

**A Study of the Social, Legal, and Religious Complexities of Women's  
Protection Centers in Afghanistan**

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## Abstract

Despite almost two decades since the establishment of the first Women's Protection Center (WPC) in Afghanistan, the prevention of domestic violence (DV) and the existence of these centers as sites for women's protection are still meet with widespread opposition by various sectors of Afghan society, including government officials, religious scholars, and the Afghan people in general. Since 2011, the Afghan government has repeatedly sought to take control of the WPCs, which are currently run independently by local non-government organizations (NGOs). However, this plan was met with strong resistance from Afghan women's and human rights organizations and their international counterparts, who viewed these actions as part of the government's systematic attempts to close the centers down. Most literature on WPCs has thus far concentrated on the Afghan government's attempts to take over authority of the centers and the expected consequences. Fewer studies have provided a thorough analysis of *why* such attempts by the Afghan government were initiated in the first place and the broader context in which these attempts took place.

This thesis seeks to address this gap by examining the social, legal, and religious complexities of WPCs in Afghanistan from the perspectives of Afghan women's human rights activists, who have campaigned for the recognition of violence against women and the existence of WPCs. It does so by engaging with literature on women's human rights, the social and religious construction of gender, and international and national legal frameworks that establish the context for WPCs as a response to DV in Afghanistan. Drawing upon interviews with eight Afghan women's rights activists, I argue that opposition to WPCs is directly linked to conceptualizations of DV and how it should be addressed. While WPCs were established as a response to a chronic social problem (DV), the problem itself is not defined as such within Afghan society. In the thesis, I illustrate that the term "domestic violence against women" (*khoshonat Khanavadegi/Khoshonat Khanagi* خوشونت خانوادگی علیه زنان) as a form of gender-based violence was first introduced to the post war society of Afghanistan in 2003 within a strong international climate, which can partly explain the complexities surrounding its interpretation and the mechanisms to address it.

I argue that while WPCs provide critical services that have saved the lives of many Afghan women, they do not operate as independent centers that are simply embraced by Afghan society. Rather, they are complex institutions that are deeply embedded within international discourses on women's protection and the prevention of violence against women. The Afghan government has international and national obligations to protect women's human

rights, yet there are significant challenges in terms of implementing laws in practice. In addition, there is ongoing opposition to the existence of WPCs that can only be understood by deconstructing the interconnected relationship between patriarchy, gender, and religion in Afghanistan.

## **Declaration**

I hereby declare that this thesis is the result of original research; it contains no materials accepted for any other degree in any other institution and no materials previously written and/or published by another person, except where appropriate acknowledgment is made in the form of bibliographical reference.

I further declare that the following word count for this thesis are accurate:

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Signed: Nargis Hajran

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## Chapter One: Introduction

Afghanistan is one of the unfortunate countries in Asia with a history of war, internal conflict, and invasion in the modern era. In this cycle of violence, women have been marginalized, abused, and deprived of their rights. The establishment of a new government led by President Hamid Karzai and the ratification of the Constitution of the Islamic Republic of Afghanistan in 2004, in accordance with Islamic and international human rights standards, initiated hopes for democracy and the protection of Afghan women's rights (Choudhury, 2007, p. 156). Afghanistan also became a signatory to several key international instruments, according to which the state is obliged to protect and promote women's rights and measure its response to gender-based violence cases, such as domestic violence (DV), "in concert with other human rights principles such as equality, dignity and non-discrimination" (Goldfarb and Goldscheid, 2016, p. 8). It was during this time when concepts such as "domestic violence against women" (*khoshonat Khanavadeqi/Khoshonat Khanagi* خوشونت خانوادگی علیه زنان / خوشونت خانگی علیه زنان), "women's protection" and the "prevention" of gender-based violence against women were introduced to the post war society of Afghanistan.

To this end, Afghanistan made several legislative and institutional advances, including the establishment of the Ministry of Women's Affairs (MoWA) in 2001, and the enforcement of the Law on Elimination of Violence against Women (EVAW) in 2009, to promote women's rights in the country (Qazi Zada, 2020, p. 1). Despite these achievements, the 2008 Global Rights Report found that 87.2% of Afghan women had experienced "at least one form of physical, sexual or psychological violence or forced marriage" (2008, p. 1). In 2017, the Afghanistan Independent Human Rights Commission (AIHRC) outlined "home" as the "most insecure place" for Afghan women as 94% of all cases of violence against women had taken place at home (AIHRC, 2017, p. 4). A survey conducted in 2018 once again reported the high prevalence of violence against women, stating that 80% of Afghan women had experienced "some form of physical violence from an intimate partner" (Ahmadi, 2020, para. 4). In 2019, Afghanistan was ranked as the second worst country in the world for women to live (ibid).

In response to this crisis, the first Women Protection Center (WPC) [خانه امن], also known as a women's shelter or safe house, was established by Mary Akrami, an Afghan women's rights activist, in Kabul in 2003 (The International Service for Human Rights, 2015, para. 1). With funding provided by Norwegian donors, the WPC received its initial residents, women who had "fled forced marriages, threats, or violent abuse", in April 2003 (Wimpelmann, 2017, p. 115). In this way, the MoWA, defined WPCs as "temporary housing" and a response

mechanism to DV for women “who are the victims of, or at risk of, violence” (International Development Law Organization, 2014, p. 1). Since their inception, WPCs have been run independently by Afghan non-governmental organizations (NGOs) and completely funded by external aid organizations, such as UN agencies and international NGOs, American and other Western donors (Wimpelmann, 2017, p. 115; Beiser, 2015, para. 2).

In 2011, the Afghan government finally acknowledged the “critical service” that WPCs provide (UNAMA, 2011, p. 3). This step resulted in recognition of the pervasiveness of violence against women in Afghanistan and precipitated an increase in the number of WPCs from 18 in 2013 to almost 40 in 2019 (Kramer, 2018, para. 1; Human Rights Watch cited in Luccaro and Gaston, 2014, p. 35). Although the total number of women residing in these centers is not publicly available, the Women for Afghan Women organization – which runs 12 WPCs – reported that they provide services to approximately 5,000 women a year (Kramer, 2018, para. 12). Despite their commitment to addressing DV and to the provision of safe spaces for women to shelter, WPCs have received strong social and religious opposition from various sectors of Afghan society. In 2011, the Afghan government threatened to take control of the WPCs, suggesting that the centers were “brothels” (Barr, 2018, para. 3). However, this plan was met with strong resistance from national and international human rights activists (Rubin, 2011, para. 24). A second attempt in 2013 was similarly rejected by Afghan women’s and human rights organizations and their international counterparts as evidence of the government’s systematic attempt to close the centers down.

