourage those groups that would apply simply to gain donor funds. Proposals should be accepted in Dari or Pashto in order that groups without proficiency in English are not excluded.
- Multilateral donors such as UN Women and the UN Assistance Mission to Afghanistan (UNAMA) should continue to support civil society in the close monitoring of implementation of the EVAW law, tracking the ways it has been used, where it has been used, by whom, which clauses and for what purpose. It is also important to monitor where it is not used and why. This analysis

needs to be conducted with the understanding that the law is highly political beyond its promotion of women's rights, and could be used as a way for some groups to gain international backing for what is in fact an exacerbation of ethnic or other group tensions.

- Bilateral and multilateral donor agencies should push the government of Afghanistan to keep to its promise of revising the penal code (and incorporate some of the EVAW law articles within in) over the next year, and hold it to its stated timeframe for this.

In addition, Afghan women's activists and organisations should:

- Lobby donors to ensure their voice is heard and their presence felt, for example ahead of international conferences and on a more regular basis ahead of gender donor coordination meetings.
- Reassess operational strategies to ensure projects undertaken are consistent with their overall goals and objectives.
- Engage with parliament as an institution, rather than attempting to work with one or two individuals within it. They need to identify small groups of women and men MPs who are sympathetic to the promotion of women's gender interests and hold them to account over the way they vote in parliament. In particular, they should reach out to male politicians who may disagree with the ultra-conservatives.

- Continue to focus on and monitor the implementation of the EVAW law at the local level, noting the problems women are experiencing and who is using the law and for what, and feeding information on this back into central-level discussions on how to take the law forward.
- Hold local prosecutors to account (e.g. through social media) when they do not use the EVAW law or when they do not use it properly.
- Use social media more to draw attention to violence against women when it occurs.

Finally, the government of Afghanistan, and in particular the Office of the President, MOWA and the Ministry of Justice, should:

- Meet with women's organisations on a regular basis to solicit advice as to how to incorporate the EVAW law articles into the penal code, drawing on the information these actors have as to how the law is currently being used. It should expand its reach to ensure smaller organisations are invited to participate.
- Consider replacing SNTV with an electoral system that gives parties formal space to mobilise. In addition, it needs to ensure any changes to the constitution made in the apparently forthcoming Constitutional Loya Jirga do not reduce or remove the provision for women's reserved seats in elections.

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Annex 1: List of interviews conducted

Category of respondent	No. of interviews conducted
Members of civil society	10
Women parliamentarians	3
Male parliamentarians	2
Parliamentary secretariat	1
UN Women	2
DFID	1
Diplomatic community	1
Total	20

Annex 2: Period of research and data collection and analysis methods use

Data for this research were collected over a period of eight weeks from June to August 2015. Qualitative semi-structured interviews with individuals (MPs and civil society representatives) were used as the primary method of data collection. These were chosen because of the nature of the research: the ERAW law is quite a controversial and highly politicised subject at present and thus it was important to allow respondents the opportunity to talk alone, at length if they wished. It was also important to let respondents guide the conversations themselves, rather than confine them to a rigid questionnaire, given that each had different perspectives on the factors that most impacted the law's progress.

In total, 12 semi-structured interviews were conducted – six with members of civil society, five with parliamentarians (two men and three women) and one with a member of the parliamentary secretariat. These were conducted by Afghan researchers in Kabul. In addition to this, the case lead conducted seven further interviews for background information, in Kabul and London, with the following categories of respondents: representatives of UN Women and DFID, a member of the diplomatic community and four representatives of Afghan civil society. She also drew on her own background knowledge of the Afghan parliament and its internal dynamics.³⁹

This study limits its analysis to national politics, partly because of the much larger pool of data available on central-level political change than, for example, are available on the impact of economic change processes at

the local level. Rising insecurity in Afghanistan over recent years has led to a narrowing of feasible sites for accurate data collection and thus, for a short study, a Kabul-based approach was the most appropriate. While a political study focused in Kabul misses critical local dynamics, partly because of the historical and continually expanding rift between Kabul and elsewhere in the country,⁴⁰ and is certainly not the only or most important arena determining women's empowerment in Afghanistan, it nevertheless is able to capture some of the actions of players influencing central- policy, such as civil society actors, government officials and MPs – most of whom, with some exceptions in other urban centres, are based in Kabul.⁴¹

Security levels in Kabul reached a critical low during the research period, with an attack on the parliament itself occurring on the day data collection was due to begin, and with attacks in early August claiming unprecedented numbers of civilian casualties. For these reasons, respondents being difficult to locate or unable to move freely around the city, fewer interviews than originally planned were in fact conducted. As a result, this case study draws on secondary data and background knowledge to supplement the primary data collected. Also, for reasons of insecurity and the need to protect respondents, names have not been used in citations in the text of this study. Instead, categories of respondents as listed above are given after each quotation used, and listed according to the numbers of interviews conducted per category in Annex 1.

