

**ISLAMIC
REPUBLIC
OF
AFGHANISTAN
AN
Law on Elimination of
Violence against Women
(EVAW)**

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Presidential Decree on Endorsement of Law on Elimination of Violence against Women (EVAW)

No: 91

Date: 20, 07, 2009

Article 1:

Based on provision of article 79 of the Afghan Constitution, I hereby, endorse the Law on Elimination of Violence against Women that has been approved by the Council of Ministers in its approval No. 16 dated 6, 07, 2009 in 4 chapters and 44 articles.

Article 2:

Minister of Justice and the State Minister in Parliamentary Affairs are assigned to submit this law to the National Assembly within 30 days from its first session.

Article 3:

This decree shall be enforceable upon the date signed and shall be published along with the law in the Official Gazette.

Hamid Karzai

President of the Islamic Republic of Afghanistan

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In the name of Allah, the most compassionate the most merciful

Law on Elimination of Violence against Women (EVAW)

Chapter One

General Provisions

Basis

Article 1

This law has been enacted in accordance with the provisions set forth in Articles 24 and 54 of the Afghan Constitution.

Objectives

Article 2

This law has the following objectives:

1. Ensuring *Sharia* and legal rights and protecting the human dignity of women.
2. Maintaining family integrity and fighting against customs, traditions and practices which contradict Islamic *Sharia* and cause violence against women.
3. Protecting women who are victims or at risk of violence.
4. Preventing violence against women.
5. Providing public awareness and training on violence against women.
6. Prosecuting perpetrators of violence against women.

Terms

Article 3

The bellow terms in this law have the following meanings:

1. Woman: An adult or underage female person.
2. Violence: committing those acts mentioned in article 5 of this law which cause damage to the personality, body, property, and spirit of a woman.
3. Sexual Assault: committing fornication and pederasty act on adult women with force or committing such acts on underage woman, or assaulting to the chastity and honor of a woman.
4. *Baad*: Marrying a woman to someone as blood money or for the purpose of bringing peace and reconciliation among the families regarding murder, sexual assault or other circumstances following wrong customs and traditions.

5. Humiliation: Using words or committing acts which result in degradation of personality of a woman.
6. Intimidation: committing acts or using words which cause fear to a woman.
7. Persecution: using words or committing acts by any means which causes damage to the personality, body and spirit of a woman.
8. Forced isolation: preventing a woman from visiting her legal intimates.
9. Preventive measures: Practical measures that are taken for elimination of factors of violence and preventing its happening.
10. Supportive measures: Practical measures that are taken in purpose to support victims of violence.

Prevention of violence

Article 4

Violence is a crime; no one shall be entitled to commit violence at residential area, government or non-government institution, organizations, public places, transport or any other places. If committed, the person shall be punished in accordance to the provisions of this law.

Instances of violence

Article 5

The commission of the following acts shall be deemed as violence against women:

1. Sexual assault;
2. Forced prostitution;
3. Recording the identity of the victim and publishing it in a way that damages her personality;
4. Burning, using chemicals or other dangerous substances;
5. Forcing one to burn herself or to commit suicide or using poison or other dangerous substances;
6. Causing injury or disability;
7. Beating;
8. Selling and buying women for the purpose of or on the pretext of marriage;
9. Giving *Baad*;
10. Forced marriage;
11. Prohibiting from the right of marriage or right to choose spouse;
12. Underage marriage;
13. Abusing, humiliating, intimidating;
14. Harassment/persecution;
15. Forced isolation;
16. Forced addiction;

17. Depriving from inheritance;
18. Prohibiting to access personal property;
19. Prohibiting from the right to education, work and access to health services;
20. Forced labor;
21. Marrying more than one wife without observing Article 86 of Civil Code; and
22. Denial of relationship.

The Rights of Victim

Article 6

The victims of violence have the following rights:

1. Prosecuting the offenders of violence based on provisions of the law;
2. Having access to shelter or other safe place (s) with the consent of the victim;
3. Having free access to emergency health services;
4. Having advocate or legal aid provider;
5. Compensation to damage resulted from the act of violence;
6. Confidentiality of relevant matter; and
7. Other rights which have been stipulated in the legislative documents for the victim.