### **Research Aims and Significance**

Since the start of these back-and-forth discussions between the Afghan government and national and international human rights advocates in 2011, most literature on DV and WPC projects in Afghanistan have concentrated on the Afghan government’s attempts to take over authority of the centers and the expected consequences (see Human Rights Watch, 2018; Amnesty International, 2011; Deutsche Welle, 2011). Fewer studies have provided a thorough analysis of *why* such attempts by the Afghan government were initiated in the first place. Therefore, this thesis aims to unpack this problem and shed light upon the wider scope of complexities regarding WPCs in Afghanistan. In addition, WPCs have primarily been discussed by human rights organizations and NGOs, such as Amnesty International, UN Women, and Human Rights Watch (Robinson, 2011, para. 2). This means that much of the material on WPCs have been written from the perspective of human rights and does not situate WPCs and DV within the broader social, religious, and legal context in which they are located.



My thesis aims to address this gap by bringing together the fields of women's human rights, the social construction of gender, and international and national legal frameworks that establish the context for WPCs as a response to DV in Afghanistan. Therefore, this thesis will examine the social, legal, and religious complexities of Women's Protection Centers in Afghanistan by focusing on the following research questions:

1. What are some of the similarities and differences between social, legal, and religious conceptualizations of domestic violence in Afghanistan, and how it should be addressed?
2. How do local gender norms shape the way that domestic violence is understood in Afghanistan?
3. How does country's constitutional law and penal code address violence against women and women's rights?
4. What challenges and opportunities have arisen from the establishment of WPCs in Afghanistan since 2001?

Since WPCs were established as a response to DV, this thesis will first take a step back to investigate how DV itself is perceived through social, religious, and legal points of view. Following the previous discussion of the research aims and significance, this introductory chapter will next provide an overview of the thesis chapters. This overview will be followed by a short discussion of the term DV, as well as a discussion of the research methods, limitations, and my own positionality within the study.

The thesis is divided in three main analytical chapters. Each chapter provides a review of the relevant topical literature before drawing upon my interview data and source analysis to develop an argument that helps us understand the social, legal, and religious complexities of WPCs in Afghanistan. Chapter Two will discuss the social construction of gender in Afghanistan. I argue that understanding the complexities of WPCs in the patriarchal society of Afghanistan is not possible without first deconstructing the problematic nature of DV. Chapter Three will focus on international and national legal frameworks on DV and women's rights to protection from violence. I argue that Afghanistan is breaching its international obligations due to the government's institutionalized inaction in response to DV. Following this in-depth analysis of DV, Chapter Four will focus on the complexities of WPCs as a response mechanism to address the high rates of DV in Afghanistan. I argue that there are three underlying reasons behind the widespread opposition to the establishment of WPCs in Afghanistan: the patriarchal

construction of gender and interpretation of Sharia (Islamic) law, and the perception of WPCs as international impositions, as evidenced most clearly in their funding structure.

### **Understanding Domestic Violence in Afghanistan**

Domestic violence (DV) (خشونت خانگی) is a type of gendered violence that is pervasive around the world and in Afghanistan. Based on the contemporary literature on DV, there are various distinctions in how DV as a concept is defined and understood. This section will focus on understandings of DV as a phenomenon and how they relate to the context of Afghanistan.

Some scholars have defined DV following the hegemonic construction of femininity. For instance, Aziz (2013) explains DV as “an assault on human dignity, often seeking to reduce or eradicate a person’s autonomy, destroy her self-esteem and compel her into subjugation” (2013, p. 69). This definition projects women as the main victims of DV. It also suggests that DV perpetrators usually demonstrate a sense of entitlement to treat other bodies in the way that they do. While DV is a broad concept which can refer to violence against any household member, recent studies indicate that the term intimate partner violence (IPV) be used for addressing and analyzing a special targeted type of DV. In this way, Moorer defines IPV as any type of action or “behavior that one intimate partner (current or former) uses to establish power and control over another intimate partner” (Moorer, 2021, para 1).

In this study, I employ the term DV (rather than IPV) since many Afghan women residing in WPCs run away not only from IPV, but also from DV that is perpetrated by other members of the family, such as mothers-in-law. I draw upon the following definition of DV: “the abuse, coercion and control of one or more persons over others and includes physical, emotional, verbal and sexual abuse, financial deprivation, social isolation and control of movement (Women’s Coalition Against Family Violence in Saroca, 2006, p. 117). At the same time, I aim to contribute to this literature by presenting that in the context of Afghanistan, DV against women is not defined as an *act* of abuse, coercion, or seeking control over women, but rather it is about performing gender.

There are several factors that contribute to the prevalence of violence against women, such as DV, in Afghanistan. Patriarchy, or the traditional system of male dominance in which “girls and women have no status as independent persons”, misinterpretations of religion, and the rule of the country from 1996 to 2001 by an ultraconservative regime, the Taliban, are some of the contributing factors. Some studies identify conflict as one of the main factors causing DV in Afghanistan. Mannell et al. (2020), for instance, argue that “men who either witness or

partake in violence during conflict” are highly likely to exercise violence against their intimate partners (Clark et al. Cited in Mannell, 2020, p. 3). Thus, it is important to note that these factors have shaped and perpetuated cycles of violence against Afghan women. I discuss these factors, and the broader context in which DV is understood in Afghanistan, in more detail in Chapter Two.

### **Methodology and Ethical Considerations**

For this study, I employed qualitative research methods to examine the complexities surrounding WPCs in Afghanistan. A qualitative research approach provides a deeper understanding of problems since it focuses on answering questions with “hows and whys instead of how many or how much” (Tenny et al., 2020, para. 1). I used a specific qualitative research method: in-depth interviews. According to Mack, Macqueen, Guest, and Namey, in-depth interview is a method that allows the researcher to be present in the process of data collection and collect a “vivid picture of the participant’s perspective on the research topic” (2005, p. 29). Since researching the complexities of WPCs in Afghanistan is a sensitive political issue, I decided to use in-depth interviews. This method allows the interviewees to take time and share their critics, opinions, and emotional responses. In this way, this method allowed me to better understand how interviewees themselves interpret issues around them and their experiences (Mack et al., 2005, p. 29). Another strength of in-depth interviews is the gradual sense of closeness that tends to develop between researcher and interviewees, which I found particularly helpful when discussing sensitive issues such as WPCs and DV (Mack et al., 2005, p. 298). This method enabled me to observe my interviewee’s reactions toward the research questions and proceed accordingly. For example, at times I stopped the interview when I saw that the interviewee was distressed or not willing to discuss a certain topic, such as the role of religion and clergy men in the normalization of DV in Afghanistan.

There are three different types of in-depth interviews, including “the informal, conversational interview; the interview guide or topical approach; and standardized, open-ended interview” (Marshall and Rossman, 2016, p. 151). For this research, I used standardized or semi-structured interviews. A semi-structured interview allows the researcher to use specific questions to guide the conversation, but it also provides space for the interviewer to “deviate to pursue emerging topics” (Marshall and Rossman, 2016, p. 151). This means that there is space for dialogue between the interviewer and the interviewee based on emerging topics that would contribute to the study. In choosing my research participants, I used a purposive

sampling method. This method means that the researcher selects her sample “based on the experience or knowledge of the group that is to be sampled” (Mack et al., 2005, p. 5). This method helped me to approach and group participants according to preselected criteria, which was having experience in human rights issues in Afghanistan. Additionally, I utilized a thematic analysis method to analyse my interview findings. Thematic analysis is a method for “identifying, analyzing, organizing, describing, and reporting themes found within a data set” (Nowell et al., 2017, p. 2). This method helped me to group themes emerging from my interview findings, and to structure my thesis accordingly.

Throughout this research, I aimed to follow the values and ethics of a feminist approach. A feminist approach requires the researcher to understand that research participants have “expert knowledge about their own experiences” (Jenkins, Narayanaswamy and Sweetman, 2019, p. 418). In this way, the traditional role of the researcher as an “expert harvesting ‘raw data’ is transferred to an enabler of a project” (ibid). This means that the researcher allows participants to “explore and analyse their knowledge, creating a finished ‘product’ to share” (Jenkins et al., 2019, p. 418). Following this approach, I also tried to challenge the traditional power dynamics between myself and my participants by introducing myself and providing my background as a young Afghan woman. In this way, I aimed to encourage my participants to take the “agency to identify challenges and facilitate critical reflection” on the subject matter (Jenkins et al., 2019, p. 419). This process allowed my participants to open up and discuss issues in detail and at times, start a conversation with me following the interview about the status of women in contemporary Afghanistan.

This feminist approach also challenges the Western notion of objective knowledge, meaning that a researcher could obtain a neutral or objective point of view throughout her research process (Jenkins et al., 2019, p. 419). Instead, it promotes researchers to practice self-reflexivity by understanding and acknowledging their own experiences, context, and biases in an “effort to strengthen research quality” (Secules et al., 2021, p. 21). This acceptancy and knowledge of my own biases as a young Muslim Afghan woman studying at a European university helped me to understand that as a researcher, I am not outside of the world and subjects that I study. This understanding helped me to achieve a greater level of objectivity, rather than simply ignoring my positionality in this research.

In addition to conducting interviews, I also analysed national and international legal documents related to women’s human rights and DV specifically. I drew upon primary sources,

such as the Constitution of the Islamic Republic of Afghanistan and Afghanistan's Penal Code. Here, I focused on chapters and articles concerned with citizens' rights, human dignity, the notion of the family, and the persecution of crimes. I also studied specific sections of international conventions to which Afghanistan is a signatory. I then examined the compatibility of Afghanistan's national legal framework with its international obligations (see Chapter Three).

### **Research Limitations**

One of the main limitations of this study was the process of data collection. The COVID-19 pandemic and associated public health and travel restrictions posed unexpected challenges and obstacles to researchers, particularly those seeking to undertake fieldwork (Vindrola-Padros et al., 2020, p. 2194). I also faced this problem; I could not travel to Afghanistan for data collection as originally intended. Thus, like many other researchers impacted by this pandemic, I had to modify and redesign my methods and conduct my interviews online. My initial plan was to conduct ten in-depth interviews with heads of WPCs in Afghanistan. I already had several contacts and aimed to use a snowball sampling method. However, I struggled to build a stable communication process with these individuals online – a difficulty that could have been mitigated if I was in Afghanistan and could visit them in person. In this process, I also realized the existence of an uneven power dynamic between me and my target group. As a young Afghan woman and a new researcher, I found myself in a very low position of power and status comparing to my targeted participants. This was because my potential participants were already well-established and experienced professionals with high positions at a national and international level. It was therefore somewhat difficult to persuade them to participate in this research and I was required to modify my target group accordingly.

Subsequently, I sought to interview Afghans who had campaigned for WPCs and the recognition of violence against women in Afghanistan. With the revised plan, I successfully conducted 8 interviews in total; I have included a list of my participants in the Appendix. While three of my participants shared their views in writing, the rest were all conducted online via Skype. The interviews were conducted either in English or Dari, both of which I speak fluently. All interviewees were asked to provide written consent (see Appendix). Despite having the option to request a pseudonym, most of my participants requested that their real names be used in the project. It was politically important for them to project their identity as part of the process of recognizing their activism. For instance, Maryam Popal Zahid, Founder and Director of Afghan Women on the Move (an organization that works towards creating a safe platform for

women as survivors of war and trauma), explained, “we have to be visible, my work is about visibility, this is where it starts, the bottom line is that we must not hide when we speak”.

Throughout the interviews, most of my participants acknowledged the importance of this research and the platform that it created for Afghan human rights activists to share their perspectives as insiders who know the realities of Afghan society. Asra Kakar (pseudonym), for instance, a women’s rights advocate with years of work experience in Kandahar, a southern province of Afghanistan, said:

Local problems need local solutions. Understanding the context is more important than suggesting solutions... we have heard enough of them [external reporters and international organizations]. Did it help in anyway? No. We need voices from within and [therefore] I talk to you. Local problems in the traditional society of Afghanistan need local solutions not international experts with no understanding of the cultural sensitivity of certain issues such as women shelters [WPCs] or the meaning of domestic violence.

For Asra and most other participants, this research provided a unique platform to express their opinions – and it helped tremendously knowing that the interviewer was an Afghan woman who has lived most of her life in Afghanistan. This point itself not only adds to the significance of my study, but also shows the importance of the researcher’s positionality. As a young Muslim Afghan woman, I have lived a life carrying the burden of honor and shame of my family and have also witnessed several cases of DV in my community. I share the realities of being a woman in the traditional society of Afghanistan and have always advocated for “our” rights. Considering this background, as well as the fact that I left the country in 2020, I still place myself as an “insider” in this research project. Regardless of my current status as a graduate student studying in Europe, my participants still approached me as an insider who speaks the Afghan national language and shares the same cultural and religious values. This is why, for instance, Asra pointed out the over-projection of Afghan women’s rights from external human rights perspectives, which usually fail to capture the domain of social problems, such as the complexities of WPCs. Therefore, my hope is that this thesis not only provides a resource for understanding the complexities of WPCs as a response to DV in Afghanistan, but that it also provides an opportunity for other scholars to hear voices (mine, but also the voices of my research participants) from within Afghan society on this pertinent issue.

## **Chapter Two: The Social Construction of Gender and Domestic Violence in Afghanistan**

This thesis aims to understand the main causes of opposition to the establishment of women's protection centers (WPCs) as a response to domestic violence (DV) in Afghanistan. To this end, this chapter will examine how domestic violence (DV) itself is socially constructed. Analyzing and understanding the complexities of WPCs in the patriarchal society of Afghanistan is not possible without fully unpacking the term DV. It is also vital to note that DV "cannot be adequately understood unless gender ... [is] taken into account" (Yllo, 2005, p. 19). This correlation between DV and gender shows that an inclusive understanding of DV depends on "structures of power, and meanings of gender" in that context (Merry, 2009, p. 3). Therefore, by drawing upon my participant's narratives, this chapter will illustrate that the social construction of gender – which refers to ideal notions of masculinity and femininity – and DV are two main unifying themes that constantly shape each other and cannot be understood separately. I will demonstrate that many Afghans, including most of my interviewees, draw upon patriarchal notions of gender to make sense of DV.

I argue that the dominant social construction of gender not only contributes to the invisibility of DV in Afghanistan, but also underpins the practice of DV by shaping Afghan people's perspectives of DV as a normal aspect of daily life. In doing so, this chapter expands upon feminist approaches to DV, which see wife abuse as a "reflection of the social structure" (Abraham, 2000, p. 5). While valuable in recognizing the importance of broader social structures, I argue that this interpretation neglects the diversity and complexity of DV by positioning women as victims based on their gender. My interview findings illustrate that in Afghanistan, DV is also perpetrated by women against women. The power relationship that underpins this form of violence is gained through age and status within the family.

This chapter will first draw on the concept of gender by looking at specific masculine and feminine attributes within the context of Afghanistan. It will then show the close entanglement of gender roles, religion, and DV. The chapter will conclude that the dominant patriarchal construction of gender shapes understandings of DV as not a violation of human rights, but rather as an appropriate and normalized action which is required for the betterment of the family. This chapter also lays the foundations for the argument I develop in Chapter Four, which focuses on the establishment of WPCs as a response to DV in Afghanistan post 2001.

## **The Social and Religious Construction of Gender**

Gender is a central phenomenon around which humans structure their social lives and interactions. This section will provide a brief introduction to understandings of gender as socially constructed and explain how attributes and expectations come to be coded as masculine or feminine. Many feminist scholars argue that gender itself is a “social structure” which changes based on context and social relations (Connell, 2005, p. 9). It is “fluid” and subject to change as it is performed differently in the way that individuals interact with each other (West and Zimmerman, 1987, p. 127). However, gender has become a socially constructed concept which largely refers to the dichotomous notions of men and women (Cranny, Kirby, Stavropolous, and Waring, 2003, p. 1). Gender marks difference between the roles and responsibilities of men and women. The social construction of gender, which has predominantly been theorized by scholars of the Global North, refers to certain characteristics, features, and expectations that are developed, internalized, and agreed upon based on social agreements (Zevallos, 2014, para 12; Connell, 2005, p. 10; Cranny-Francis et al., 2003, p. 3).

The social construction of gender has not only categorized women and men based on biological differences but also assigns each with characteristics that are coded as feminine or masculine (Cranny-Francis et al., 2003, p. 3). This masculine and feminine division has further assigned specific gender norms and stereotypes to which people of each group must adhere. These stereotypical expectations “not only reflect difference [in the form of hierarchy among two genders] but also impact the way men and women define themselves and are treated by others” as superior and inferior (Ellemers, 2018, para. 1). Therefore, understanding the social construction of masculinity and femininity is “pivotal in the formation” of women’s and men’s social identities, including their status and the “power dynamics” among them (Bennett and Manderson 2000, p. 11). Understanding the status and power dynamics between these genders will be a guiding line for my contextualization of DV. The following section will review the social construction of masculinity and femininity based on my interview findings and consider its relationship to understandings of DV in Afghanistan.

### *Masculinity*

In the patriarchal society of Afghanistan, gender stereotypes are widely accepted and followed as elements of masculinity. Scholars such as Mills argue that the dominant social construction of masculinity in Afghanistan defines men as superior; as the head of the family who is responsible for the protection of the female members and all socio-economic political aspects



of life associated with the public sphere (Mills, 2003, p. 43). All my interviewees underlined the existence of these dominant traits of masculinity in Afghanistan. Additionally, my interviewees identified attributes such as being controlling, violent, and aggressive as important. For instance, Asra (pseudonym), a local women's rights activist in Kandahar, narrated:

We [Afghan people] have a specific image of a man and a woman. It is not written anywhere but it is very specifically followed by all. It has been like this for generations. Man is equal to power, authority and having the last word to say on everything. They beat their wives for nothing, and nobody objects to this. Not even his wife because we say 'what else he could have done? He is a man. Men are violent'... we have a very big problem... our mindset is like this, we are taught to be this... I see we raise our son saying, 'If you were *man enough* she would never leave the house [to go to a WPC or her parents]'.

