

**Mandate of the Working Group on the issue of discrimination against women in law and in practice**

REFERENCE: OL  
AFG 2/2015:

9 June 2015

Excellency,

I have the honour to address you in my capacity as Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice pursuant to Human Rights Council resolution 23/7.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the persistence of legislation which discriminates against women with regard to marital status. This information appears to indicate an enduring pattern of discriminatory legislation towards women which is yet to be repealed. In this connection the Working Group wishes to recall its communication of 31 October 2014 (AFG 1/20154) whereby it brought to the attention of your Excellency's Government information on discriminatory provisions against women in relation to the legal age for marriage and to polygamy. The Working Group regrets that it has received no response to date.

According to the information it continued to receive:

The current Shia Personal Status Law of 2009 discriminates against women in article 132, in that the household's supervision is only the right of the husband, unless based on the husband's mental deficiency, and by order of the court, the supervision is given to the wife (section 1). This law further discriminates against women as article 132 also stipulates that the wife cannot leave the house without her husband's permission unless she has urgent cause, or is in extreme difficulty, in this event, she may leave the house, and in case of dispute the issue shall be resolved by a court (section 3).

In this regard, the Working Group wishes to recall CEDAW's Concluding Observations on Afghanistan (CEDAW/C/AFG/CO/1-2), in which the CEDAW Committee urged Afghanistan to ensure the Convention and its provisions are incorporated into national law and are fully applicable in the domestic legal system to eliminate any forms of discrimination against women in the public and private spheres.

Therefore, the Committee recommended Afghanistan to repeal discriminatory provisions against women in the Shia Personal Status Law and the Civil Law and amend relevant legislation to raise the minimum age of marriage for girls to 18 years and ensure that the draft family law provides equal rights for women and men in all matters relating to marriage and family relations, in particular with regard to their responsibilities within the family, property and inheritance, divorce and custody of children.

The Working Group would also like to recall the recommendations made in the context of the Universal Periodic Review of Afghanistan, which are under consideration or are supported by the Government of Afghanistan, which called for a number of measures to, inter alia, increase gender equality and a steady enforcement and implementation of measures and legislation designed to promote and protect women's rights and highly prioritize awareness raising among all sections of the community regarding the role of women and the importance of their realization within the cultural and civil context of the Afghani society (see recommendations 136.24, 136.51, 136.57 and 136.60 in A/HRC/26/4).

The Working Group would like to draw to the attention of your Excellency's Government the existence of good practices by States in your region upholding equality between men and women in relation to marital status.

In order to clarify the measures being taken by your Excellency's Government to repeal the discriminatory legislative provisions on marital status, the Working Group would be grateful if you could address the following matters:

1. Please provide any additional information on the current status of the relevant legislation with regard to the rights of Shia women in the context of marriage and how these compare to the rights afforded to men.
2. Please provide information on any measures that your Excellency's Government has taken or intend to take in order to implement the recommendations by UN human rights mechanisms, referred to above, and to bring its legislation into compliance with international human rights law.

The Working Group would appreciate a response within 60 days and remains available for any type of technical advice on legislative reform that your Excellency's Government may require.

This communication and your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of my highest consideration.

Emna Aouij  
Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice