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"Report from SIGAR: Challenges to Securing Afghan Women's Gains in a Post-2014 Environment"

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I would like to thank the Subcommittee, Chairman Roby, and Ranking Member Tsongas, for asking the Congressional Research Service for my testimony today. I will summarize my testimony and ask that the full text be included in the record, and I look forward to your questions.

My work on Afghanistan for the Congressional Research Service focuses extensively on Afghan politics, culture, and the human rights situation. This testimony is based primarily on the many conversations on this issue that I've had since 2001 with U.S. officials, Afghan officials, members of Afghan civil society including women's groups, allied government officials, journalists, U.S. military personnel, and academics, including conversations in the course of several visits there since 2004.

Background

Many experts measure gains for Afghan women relative to the situation for women during the Taliban regime of 1996-2001. It is well known that that regime basically forbade girls from going to school and women from working outside the home. Wearing of the *burqa* (all-body covering) in public was mandatory, and the officers of the Taliban's "Ministry of Preventing Vice and Supporting Virtue" regularly beat women who were not completely covered from head to toe, or committed other designated "offenses" in public. The Taliban regime often used the soccer stadium in Kabul to conduct public executions of women who were convicted of adultery or other "crimes." On the other hand, some argue that Taliban policies did not differ very substantially from how women were already being treated by clans, tribes, and families in the conservative, rural areas of Afghanistan. According to this view, the Taliban's difference from past Afghan administrations was mainly the degree to which it enforced these practices and extended them into the major cities, particularly Kabul.

The situation for women during the Taliban regime contrasted sharply with that observed in earlier periods, particularly the era of the Soviet occupation (1979-89). During the Soviet occupation, Afghan Communist party leaders ran the country and there were few, if any, official limitations on women's rights, although areas outside Soviet/Afghan government control saw substantial adherence to Islamic customs.

Although the focus of U.S. policy toward Afghanistan later shifted to Al Qaeda's presence there, the thrust of U.S. criticism of the Taliban regime during 1996-98 was focused on its treatment of women. In part because of the Taliban's denial of women's rights, the United States withheld recognition of the Taliban as the legitimate government of Afghanistan, formally recognizing no faction as the government. The United Nations continued to seat representatives of the government of Burhanuddin Rabbani, which was ousted from Kabul by the Taliban in 1996. U.N. Security Council Resolution 1193 (August 28, 1998) and 1214 (December 8, 1998) urged the Taliban to end discrimination against women. In May 1999, the Senate-passed S.Res. 68, calling on the President not to recognize an Afghan government that oppresses women. Later, after the August 1998 bombings of two U.S. embassies in Africa, the Taliban's hosting of Al Qaeda's leadership became the Clinton Administration's overriding priority for Afghanistan. Still, after that time, the Administration continued to criticize the Taliban's treatment of women.

Overview on Human Rights

Afghanistan remains a traditional society. U.S. efforts since 2001 to build capacity in human rights institutions in Afghanistan and to promote civil society and political participation have collided with traditional attitudes and practices that resist change. Like previous years' State Department human rights reports, the report on Afghanistan for 2012 analyzed numerous human rights deficiencies, attributing most of them to overall lack of security, loose control over the actions of Afghan security forces, pervasive corruption, and cultural attitudes including discrimination against women.[1]

One of the institutional human rights developments since the fall of the Taliban has been the establishment of the Afghanistan Independent Human Rights Commission (AIHRC). It is headed by a woman, Sima Simar, a Hazara Shiite from Ghazni Province. (Hazaras constitute about 10% of the population.) It acts as an oversight body over the government's adherence to international standards of human rights practices, but its members are appointed by the government. Some assert that it is not aggressive or independent enough in addressing human rights issues. At a meeting of senior officials of donor countries on July 3, 2013, participants criticized several of Karzai's recent appointments to the AIHRC. Some reportedly are linked to Afghan faction leaders or have otherwise not demonstrated a commitment to upholding or enforcing international standards of human rights.[2] On a visit to Afghanistan in September 2013, U.N. High Commissioner for Human Rights Navinathem Pillay failed to persuade Karzai to replace the controversial AIHRC appointees.