Asra explained that in Afghanistan, the notion of men and masculinity (مرد و مردانگی) has been followed for generations and is still very prominent today. She also emphasized that violence is highly accepted by most Afghan people, including abused women. Asra linked this to the dominant image of masculinity by highlighting that individuals are taught – at home and in mosques, by their families and by clergymen – about their identities as men and women from a young age. Asra's explanation demonstrates that in patriarchal societies like Afghanistan, men's abusive attitudes and behaviors are formed by a "life-long process of gender socialization" (Zakar et al., 2013, p. 246). Here, the notion of patriarchy refers to a social system in which the "actions and ideas of men govern, oppress and exploit women" (Soman, 2009, p. 253). In the same way, by referring to Afghan society as patriarchal, I refer to a society which "creates or maintains men's power and dominance" and at the same time, "punishes" factors that poses a threat to their power (ibid).

In addition to these characteristics, my interview findings also showed that trigger words and phrases are widely used to evaluate and influence men to perform and prove their masculine gender by conducting violence against the women in their family. For example, Asra pointed out that many Afghans use the phrase, "if you were *man enough*". Therefore, for Afghan men, "violence is a resource for demonstrating and showing" that they are men (Anderson and Umberson, 2001, p. 359). In other words, "doing violence is a way of doing gender" (Merry, 2009, p. 11). This connection suggests that while Afghan men often perform their masculine gender through violence, Afghan women perform their feminine gender by accepting the violence without any complaint (Merry, 2009, p. 11). Hence, it is evident that the social construction of gender constantly forms and defines violence against women, in this case

DV. As a result, DV is not viewed as an “unintentional or spontaneous activity”; rather, it is performed due to specific sets of beliefs and perceptions about gender roles and the status of women and men (Haj-Yahina in Zakar et al., 2013, p. 247). In other words, DV against women is intricately linked with the construction of gender identity.

All my interviewees underlined the importance of the process of gender socialization. They confirmed that men are expected to perform violence as an “essential part of their masculinity” (Connell, 2005, p. 4). My interviewees further specified the role of gender in DV by acknowledging that in Afghanistan, “[m]en are involved disproportionately in violence partly because they have been prepared for it” (Connell, 2005, p. 4). For instance, Sultan Ali Rahimi, Deputy Director of Afghan Women and Children Legal Research Foundation, a local organization focusing on research, advocacy, and awareness programs for women and children, in his explanation of the role of gender in the formation of DV, said:

There exist rigid social norms that constantly explain manhood... they [men and women] do not want to be excluded from the society, neither [do] they want to be accused of disregarding the norms. Intertwined concepts such as men and violent behavior and women and submissive are the foundations of social problems such as domestic violence because these norms rule the society, they rule us.

Through these words, Rahimi highlighted the interdependence of violence and gender, as well as the unfortunate social cycle of living and growing up in a patriarchal society. This society shapes behavior and assigns identity boundaries by preparing men and women for what is expected of them from their early childhood. Seema Ghani, an Afghan human rights activist, stated: “I believe that we have at times decided our own faith in believing and allowing old traditions [referring to traditional ideas of gender] to rule our lives”. Here, Ghani also drew on the lifelong process and impact of following traditional patriarchal concepts of gender roles. According to her, circumstances could have been better if these gender roles had not simply been inherited and then perpetuated. Sohaila Forough, a local women’s rights activist, agreed, commenting: “most of the violence [referring to DV against women] that are happening are ... part of the gender norms that are somehow deeply rooted in [the] tradition of Afghan society”. Forough explained that Afghan people’s belief in patriarchal social construction of gender facilitates DV as a conventional act that is approved by the family unit, society, and even judicial authorities. As a result, in Afghanistan:

At the individual level, boys internalize masculine and violent behaviors; at the community level, violence against women is tolerated and normalized, and, at the state

level, discriminatory laws against women allow the perpetrators to go unpunished (Heise and Neuwirth cited in Zakar et al., 2013, p. 247).

This quotation illustrates how concepts of gender and masculinity are developed, supported, and eventually shape DV into a casual aspect of life that is far from being considered a crime or a violation of human rights.

### *Religion*

In addition to patriarchy, religion also plays a crucial role in shaping the social construction of gender in Afghanistan. This impact and role of religion on gender stereotypes was raised by many of my interviewees. My interviewees acknowledged that gender in Afghanistan is a “salient feature” of religion and cannot be denied (Avishai, Jafar and Rinaldo, 2015, p. 7). For instance, Asra stated:

When we go back to the origin of these gender norms and expectation, we see religion [Islam] in every corner of it, it has given meaning and assigned gender expectation ... this is undeniable because we live in an Islamic country. Where do you think *patriarchy* is supported by the most? I say in conservative Islamic societies. It [religion] has influenced everything, our thoughts, tradition, and actions, this can be good if it is not misinterpretation of religion. Because these misinterpretations are about male power over women.

Here, Asra acknowledged the ruling impact of religion on gender. She explained that gender and religion intersect with each other, and that this intersection is central to the social construction of gender in Afghanistan. Asra also highlighted the power of religion, Islam, in shaping Afghan traditions. She clarified that it is the misinterpretation of Islam that has provided room for male dominance and women’s subordination. Similarly, both Seema Ghani and Sohaila Forough also referred to the concept of “tradition” (عننه يا رسم و رواج) when describing gender norms. They clarified that in Afghanistan “tradition”, which refers to established customary patterns of thoughts and norms, is interconnected with religion. Sohaila added “that [religion] does not even need to be mentioned, because we know it is there, we live with it, it lives in us”, suggesting that religion is deeply embedded in everyday life.

My interviewees also stressed the inevitable role of religion in Afghan traditions and gender expectations. Maryam Popal Zahid, for example, stated:

We have not yet reached that level to comprehend and accept things based on logical reasons. We were told and understood that if something is told to be white then it is white and if it is told to be black then for sure it is black. Based on religion it is said that these are your rights, and these are your responsibilities, and these are your punishments [referring to women’s status]. There always comes at the end that ‘you

must obey your husband'. The dominant interpretation in Islam says that 'you [men] have the rights to punish you wives' so when this permission is given then it is given [to support and justify their actions]. When it comes to women's rights there is always a '*but*' at the end. Saying these are your rights, you have this and this '*but*'. This '*but*' is followed by 'your man can punish you if... [or] you should have obeyed your husband etc.' When a woman is angry at them [her husband] what can she do? Is there any formula for that? Is it said [in religion] that if your husband did this and this then you can punish him? No. It is very hard to argue with religious and traditional norms of the society.