39 For relevant publications, please see Larson (2010, 2012, forthcoming 2016b); Wordsworth (2007);

40 Barfield (2010: 168-169).

41 Full methodological details are given in Annex 3.

Annex 3: Key definitions⁴²

This case study, which is one of five, complements and builds on the desk-based assessment of evidence conducted in the first phase of the project. Each case study focuses on a specific country and arena through or within which women seek to influence decision-making processes. To the extent possible, the case studies seek to understand the *process* of how influence and leadership is achieved and/or exercised, including how women engage with both formal and informal institutions, networks and relationships to shape outcomes (social, political or economic). They consider how external agencies can improve their engagement with/support to women's voice and leadership in decision-making processes within and across different domains.

Empowerment is understood as the process by which women (or men), individually or collectively, gain the ability to make and enact strategic life choices (Kabeer, 1999). Empowerment can take place in different dimensions of life, including psychological (the belief that one can effect change in the external world), political (the ability to influence rules about who gets what, when and how), social (the ability to control one's own social interactions within the household and community, reproduction, health and education) and economic (the ability to make and act on decisions about participation in labour markets, the sharing of unpaid work and the use or allocation of assets). Empowerment is therefore a multidimensional concept and empowerment in one area of a women's life does not necessarily mean she will be empowered in others (Eyben, 2011; Luttrell et al., 2009; O'Neil et al., 2014). According to Kabeer (1999), a woman's ability to make strategic choices has three interrelated elements: access to resources, ability to use these to define and act on goals or choices (i.e. agency) and the achievements or 'realised capabilities' that result from these actions.

Voice refers both to the act of making known one's preferences, demands, views and interests and to the capabilities this requires (O'Neil et al., 2007). These capabilities include confidence and belief in the worth of one's opinions and the legitimacy of expressing them. They also include the ability to make informed choices based on critical awareness, education and information. Voice can be exercised at the household, community and national levels, and through individual or collective action. Voice is therefore closely linked to processes of empowerment and change in what Jo Rowlands (1997) calls 'the power within'. In many societies, women are (or have been) expected to remain silent in debate, denied the

right of consent (to marital sex, to vote, over property) and seen as irrational or trivial. This diminishes the perceived validity and reliability of women's voice, even when these discriminatory norms and assumptions are historical (Goetz and Nyamu Musembi, 2008).

Leadership means the individual and collective capabilities to mobilise 'people and resources (economic, political and other) in pursuit of particular ends' (Lynne de Ver, 2009). This includes the political aspect of mobilisation – that is, the ability to navigate power relations to secure desired outcomes through contestation and negotiation, the co-option and persuasion of allies and the outmanoeuvring of opponents. Leadership therefore involves the ability to influence the ideas and behaviour of others and is effective when it translates into outcomes, whatever the content of those might be. Leadership may or may not coincide with public positions of authority.

Decision-making power is the ability to influence decisions that affect one's life – both private and public. Formal access to positions of authority and to decision-making processes is an important, if insufficient, condition for women to have decision-making power in the public domain. In fact, decision-making power is a composite of access, capabilities and actions that shape whether women have influence over the polity or decisions about their private life. Having influence with, over and through people and processes is therefore central to both leadership and decision-making power.

Gender interests⁴³ are collective interests that develop as a result of a given society's construction of gender roles and relations. Both women and men have gender interests – interests that arise from their relative positions within gender hierarchies. It is important to note that women's or men's gender interests differ from women's or men's (other) interests, as the latter do not necessarily relate to their gender identity.

Promoting gender interests could involve changing inheritance laws to favour men and women equally, or institutionalising maternity or paternity leave, for example. The term can be divided into distinct categories: practical gender interests (PGIs), and strategic gender interests (SGIs). PGIs relate to immediate practical concerns and do not necessarily alter accepted norms of gender subordination. SGIs are linked to a more transformative agenda that challenges these norms. Therefore, prioritising PGIs might involve campaigning for the establishment of women's clinics, and focusing on SGIs the lobbying for the creation and/or implementation of legislation against domestic violence. It is important to note, however, that

42 Taken from Domingo et al. (2015: 7); O'Neil and Domingo (2015).

43 Adapted from Wordsworth (2007: 3).

the two categories are inextricably linked. Addressing PGIs might lead to the improved strategic position of women more generally. Likewise, a change in strategic legislation

may have a direct impact on women's PGIs. For more, see Kabeer (1994), Molyneux (1985) and Moser (1989).