Referring to the Institutions

Article 7

1. The victim of violence, by herself or her relatives, may complain in written to police, *Huqooq* Department, courts and other relevant authorities.
2. The institutions mentioned in paragraph (1) of this Article are obliged to register the received complaints and address them in accordance with the provisions of the law, and shall inform, in written, the Ministry of Women Affairs.
3. The Ministry of Women Affairs shall, upon receiving written information or direct complaint by the victim or her relatives, take and implement necessary measures in order to contact the victim.
4. Prosecutors' office and court are obliged to take violence case as a priority and process it as expeditiously as possible.
5. The authorities mentioned in paragraph (1) of this article are obliged to consider the special code of conduct developed by the Elimination of Violence against Women Commission while addressing received complaints.

Chapter Two

Preventive and Protective Measures

Obligation of the Ministry of Women Affairs

Article 8

In order to prevent the violence, the Ministry of Women Affairs in cooperation with other Ministries, governmental and non-governmental agencies and relevant organizations shall adopt the following preventive and protective measures:

1. Coordinating the activities of the governmental and non-governmental agencies and organizations provide services regarding the prevention of violence;
2. To improve awareness of men and women regarding their legal and religious rights and obligations;
3. Providing protection for the victims of violence in protection centers (shelter), or if protection center is not available, other safe places, as well as monitoring and evaluating them;
4. To conduct seminars, workshops, conferences and other training programs for the staff of governmental and non-governmental institutions, organizations and local residents in order to increase public awareness, identification of violence cases and their consequences, and find solutions;
5. To explain factors of violence and their consequences based on provisions of *Sharia* and Law through relevant publications;
6. To make sure the implementation of training programs and capacity of non-governmental institutions and relevant organizations.

Obligations of Ministry of Religious Affairs

Article 9

In order to prevent the violence, the Ministry of Hajj and Religious Affairs shall adopt the following preventive measures:

1. Developing regular programs for the presentation of preaches and orations regarding Islamic rights and obligations of men and women by *Mullahs*, preachers and orators in Mosques and other religious places and making sure of its implementation.
2. Conducting seminars, workshops and conferences for *Mullahs*, Preachers and orators.

3. Explaining and describing the factors of violence and their consequences based on the provisions of the Islamic *Sharia* and law through the relevant publications.

Obligations of the Ministries of Education and Higher Education

Article 10

In order to prevent the violence, the Ministries of Education and Higher Education shall adopt the following preventive measures:

1. To include issues pertaining to violence and its consequences and the ways of its prevention in the related educational curriculum.
2. To conduct seminars, workshops and conferences for the relevant students and staff.
3. To take appropriate measures for the purpose of prohibiting occurrence of violence in the relevant academic areas.
4. To explain and describe the factors of violence and their consequences based on the provisions of the Islamic *Sharia* and law through the relevant publications.

Obligations of Ministry of Information and Culture

Article 11

In order to prevent violence, the Ministry of Information and Culture shall adopt the following preventive measures:

1. To arrange and broadcast radio and television programs about factors of violence and its consequences and to publish the relevant matters in the newspapers, gazettes and magazines.
2. To facilitate publication and broadcasting of issues related to prohibition of violence by the ministries, governmental institutions and other real and legal persons through their media.
3. To prohibit broadcasting of programs promoting violence through mass media.

Obligations of Ministry of Justice

Article 12

In order to prevent violence, the Ministry of Justice shall adopt the following preventive measures:

1. To increase the awareness level of men and women of their legal and *Sharia* rights and obligations.

2. To facilitate explanation and description of matters pertaining to the factors of violence and its consequences for men and women under detention and custody or imprisoned by the relevant authorities and other relevant social organizations.
3. To conduct seminars and workshops for the awareness of *Hoquq* and Legal Aid Departments staff regarding the provisions of this law and facilitating its better implementation.
4. To assign a legal aid provider if requested by the victim of violence.

Obligation of the Ministry of Interior Affairs

Article 13

In order to prevent the violence, the Ministry of Interior Affairs shall adopt and exercise special preventive and protective measures in all public locations and places.

Obligation of the Ministry of Public Health

Article 14

The Ministry of Public Health shall promptly provide free and urgent treatment services to the victims of violence in the health centers and report accordingly to the Ministry of Women Affairs.

Elimination of Violence against Women (EVAW) High Commission

Article 15

For the purpose of effectively combating violence and establishing coordination among the governmental, non-governmental institutions and relevant organizations, the EVAW high commission shall be established under the presidency of the Minister of Women Affairs in the following structure:

1. Deputy of the Attorney General Office.
2. Deputy of the Ministry of Interior.
3. Deputy of the Ministry of Justice.
4. Deputy of the Ministry of Public Health.
5. Deputy of the Ministry of Information and Culture
6. Deputy of the Ministry of Education.
7. Deputy of the Ministry of Higher Education.
8. Deputy of the Ministry of Labor, Social Affairs, Martyrs and Disabled.
9. Deputy of the Ministry of Hajj and Religious Affairs.
10. Member of the Afghanistan Independent Human Rights Commission.

11. Head of Kabul Specialized Family Court.
12. Head of Afghanistan Independent Bar of Association.

Duties and Responsibilities of the ERAW Commission

Article 16

(1) The ERAW commission shall have the following duties and responsibilities:

1. Study and evaluate factors of violence in the country and adopt appropriate preventive measures in this regard;
2. Arranging public awareness programs for the purpose of prohibiting commission of violence;
3. Coordinating the activities of the relevant governmental and non-governmental agencies on combating violence;
4. Collecting statistics and figures of violence related crimes;
5. Providing suggestions on amendments to this law;
6. Suggesting adoption of regulations and relevant rules and procedures for the purpose of better implementation of this law;
7. Asking for information on violence cases from Police, Prosecutor's office and Court;
8. Preparing annual report of its activity and submitting it to the Council of Ministers; and
9. Other duties given by the government.

(2) The activities of the commission will be regularized by a separate job description which will be approved by the commission.

Chapter three

Criminal Provisions

Sexual Assault

Article 17

- 1- If a person commits sexual assault on an adult woman, the offender shall be sentenced to continued imprisonment in accordance with the provision of Article (426) of the Penal Code, and if it results to death of the victim, the perpetrator shall be sentenced to death penalty.
- 2- If a person commits sexual assault with an underage woman, the offender shall be sentenced to the maximum continued imprisonment according to the provision of Article (426) of Penal Code, and if it results to death of the victim, the perpetrator shall be sentenced to death penalty.
- 3- In the cases mentioned in paragraphs (1 & 2) of this Article the perpetrator shall be convicted to pay an amount equivalent to dowry (*Mahre Mesl*) to the victim.
- 4- If a person commits assault on chastity of a woman but his act does not result to adultery or pederasty (*Tafkhiz and Mosahiqah etc...*) - *rubbing together of sexual organs* -, considering the circumstances, the person shall be sentenced to long term imprisonment not exceeding 7 years.
- 5- If the victim mentioned in paragraph 4 of this Article has not attained the age of 18 or the perpetrator is a close relative up to degree 3, teacher, servant, doctor, or has influence and authority over the victim, considering the circumstances the perpetrator shall be sentenced to long term imprisonment not exceeding 10 years.

Forcing into prostitution

Article 18

1. If a person forces an adult woman into prostitution, considering the circumstances, the perpetrator will be sentenced to long term imprisonment not less than 7 years.
2. If the victim mentioned in paragraph (1) of this Article is not an adult woman, considering the circumstances the perpetrator shall be sentenced to long term imprisonment not less than 10 year.

Recording and publishing the identity of the victim

Article 19

A person who records the identity of the victim of rape, or the victim of compulsory prostitution or in contradiction to the law publishes and broadcasts their pictures, considering the circumstances, the perpetrator will be sentenced to medium imprisonment not less than 3 years.

Burning or Using Chemical Substances:

Article 20

1. If a person burns a woman or sprays chemical or other poisonous substances on her body causing injury, or makes her eat a poisonous substance or injects it into her body, taking into account the circumstances the offender shall be sentenced to long term imprisonment not less than 10 years.
2. If the crime mentioned in paragraph (1) of this Article is committed to spread fear and terror in the society in order to prohibit women from exercising their civil rights or results in the death of the victim, considering the circumstances the offender shall be sentenced to continued imprisonment or death penalty.

Self-Ignition and Suicide

Article 21

If the violence against a woman forces her to commit self-ignition, suicide or to use chemical or other poisonous substances on herself, the offender shall be sentenced to medium imprisonment in case of injury or disability and to long term imprisonment not exceeding 10 years in case of death of victim.

Injury and Disability

Article 22

1. If a person beats a woman, considering the mitigating and aggravating circumstances the offender shall be sentenced in accordance with Article 407 – 410 of the Penal Code.
2. If the acts mentioned in paragraph (1) of this Article result in the death of the victim, the offender shall be sentenced in accordance with Article 395 – 399 of Penal Code.

Beating

Article 23

If a person beats a woman which does not result to injury or disability of the victim, the offender in view of the circumstances shall be sentenced to short term imprisonment not exceeding 3 months.

Selling and Buying Women for the Purpose of or on the Pretext of Marriage

Article 24

A person who sells a woman for the purpose of marriage, or purchases a woman or facilitates the process, considering the circumstances, the person shall be sentenced to long term imprisonment not exceeding 10 years.

Giving *Baad*

Article 25

1. If a person marries with or gives in marriage a woman under the name of *Baad*, considering the circumstances the offender shall be sentenced to a long term imprisonment, not exceeding 10 years.
2. In the situation mentioned in paragraph (1) of this Article, considering the circumstances the persons involved (the witnesses, the proxy, *Aqid* “one who weds the couple” and conciliator) each shall be sentenced to a medium imprisonment, and based on the request of the victim and in accordance with the provisions of the law the marriage contract shall be revoked.

Forced Marriage

Article 26

If a person engages or marries a woman who has attained the legal age of marriage without her consent, considering the circumstances, the person shall be sentenced to medium imprisonment of not less than 2 years and the marriage or engagement shall be revoked in accordance with the provisions of law.

Prohibiting from the Right of Marriage

Article 27

If a person prohibits a woman from marriage or deprives her from choosing her spouse, taking into account the circumstances the offender shall be sentenced to short term imprisonment.

Underage Marriage

Article 28

If a person marries a woman who has not attained the legal age of marriage without considering Article 71 of Civil code, the offender considering the circumstances shall be sentenced to medium imprisonment of not less than 2 years, and based on the request of the victim the marriage shall be revoked in accordance with the provision of law.

Abusing, Humiliating, Intimidating

Article 29

If a person curses, intimidates or degrades a woman, considering the circumstances the person shall be sentenced to short term imprisonment of not less than 3 months.

Harassment/Persecution

Article 30

1. If a person harasses/persecutes a woman, considering the circumstances, the offender shall be sentenced to short term imprisonment of not less than 3 months.
2. If the crime mentioned in paragraph 1 of this Article has been committed by using authority and position, the offender considering the circumstances shall be sentenced to short term imprisonment of not less than 6 months.

Forced Isolation

Article 31

If a person forces a woman to isolation, considering the circumstance the offender shall be sentenced to short term imprisonment not exceeding 3 months.

Forced Addiction

Article 32

If a person forces a woman to addiction, the person shall be sentenced to short term imprisonment of not less than 3 months.

Depriving from Inheritance

Article 33

A person who prohibits a woman getting her inheritance, in addition to restoring her legal share, the offender shall be sentenced to short term imprisonment not exceeding one month.

Prohibiting to Access Personal Property

Article 34

A person who possesses personal property of a woman or prevents her from acquiring it, based on the circumstances, the person shall be sentenced to short term imprisonment not exceeding 3 months and the property shall be given back to her.

Prohibiting from the Right to Education, Work and Access to Health Services

Article 35

If a person prohibits a woman from the right of education, work, access to health services or exercising other rights provided by law, considering the circumstance, the offender shall be sentenced to short term imprisonment not exceeding 6 months.

Forced Labor

Article 36

A person who forces a woman to work, the offender besides paying the compensation, considering the circumstances, the person shall be sentenced to short term imprisonment not exceeding 6 months.

Marrying More Than One Wife

Article 37

A person who marries with more than one woman without the observing the provisions of Articles 86 and 89 of the Civil Code, considering the circumstances, the person shall be sentenced to short term imprisonment of not less than 3 months.

Denial of Relationship

Article 38

If a person denies the relationship with a woman, but the verdict of the court proves otherwise, considering the circumstances, the person shall be sentenced to short term imprisonment not exceeding 6 months.

Prosecution

Article 39

1. Proceeding of relevant cases and prosecution of the perpetrators of crimes set forth in Articles 22 - 39 of this law shall be conducted based on the complaint filed by the victim or her representative.
2. In circumstances mentioned in paragraph 1 of this article the victim may

withdraw her case at any stage of prosecution (detection, investigation, trial or conviction) which results in the stoppage of proceeding and imposition of punishment.

Contribution in the Commission of Crimes

Article 40

If a person accompanies another person to commit the crimes set forth in this chapter, considering the circumstances, the person shall be sentenced in accordance with the provisions of Articles 39 and 41 - 48 of Penal Code.

Compensation

Article 41

Perpetrators of crimes mentioned in this law shall, in addition to the prescribed punishments, taking into account the circumstances be convicted to compensation.

Chapter Four **Final Provisions**

Non Suspension, Non-exemption and Non-mitigation of Punishments

Article 42

The punishments of persons convicted for violence crimes shall not be suspended, pardoned or mitigated.

Preference

Article 43

In case of any contradiction between provisions of this law and of other laws, the provisions of this law shall prevail.

Enforcement

Article 44

This law shall be enforced upon publication in the Official Gazette..

THE END

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