Counterbalancing the influence of post-Taliban modern institutions such as the AIHRC are traditional bodies such as the National Ulema Council. The Council consists of the 150 most respected and widely followed clerics throughout Afghanistan. It has taken conservative positions on free expression and social freedoms, such as the type of television and other media programs available on private media outlets. For example, it has succeeded in limiting the broadcast of risqué soap operas produced in Turkey and the showing of some of India's Bollywood movies in cinemas. Clerics sometimes ban performances by any Afghan entertainer, but particularly females, whose dress or acts the clerics consider inconsistent with conservative Islamic values. Because of the power of Islamist conservatives, alcohol is increasingly difficult to obtain in restaurants and stores, although it is not banned for sale to non-Muslims. On the other hand, some foreign rock bands have been allowed to perform high-profile shows since 2011, suggesting that modernizing elements in Afghanistan are still able, to some extent, to lead Western-oriented lifestyles.

[1] Department of State. Human Rights Report for 2012: Afghanistan, April 19, 2013. http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dlid=204393#wrapper.

[2] Ron Nordland, "Donors Are Likely to Ask Karzai to Rethink Rights Panel Choices," *New York Times*, July 3, 2013.

Gains of Women and Girls Since 2001

Women and women's groups are a large component of the burgeoning of civil society in post-Taliban Afghanistan. Freedoms for women, particularly in urban areas, have greatly expanded since the fall of the Taliban with their elections to the parliament and their service at many levels of government. The major institutional development since 2001 was the formation in 2002 of a Ministry of Women's Affairs dedicated to improving women's rights. It has been headed by a woman who served during the Communist era, Husn Banu Ghazanfar, since 2007. The primary function of the ministry is to promote public awareness of relevant laws and regulations concerning women's rights. It plays a key role in trying to protect women from domestic abuse (there are 11 women's shelters across Afghanistan, with a total of 29 such shelters planned). Women's rights groups in Afghanistan expressed outrage over a June 2012 statement by Afghanistan's justice minister that the shelters encourage "immorality and prostitution," although that assertion continues to be put forward by various Afghan clerics and other Islamic conservatives. The ministry has been funded by donors, including the United States.

There has also been a large expansion in the number of civil society groups operating in Afghanistan since 2001, many of them focused on advocating for the rights of women. One of the most prominent civil society groups operating in post-Taliban Afghanistan is the Afghanistan Women's Network. It has at least 3,000 members and its leaders say that 75 nongovernmental organizations work under its auspices. In addition, the AIHRC and outside Afghan human rights groups focus extensively on rights for Afghan women.

In the workforce, women are performing jobs that were rarely held by women even before the Taliban came to power in 1996, including in the new police force. The first female Afghan pilots arrived for training in the United States in July 2011. There are over 200 female judges and nearly 500 female journalists working nationwide. Women are legally permitted to drive, and press reports say that an increasing number of Afghan women, mainly in Kabul and other cities, are exercising that privilege. The wearing of the *burqa* is no longer obligatory, and fewer women reportedly are wearing it than was the case a few years ago. In November 2010, the government opened a USAID-funded women-only park in Kabul called "Women's Garden" where women can go, without a male escort, and undertake fitness and job training activities.

Women in Key Positions

Women have moved into prominent positions in all areas of Afghan governance, despite periodic setbacks. Since 2004, there have generally been three female ministers in Karzai's cabinet. Afghanistan has one female ambassador and Karzai has a female deputy chief of staff, Homaira Ludin-Etemadi. In March 2005, Karzai appointed a former minister of women's affairs, Habiba Sohrabi, as governor of Bamiyan province, inhabited mostly by Hazaras. Sohrabi is currently a vice presidential nominee on the presidential slate of former Foreign Minister Zalmay Rasoul running in the April 5, 2014 presidential election. There are a growing number of female judges and prosecutors in Afghanistan's provinces, and a female judge on a counternarcotics tribunal in Kabul. In the December 16, 2009, cabinet nomination process, Karzai proposed a woman to head a new Ministry of Literacy, but parliament did not vote on this nomination because it had not previously acted to approve formation of the ministry.