Annex 4: Actors involved in promoting the EVAW law

MOWA has been involved in the drafting of the EVAW law since its inception – and the ministry's Legal Department has taken the lead, liaising with the Ministry of Justice. UN Women has provided behind-the-scenes support for this work. In addition to MOWA, members of the parliamentary Commission for Women, Civil Society and Human Rights (one of 18 parliamentary commissions) have been involved in considering amendments to the law at various points during the process and lobbying MPs to support the bill. Elected to head this commission several times, Fauzia Kufi has spearheaded the parliamentary campaign to bring the law to the parliament for ratification. A joint committee between the lower and upper houses was also formed to discuss changes to the law. There is a women's caucus in parliament, now, after several failed attempts by international actors to establish one in the early years of the intervention. However, it is not well known and does not appear to have a great deal of influence within parliament.

Afghan women's organisations are numerous and many have been involved in promoting the EVAW law, some in response to international calls for proposals and some for ideological or political reasons. AWN is perhaps the most famous women's organisation in Afghanistan at present and implements projects for a number of donors. However, it is seen by smaller women's organisations to be more of an elite members club than a network of activists. Other women's organisations that have been actively involved with the Law include the Research Institute for Women, Peace and Security, which has a presence in parliament and which has monitored parliamentary agendas to ensure the law does not appear there; Equality Social and Cultural Organisation, which trains women journalists who have written and broadcast on the law and violence against women more generally, and Development and Support of Afghan Women and Children Organisation, which has spearheaded a nationwide awareness-raising programme, collecting signatures of those in support of the law. Other Afghan CSOs have also been involved in discussions surrounding the law and in particular in joining with women's organisations to prevent it coming to parliament for ratification. These include the Cooperation Center for Afghanistan and the Afghan Civil Society Forum. Some of the Afghan media have also been involved in these discussions and have regularly reported on violence against women abuses. *Hasht-e Sobh* (8am), for example, a daily newspaper, has adopted a human rights mandate, in which the EVAW law plays a key role.

International actors

UN Women: Involved from the beginning in supporting MOWA's Legal Department with the drafting of the EVAW law, albeit quietly, so as not to attract negative attention and claims that the law was a foreign import (Wimpelmann et al., 2011). Set up the EVAW Special Fund in 2007, which sits within its larger programme on EVAW and which now (since 2012) comprises two core components: prevention of and response to violence against women (Jackson, 2013: 57). Work on the law itself – including support and training to parliamentarians – sits within the former of these two components. From its inception, the fund has primarily been involved in supporting Afghan NGOs in provincial centres across Afghanistan and attempts to develop community-based responses to incidences of violence against women (ibid.: 53, 59). Current donors to UN Women include Norway, Sweden, Denmark, Iceland, Finland, Belgium, the Netherlands, Australia and UN Women National Committees. UN Women has also been involved in monitoring how the EVAW law is being implemented, by whom and for what, in the provinces, in coordination with UNAMA, and has coordinated international donor and UN agency support to revise the Afghan penal code and to include criminal provisions of the EVAW law within it (ibid.: 61).

UNAMA: Monitoring the usage of the EVAW law in coordination with UN Women.

DFID: Supporting the law through its Access to Justice programme (one of two pillars of its new stand-alone women and girls' portfolio, which started in 2014 in coordination with Australian Aid). This support (implemented by The Asia Foundation) involves training women on the legal aspects of EVAW and providing a hotline for women to call when they have problems regarding domestic abuse. Keeping a watching brief on developments around the law.

Foreign and Commonwealth Office: More 'hands-on' than DFID on the law itself in that it has direct contact with parliamentarians and brings them together to talk about/work on the law.

USAID: Provides support to the implementation of the EVAW law through its Support to Rule of Law Programs for Afghanistan Project, which focuses specifically on women and girls.

European Commission: Supporting international NGOs such as Womankind that work through AWN to monitor how the EVAW law is being used at the local level.

Sweden: Supporting UN Women through the EVAW Special Fund, as part of its gender equality portfolio.

Denmark: Supporting UN Women through the EVAW Special Fund, as part of its civil society, human rights and access to justice portfolio.

Australian Aid: Partnering with DFID on the Access to Justice programme.

International implementing agencies and NGOs including The Asia Foundation, Womankind and Women for Women International among many others.



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