One woman (Masooda Jalal) ran in the 2004 presidential election, and two ran for president in the August 20, 2009, election. In the latter, each received less than one-half of 1% of the vote. One woman, Khadija Ghaznawi, filed to run in the April 5, 2014 presidential election. However, her candidacy was denied on October 22, 2013 by the Independent Election Commission—as were those of 15 males of the 26 total candidates who registered. Candidates were disqualified primarily on the grounds of insufficient signatures of endorsement (100,000 were required), problems with documentation, and/or insufficient education. It is not clear what specific grounds were cited to deny Ghaznawi's candidacy. Disqualified

candidates have 20 days to appeal their disqualification before the final list of candidates is published on November 16, 2013. Well-known female parliamentarian Fawzia Koofi, a Tajik, had indicated during most of 2013 that she might run for president in 2014 but she did not file a candidacy.

In the National Assembly, the constitution reserves for women at least 17 of the 102 seats in the upper house and 68 of the 249 seats in the lower house of parliament. There were 69 women elected in the 2010 parliamentary elections, one more than the quota. (400 women ran for those seats—about 16% of all candidates.) The target ratio is ensured by reserving an average of two seats per province (34 provinces) for women—the top two female vote getters per province. (Kabul province reserves nine seats for women.) There are 28 women in the upper house, substantially more than the guaranteed minimum. In the lower house, a prominent female parliamentarian, Shukria Barekzai, was chair of the Defense Committee during 2011.

About 300 women were delegates to the 1,600-person "*peace jirga*" that was held during June 2-4, 2010, which endorsed an Afghan plan to reintegrate Taliban insurgents who want to end their fight. The High Peace Council that was established in 2010 to oversee the reconciliation process with Taliban leaders has nine women out of 70 members, although these women report that their views are not taken into account to any significant extent in the Council.[3] At the urging of the United States and other countries, a woman was part of the official Afghan delegation to the major international conference on Afghanistan in Bonn on December 5, 2011; she was selected at a meeting of civil society activists in Bonn, a day before the major conference began.

Frequent Setbacks for Women's Rights and Freedoms

These positive developments often clash with traditional attitudes, particularly in the rural areas. It is in these areas that Taliban insurgents have some influence, if not outright control, and where male-dominated traditions remain strong. Human Rights Watch, among other organizations, has been reporting backsliding on women's rights since 2008.[4] Numerous abuses, such as denial of educational and employment opportunities, continue primarily because of Afghanistan's conservative traditions.

Among the most widespread abuses reported by the State Department and human rights organizations:

- More than 70% of marriages in Afghanistan are forced, despite laws banning the practice, and a majority of brides are younger than the legal marriage age of 16.
- The practice of *baad*, in which women and girls are given away to marry someone from another clan to settle a dispute, remains prevalent.
- There is no law specifically banning sexual harassment, and women are routinely jailed for *zina*—a term meaning adultery, and a crime under the penal code. This charge can encompass many different activities, including running away from home, defying family choice of a spouse, eloping, or fleeing domestic violence. The penal code is often relatively lenient toward males—a man convicted of "honor killing" of a wife who allegedly commits adultery cannot be sentenced to more than two years in prison. One case that received substantial attention in December 2011 involved a woman who was jailed for having a child outside wedlock even though the child was a product of rape.
- Women's rights activists and other prominent women have been assassinated. Several female police commanders have been killed by varying assailants. On December 10,

[3] Author conversations with Afghan officials and experts on Afghanistan. 2013.

[4] "We Have the Promises of the World: Women's Rights in Afghanistan," *Human Rights Watch*, December 2009, http://www.wluml.org/sites/wluml.org/files/hrw_report_2009.pdf.

2012, the head of the Women's Affairs Ministry department in Laghman Province was gunned down. Her predecessor in that post was killed by a bomb planted in her car four months earlier. In September 2013, a female member of the Afghan parliament was kidnapped and a prominent women's rights activist and author, Sushmita Banerjee, a citizen of India, was abducted by Taliban militants from her home in Paktika province and found killed. Two Taliban suspects were subsequently arrested for the Banerjee killing.

- There is widespread reporting of security forces' involvement and complicity in trafficking of women and children, as well as rape. After being listed for four consecutive years in the annual State Department "Trafficking in Persons" reports as "Tier 2: Watch List," Afghanistan is at risk next year of automatic demotion to Tier 3, the worst level. That level could trigger economic sanctions against Afghanistan, but Afghanistan could avoid that ranking if it demonstrates that it is making efforts to comply with international standards on this issue.

Legal Framework and Political Obstacles

The Afghan government has accepted legally binding commitments. As of March 5, 2003, Afghanistan has been a party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). CEDAW is the only multilateral treaty that specifically focuses on the comprehensive rights of women. It calls on all parties to eliminate discrimination against women in all areas of life, including healthcare, education, employment, domestic relations, law, and political participation. The Afghan government asserts that it pursues a policy of promoting equality for women under its ten-year National Action Plan for the Women of Afghanistan (NAPWA), drafted in May 2005. The Tokyo Mutual Accountability Framework of July 2012, reached between the Afghan government and major donor countries, required Afghanistan to implement the NAPWA and all of its past commitments and laws to strengthen the rights of women and provide services to them.

Despite the Afghan government's general compliance with these commitments, Afghan culture and politics have also rolled back or limited the gains of women. In an effort to implement Afghanistan's commitments, on August 6, 2009, Karzai issued, as a decree, the "Elimination of Violence Against Women" (EVAW) law that makes the practices such as forced marriages and *baad* unlawful. A "High Commission for the Elimination of Violence Against Women" has been established to oversee implementation of the EVAW decree. However, enforcement of the EVAW decree has been weakened by some Supreme Court rulings and a reluctance among many Afghans to trust the Afghan legal system enough to use it regularly. Only a small percentage of reports of violence against women are registered with the judicial system, and about one-third of those proceed to trial.[5] The number of women jailed for "moral crimes" has increased by 50% since 2011. A December 2010 attempt by the National Assembly to enact the EVAW into law failed, as did a more recent effort in May 2013. The legislative efforts have failed due to opposition from Islamic conservatives and others who say they do not want to limit the ability of male elders to decide family issues. One instrumental figure in blocking the enactment was parliamentarian Abdi Rab Rasul Sayyaf, a former *mujahedin* commander who belongs to the Wahhabi school of Islam that is prominent in Saudi Arabia. On May 22, 2013, about 200 male Islamist students demonstrated in Kabul demanding repeal of the EVAW decree outright. On the other hand, a U.N. report of March 5, 2013 said that prosecutions of abuses against women are increasingly obtaining convictions.[6]

[5] Alissa Rubin, "Slow Gains in Justice for Afghan Women," *New York Times*, December 12, 2012.

[6] http://unama.unmissions.org/LinkClick.aspx?fileticket=Qy9mDiEa5Rw%3d&tabid=12254&language=en-US.

As an example of the influence of Afghanistan's conservative Islamic institutions, on March 2, 2012, the Ulema Council issued a pronouncement saying women should be forced to wear the veil and be forbidden from traveling without a male chaperone. The pronouncement did reiterate support for the rights of women to inherit and own property, and to choose their marital partners. On March 6, 2012, President Hamid Karzai—who has backed all the institutional women's rights developments discussed above—endorsed the Ulema Council statement. This demonstrates that even those in the Afghan government who favor modernization tend to avoid defying powerful religious figures. Karzai's wife, Zenat, is a prominent Afghan woman and a practicing gynecologist.

U.S. and International Posture on Women's Rights

U.S. officials say that U.S. policy is to promote women's rights in Afghanistan rigorously. The Administration has followed its "Strategy for Assistance to Women in Afghanistan, 2010-2013," consisting of funding programs that promote gender equality.[7] Specific earmarks for use of U.S. funds for women's and girls' programs in Afghanistan are contained in recent annual appropriations, and these earmarks have grown steadily. The United States provided $159 million to programs for Afghan women in FY2009, slightly more than the $150 million earmarked, and about $225 million for FY2010, more than the $175 million earmarked.[8] Total U.S. funding for women's programs for Afghanistan were similar for FY2011, FY2012, and FY2013. Among the funding streams has been U.S. Ambassador small grants to support gender equality (FY2009-FY2012), which were used to help finance over 830,000 microloans to women during 2004-2011 for the establishment of 175,000 small businesses. U.S. strategy to promote gender equality in Afghanistan, including specific programs to accomplish that goal, is discussed in annual State Department reports on U.S. aid to women and girls.

Additional Challenges Likely After 2014

There are a number of possible scenarios for the post-2014 period, when there will be substantially fewer international forces in Afghanistan than the 82,000 that are there now. The gains made by women since 2001 have come during a time when there have been large numbers of international troops in Afghanistan—as many as 140,000 at the peak of international troop commitments in mid-2011. The troops not only aided security but also gave the force donors leverage over President Karzai and the Afghan government to establish institutional protections for women. Any of the possible post-2014 scenarios is thus likely to result in backsliding on women's rights in Afghanistan.

Relative Stability

One possible post-2014 outcome is that fewer international forces prove sufficient to prevent major Taliban gains. Current options suggest that the "residual presence" of international troops might include about 10,000 U.S. forces and about 5,000 partner forces.[9] Most of the international forces in Afghanistan after 2014 are expected to train and mentor the 350,000-member Afghanistan National Security Forces (ANSF). If the security situation does not deteriorate, then most of the gains that Afghan women have made since 2001 would likely be preserved. However, the gradual backsliding that has occurred since 2008—a period when the Taliban made gains and international influence on Karzai began to wane—will likely continue to slowly erode some of these gains. And, many experts assess that the Taliban will make

[7] A draft of this strategy document was provided to CRS by the State Department, April 21, 2011.

[8] For prior years, see CRS Report RL30588, *Afghanistan: Post-Taliban Governance, Security, and U.S. Policy*, by Kenneth Katzman, in the section on aid to Afghanistan, year by year.

[9] Thom Shanker. "NATO in Talks on Scale of Afghan Role After 2014 Deadline." *New York Times*, February 22, 2013.

at least modest gains in the rural areas, enabling the Taliban to enforce in those localities many of the restrictions on women's rights that were characteristic of the Taliban regime.[10]

Taliban Return

An alternate scenario is that security collapses after 2014 and Taliban rule over all of Afghanistan returns. Most experts consider this outcome unlikely, provided that some international forces remain after 2014. If it did come to pass, this scenario would likely represent a "worst-case scenario" for women's rights.

Some argue that the Taliban movement has moderated somewhat since it lost power in 2001. The leadership of the movement no longer opposes outright denial of female formal education and work outside the home, according to Afghan officials who have held informal negotiations with Taliban representatives over the past few years.[11] These Afghan officials add that Taliban leaders have recognized that Afghan society has evolved and modernized somewhat since 2001 and the movement is no longer committed to imposing Islamist policies as strictly as it did when it was in power. Others argue that the movement refuses to accept the Afghan constitution and that Taliban rule, should it return, would lead to a return of all the practices that took place when it governed Afghanistan.

Enhanced Influence of "Faction Leaders"

Whether the Taliban makes substantial or limited gains after 2014, many experts consider it likely that post-2014 Afghanistan will see a re-emergence of ethnic and geographic-based faction leaders who control armed followers.[12] The post-2001 international presence tried to establish in Afghanistan a relatively strong central government that possesses a monopoly of armed force. To do so, the international community concluded that the armed *mujahedin* groups that had fought the Soviet occupation in the 1980s, and then helped overthrow the Taliban, would have to be disarmed. After the fall of the Taliban, the U.N. Assistance Mission in Afghanistan (UNAMA) established a program called Disarmament, Demobilization, and Reintegration (DDR), largely with funding from Japan, that demobilized about 59,000 fighters.

However, Afghan faction leaders have always questioned how Afghanistan will fare after the inevitable departure of U.S. and other international forces from Afghanistan and many have sought to preserve their future options by stockpiling weapons and rehiring some militiamen.[13] The faction leaders thrive on the "*mujahedin* culture" – a respect for those who commanded fighters in the various civil wars in Afghanistan since 1979 and who have substantial influence. The faction leaders have large ethnic and regional constituencies and several of them have sought to revive disbanded militias to ensure security in their regions after international troops draw down.[14]

The faction leaders have a history of human rights abuses and arbitrary rule in their areas of influence. Women's groups fear that a revival of militia influence in post-2014 Afghanistan will accelerate the rolling back of many of their gains as national standards of law enforcement erode in favor of local practices. Some women fear a backlash from the faction leaders; women's activists have sought since 2001 to have faction leaders prosecuted for past abuses, but achieved almost no success. Women's groups failed to block passage of a 2007 law that gave many of these faction leaders amnesty for their past

[10] Author conversations with experts on Afghanistan. 2012-2013.

[11] Author conversations with former Afghan officials. 2012-2013.

[12] Author conversations with Afghan officials and Afghanistan experts in Washington, D.C. 2012-2013.

[13] For an analysis of the DDR program, see Christian Dennys. *Disarmament, Demobilization and Rearmament?*, June 6, 2005, http://www.jca.apc.org/~jann/Documents/Disarmament%20demobilization%20rearmament.pdf.

[14] Graham Bowley, "Afghan Warlord's Call to Arms Rattles Officials," *New York Times*, November 13, 2012.

actions, although the final law gave victims of such abuses some limited means for legal redress. One female former parliamentarian and women's rights activist, Malalai Joya, was outspoken in her calls for punishment of faction leaders who had committed abuses. She suffered threats and intimidation from various faction leaders for her criticism, including temporary suspension from parliamentary participation.

Of additional concern to women's rights groups is the fact that many of the faction leaders are major figures in the 2014 presidential election. A victory by the presidential ticket containing any of these leaders will give the faction leaders substantial influence after 2014. For example, a Tajik faction leader from western Afghanistan, Ismail Khan, is the first vice-president running mate of Sayyaf, who was mentioned above. Like Sayyaf, Khan is an Islamic conservative who has been widely accused of repressing women in Herat province, which is his area of primary influence.[15] An Uzbek faction leader, Abdul Rashid Dostam, has been widely accused of human rights abuses in his northern redoubt; he is the first vice presidential candidate on the slate of Karzai adviser and former Finance Minister Ashraf Ghani. However, Dostam is a former Communist, not an Islamist, and his abuses have mainly been committed against political opponents, not against women specifically. A Hazara *mujahedin* commander, Mohammad Mohaqiq, is the second vice presidential candidate on the slate of key opposition leader Dr. Abdullah. In the 2009 presidential election, Dr. Abdullah garnered enough votes to qualify for a runoff against the incumbent president Karzai.

Settlement with the Taliban

Another potential post-2014 outcome is a conflict-ending settlement with the Taliban. Were it to occur, that outcome is likely to color Afghan politics, future elections, the performance of the government along all its metrics, and the human rights and women's rights situation. Many in the international community, including some within the Obama Administration, initially were skeptical of the concept, asserting that a settlement could incorporate into the Afghan political system insurgent leaders who retain ties to Al Qaeda and might roll back freedoms instituted since 2001. The Administration later backed the reconciliations concept after Karzai repeatedly emphasized its potential benefits and his intent to move forward on it.

The minority communities in the north, women, intellectuals, and others have been particularly skeptical that their freedoms can be preserved if there is a political settlement with the Taliban. These groups fear that the Taliban could be given major ministries, seats in parliament, or even tacit control over territory as part of any deal with the Afghan government. Most insurgents are highly conservative Islamists who oppose the advancement of women that has occurred, and women have been a target of attacks by Taliban supporters, including attacks on girls' schools and athletic facilities. Then-Secretary Clinton said in India on July 20, 2011, that any settlement must not result in an undoing of "the progress that has been made [by women and ethnic minorities] in the past decade." To respond to those fears, Afghan and U.S. officials say that the outcome of a settlement would require the Taliban to drop at least some of its demands that (1) foreign troops leave Afghanistan; (2) a new "Islamic" constitution be adopted; and (3) Islamic law be imposed.

Conclusion

Under almost any conceivable outcome in post-2014 Afghanistan, it is likely that some of the gains made by women since 2001 will be eroded. Some of the potential scenarios threaten those gains more than others, but there is virtually no scenario in which women's rights improve from the level they are at now.

[15] http://www.msmagazine.com/mar03/rubin.asp