Here, Zahid demonstrated the entanglement of gender and religion in Afghanistan. She explained that in Afghan society, certain ideas exist and are inherited without question. For instance, she noted that if we are told that a particular object is black then we automatically accept it. With this example, Zahid clarified that the same pattern exists when religion comes into the discussion. This means that specific stereotypes, such as male supremacy and violence over women, have been produced based on religion and absorbed to the extent that now are defined as "traditional" gender norms. Zahid also touched upon dominant patriarchal interpretations of Islam and Quranic verses. She noted that in contrast to the freedom and superiority of men, there always exist limiting conditions for women. Zahid explained that the word "*but*", which refers to conditions assigned for women, is used to limit women's rights and justify male violence by claiming "*but* women should stay obedient to their husband". This means that Afghan people's religious beliefs have constructed social and traditional gender norms which constantly "beckons them [men]... toward women's domination" (Manganaro and Alozie, 2014, p. 2454). This link between gender and religion has strengthened gender stereotypes in Afghanistan and had dire consequences for those who challenge them.

Indeed, my interview findings show the adverse consequences of challenging the social construction of gender and, consequently, the perpetration of DV by men against women. Almost all my interviewees emphasized that the notions of masculinity and femininity in Afghanistan are not only about how individuals are *expected* to act or be. Instead, they are more about how people *should* act or be. Asra, in her response to my question on the role of gender in DV, explained:

This is like a never-ending cycle; it leaves people with no option aside from following them. It is tricky to challenge or go against the predefined gender identities... if you go against them then you are objectified. If you are a man your nickname will be '*zancho*'<sup>1</sup> [laughs]. This is the worst thing that could happen to an Afghan man. He will not be

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<sup>1</sup> This term literally translates as "henpecked men," but in the context of Afghanistan, it is more broadly used to refer to men who do not subscribe to the traditional gender norms of men as violent and controlling. They are seen as men who have lost their power over women, masculinity, and therefore male identity.

respected or taken seriously by his mates... he also won't make it to any leading position within his community... a miserable man he is... you know why? Because even female members of his own family will mock him... you see it is not easy to leave this cycle because you live in it.

This excerpt indicates that stereotypes of masculinity carry a “descriptive and prescriptive component” in Afghanistan (Koenig, 2018, p. 1). While the descriptive component contains thoughts and beliefs about “how males typically act”, the latter encompasses “beliefs about how males should act” (ibid). Any challenge to these components is also seen as a challenge to the entire social norms and may result in social seclusion.

Alongside this patriarchal notion of masculinity, it is critical to identify how feminine identity is constructed. Understanding these dominant gender norms together will demonstrate the role and relationship of the social construction of gender and DV. The following section concentrates on descriptive and prescriptive components of the social construction of femininity in Afghanistan. This discussion will be based on my interview findings and the rich literature on the notion of the gender binary and its assigned attributes.

### *Femininity*

In contrast to the dominant concept of masculinity as “agentic”, powerful, aggressive, and controlling, femininity is “set up as inferior to men” (Koenig, 2018, p. 1; Zevallos, 2014, para. 26). Under the patriarchal social construction of femininity, women do not have the “same level of cultural power as men” and are instead defined as “nurturing, subservient unwise and fragile bodies” who should stay “faithful to the domestic sphere” and obey male authority (Koenig, 2018, p. 1; Zakar et al., 2013, p. 260; Bennett and Manderson, 2000, p. 11). These characteristics were raised throughout the interviews. My interviewees explained that the scope of the social construction of femininity in Afghanistan is very limited. Any actions deemed contrary to it can have severe consequences not only for the woman concerned, but also for her family. One interviewee, Asra, in her analysis of the impact of gender in shaping DV, described:

In Afghanistan there is a famous proverb saying ‘no matter what men are men and will be men’ but I have never heard anyone saying this about women. It [gender norms and the concept of femininity in Afghanistan] is very specific about women, as a woman you are everything else but yours, quiet, shy, do not have [an] opinion on anything because we are not wise, we lack logic and so we are prone to mistakes that is why they [men] correct us ... [pause] ... a woman I knew crossed the invisible yet strict limit of her, she looked for possibilities of divorce... she is still with her husband with a broken arm that she said she fell down. Her family did not support her either because once you marry your husband is the one.

Asra explained the unfortunate reality of most Afghan women and their struggle to challenge the expected roles defining them. Asra's input can be interpreted that in Afghanistan, the component of femininity which defines how women *should* act and be is very intense. Asra highlighted this by noting that "no matter what ... men will be men", but it is not the same scenario with women: crossing boundaries for them can be equal to putting their entire life in danger. This is one of the main points that all my interviewees agreed upon.

My interviewees confirmed that the social construction of femininity as unwise, weak, less valuable, and the perception of woman as the personal property of men (مال شخصی), has provided Afghan men with a solid ground to control and punish their women as they wish. Maryam Popal Zahid, the head and founder of Afghan Women on the Move, for example, narrated that:

The roles and positions within [the] house are distinct from the outside. He beats his wife, and no one is allowed to interfere. Because DV is about power and control... it is about knowing your position and proceeding with actions... we live with traditional gender norms, men are powerful and even physically see themselves powerful, they use this.

This point was raised multiple times throughout the interviews. All my interviewees spent a significant amount of time sharing their thoughts on unequal power relations between men and women based on prevailing views of femininity and masculinity. Setara Barakzai (pseudonym), a local women's rights activist, stated:

In contrast to all privilege and freedom that is given to men, Afghan women have nothing in hand. The same way that men and masculinity is defined, women are also defined but as subordinate to men. I do not aim to generalize; we cannot generalize because things have changed. But I can say that concepts such as women as [the] personal property of men is still evident across the country. They [men] do what they do, and this is often not criticized by the rest of [the] family member[s] and society because we say 'he is her husband or father or brother or father-in-law. He is right, she must have done something [to] cross the line [referring to feminine characteristics and social norms]'.

Here, my interviewee described the uneven power relations between Afghan men and women by referring to the descriptive aspect of patriarchal gender norms, which defines women as the property of men. She was also mindful of not generalizing by noting that "things have changed" in the country. Although my interviewee did not elaborate on this point, I assume that she was referring to changes such as access to education in the last decade. For instance, access to public university has increased from 7,800 in 2001 to 174,425 in 2015 (Thelwell, 2017). This explanation also indicated that in Afghanistan, gender is used as a way of enabling the

victimization of women and the legitimization of the abusive actions of men. Therefore, in exploring DV, it is essential to address how perpetrators socially construct their victims and their own behavior.

## **Gender and Domestic Violence**

Building upon the above discussion on the social and religious construction of gender, I will now investigate how DV is shaped in the context of Afghanistan. DV is a type of gendered violence that is pervasive around the globe and in Afghanistan. Aziz defines DV as “an assault on human dignity, often seeking to reduce or eradicate a person's autonomy, destroy her self-esteem and compel her into subjugation” (2013, p. 69). As I argued in Chapter One, perpetrators of DV usually demonstrate a sense of entitlement to treat other bodies in the way they do, and I argue that this sense of entitlement originates from their social identities as men and women.

In light of the desired characteristics assigned to each gender, my interviewees emphasized that Afghan society in general and Afghan men in particular strongly believe in what Zakar and others describe as a “culturally defined red line” (Zakar et al., 2013, p. 259) – a concept that I found particularly useful for my own research. Here, a “red line” refers to socially and culturally constructed boundaries that cannot be crossed. For instance, topics such as women’s agency to speak up or leave their matrimonial house without prior permission to visit their parents were raised during the interviews as examples of red lines for Afghan men. These red lines may differ depending on context and community; however, they all share the same root: the social construction of gender, and the construction of women as inferior and the property of men. For example, Sohaila Forough stated: “for Afghans if they see a woman going out without proper dressing code, they [men] will say she is disobeying her husband or father and religion... she does not know her boundaries”. The generally accepted dress code in Afghanistan requires women to cover their hair and wear loose-fitting clothes so that their body size and shape will not be noticeable. Sohaila further added:

It is here that they [men] give themselves the right to attack that woman... it is interesting that these attacks are only by men. They see this power in themselves because they are men, wise and superior [laughs]. This can be beating, verbal abuse or threatening her. Imagine how men would react if you left the house and [went] to your parents... this is like a fire bullet, it kills them. I always think about how strong, yet fragile masculinity is constructed... you know when their women or daughter or any female member of their house leaves as a form of complaint, they [men] lose their everything.

مثال اینہ ای کہ تکہ تکہ شدہ باشہ بستہ مردانگی شان همو پاور و کانتروول و بستہ موجودیت شان به سوال  
خواد رفت

[They will be like a mirror that is shattered into pieces, their masculinity, power, control, and entire existence will be questioned] because an inferior to them [a woman] left and they could not stop her... as an Afghan you know how tough it is to cross the boundaries and social norms. Either you cross or you are back and of course punished. Women are always punished for this. All of this happens inside [the] home; we know it is domestic violence, but it is not seen as violence. It is a punishment.

Here, Sohaila described the consequences of crossing the red lines of Afghan society. She also referred to the fragility of masculinity and explained it is due to this fragility that men react to any actions which are seen to threaten their masculinity. Her commentary showed that when women cross this line, which poses a danger to men's power, control and masculinity, men allow themselves (as the superior gender) to physically punish their wives. This means that in contrast to men's punishment – which usually takes place in the public sphere by peer pressure, verbal harassment, or persecution – women's punishment usually takes place inside the home at the hands of the male head of the household (Azarbaijani-Moghaddam, 2012, para. 3). This action is defined as “reformatory control” by Zakar, Zakar and Kraemer in their study of DV in Pakistan (Zakar et al., 2013, p. 259), but can similarly be applied to Afghanistan.

Zakar et al. define reformatory control as an act of violence which is perceived to be for the “long term benefit, welfare, and reform” of the family (Zakar et al., 2013, p. 259). Although my participant did not use the exact phrase of reformatory control, their explanations of DV fully echoed the meaning of this term. Zahid, for instance, referred to DV as a “required act to save the family from further crises”. As she explained:

It is all based on gender perceptions as Afghanistan is a highly patriarchal society, we cannot deny this fact. They [women] are punished. We have seen cases of severe beatings, broken arms, and noses etc. but they [people in general] say ‘a woman should have known her boundaries, it is not her husband's fault’. On top of this, the biggest problem we have is not the act of domestic violence itself. The problem is its definition and understanding. Most see it as *a required act* that will eventually save the family from further crisis like divorce, separation, women running away from home.

Zahid indicated that DV occurs due to traditional patriarchal constructions of gender, which enable men – as the superior gender – to treat their wives and women as objects or personal property. Zahid also touched on further outcomes of gendered understandings of DV. Her response shows that acts of violence against women in the domestic sphere by men are generally constructed as an action that takes place with good intentions. Her analysis reflects the concept of DV as reformatory control, which is aimed at keeping the family unit together. Thus, my findings show that in Afghanistan, DV is understood as a socially justified



phenomenon rather than an actual act of violence that harms women. Zahid also noted that generally DV is seen as a *required act to save the family from further crises*. Here, when I asked for her clarification of the word “crisis”, she said “I mean losing honor and reputation”. She explained:

Generally, women are seen to carry a family’s honor (عزت و ابرو). It is attached to their body, behavior, and every single action of them. Whatever they do is measured by the social gender norms and going beyond can mark the reputation of the family. So it is about [the] family’s honor and reputation... to them [men] femininity is about being weak and unwise, so they as the wise ones are afraid you commit a mistake. The main problem here is that the entire honor of the family is associated with women, all responsibilities are put on women. This shows [the] power of men on us, in the fear of losing one’s honor beating would be nothing for men to do.

Here, Zahid reflected on the ideal gender norms and social rules which define men as wise, superior and the protector, and women or femininity as unwise and in need of control. She also highlighted the link between the family’s honor and the reputation of women: women’s actions and behavior can determine the family’s honor and social status. This attachment has further widened the power relations between men and women.

Placing responsibility for the honor of the family upon women has also made women more vulnerable to violence. This point by Zahid can be interpreted as the construction of women as “boundary markers” of the honor and shame of their families, communities, and nation (Bennett and Manderson, 2003, p. 8). As Bennett and Manderson point out, “cultural preoccupations with honour, shame and the sexual purity of women are central to sustaining gender differentiation and gender inequality, simultaneously justifying violence against women” (2003, p. 9). This illustrates that the attachment of honor to women contributes to the dominant patriarchal social construction of gender: it creates a platform for men’s violence against women in the name of protecting the family’s honor and reputation. It is important to note that honor itself is a problematic concept and is intricately related to other iniquitous gendered practices (Korteweg, 2012, p. 143; Gill, 2009, p. 477). This means that honor can be “less important as a concept than the desire on the part of male leaders [...] to retain their political and cultural authority by reinforcing established gender roles and expectations” (Gill, 2009, p. 477). This understanding of honor resonates with the patriarchal society of Afghanistan. Once women are constructed as the bearers of honor and shame of the family, it becomes “men’s duty, as the head and protector of the family”, to defend women’s honor and keep it safe (Gill, 2009, p. 477). This analysis also shows that the practice of “protecting women’s honor” is related to the idea of women as property and, like all valuable

“objects”, in need of “saving” (ibid). In this context, women living in an honor-based society “learn either that (she) is not regarded as a human being or that she is not equal to her male counterparts” (Gill, 2009, p. 478). In light of this, the strong attachment of honor and shame to women have made them more prone to violence.

The emphasis upon women as the bearer of the family’s honor and the attendant expectations placed upon them has particularly devastating consequences for women’s sense of self-worth. This point was raised by Asra:

It kills bravery in women, it makes them fear everything and feel that they are weak, they need men to guard them to take care of them... this fear unfortunately makes women stay indoor where they belong, why risk [it]? Why go outside and work? Does it worth her family’s honor [sic]? No... this is what they [men] want... this shows the same cycle of men as capable and women as weak who can’t take care of themselves.

Here, Asra narrated the negative impacts of constructing women as the bearer of the family’s honor. She explained that this huge responsibility has further resulted in the creation and circulation of fear and anxiety in women and for many, has destroyed their courage and bravery. Her points also reflect that the ideal notion of femininity is submissive and under control. According to Asra, honor is a mechanism which facilitates male domination and constantly refreshes the ideal notions of masculinity and femininity in Afghanistan. Therefore, it can be said that:

The socialization of young women in such [patriarchal] societies revolves around notions of family honor and cultural norms that become so deeply internalized that women often find it difficult to break away from these values. As a result [...], many women feel that they are to blame for the emotional and physical abuse they suffer and so become complicit in their own subjugation (Gill, 2009, p. 478).

In Afghanistan, this socialization of female children with the concept of honor starts at a very early age. Based on my interview findings, Afghan women learn not to differentiate between their own rights and their family’s interest. This pressure results in women’s approval of violence by their male counterparts, as they see it as action that is for their own good and the family’s reputation. This association once again opens the gate to men’s performance of violence against women by rephrasing it as reformative control.

The notion of reformative control can also be expressed in terms of Douglas’ concept of “matter out of place” (1966). Douglas defines this phrase as “a violation of ordered relations and a threat to good order”. In other words, it refers to an object which is not in its original or rightful place (Douglas cited in Saroca, 2006, p. 65). This concept is important in analyzing

perpetrators' abusive behavior in DV cases. My interview findings also show that perpetrators of DV usually see their wives or other female family members as displaced objects who need to be put back into their rightful place to restore the family and gender order. For example, when a woman fails to live up to her male partner's expectations, she is perceived as *matter* out of place as she threatens his sense of power and the dominant gendered expectations of her. Thus, violence is used to bring her back into place.

These concepts were raised in different forms by my interviewees. As I argued in the previous section, my interviewees mentioned that men conduct violence against women by justifying it as a reformative act. For Afghan men, reformative means that they aim to improve the situation and that this improvement will require some adjustments. Asra, one of my interviewees from Kandahar, said:

This is not something new, they [men] beat and even kill [women] and then say 'it was for her good and for our family. She needed to know her *place*, who would want to beat his wife? No one, but when she forgets her position then she needs a reminder.' And it is widely accepted by all unfortunately.

This passage illustrates perpetrators' justification of DV and shows that the concept of women as "matter out of place" is present in men's thoughts as they use it to justify their actions as "right" and "needed". It also shows the sense of entitlement, power, and control which links back to the notion of masculinity and the patriarchal construction of gender. As Zahid described:

We cannot talk and analyze a social problem without first understanding the social identities involved in it. This is not a new formula; it is the first basic step to take. So, I say we first need to understand the context. To the outside world domestic violence is reported in numbers but is it really seen as abuse and violence in the country? Not it is not. It is normal. This is why I say understanding social identities are important because in the inside women are defined as [the] belongings of men. They are defined as weak and in need of protection. In contrast men are defined as the guardian[s]... women cannot do much without their permission, so of course these patriarchal notion[s] of gender impact perceptions and provide some [men] with more liberty. With this case who would object to DV? I again say no one. We just see it as a normal aspect of life. I may sound generalizing the issue, but this is the reality.

Additionally, Seema Samar told me that women "usually put up with how they are being treated at home even if they are living under domestic violence. They believe that all they can do is to accept their *fate* and stay with men in the same house." Both interviewees thus emphasized that it is not possible to detach gender and its impact from DV, as DV itself is perpetrated due to patriarchal gender stereotypes. Samar also used the word "fate" to show that not only men but

also women themselves believe and confirm DV as part of their “fate”. This example shows the intensity of absorbing and addressing DV as a normal and casual component of life in Afghanistan.

This chapter therefore challenges the essentialist view of DV which constructs all women as victims on the basis of their gender. My interview findings show that in Afghanistan, DV can also be perpetrated by women against women. For instance, Sultan Ali Rahimi, Deputy Director at the Afghan Women and Children Legal Research Foundation, pointed out the flaws of this essentialist view:

As a social problem [DV] has multiple dimensions and cannot be simply viewed as grouping men and women as perpetrators and all the time victims. We cannot deny the fact that many women also contribute or are perpetrators of domestic violence against women too. In patriarchal conservative families we see that within the same household women have different status[es]. Usually, the elderly ones or better say mother-in-laws have power over other women and at times are direct perpetrators of violence against women at home.

By highlighting the complexity of DV and challenging the essentialist view of constructing all women as victims, Rahimi clarified that other factors – such as age – can mediate the hegemonic view of DV. By drawing on the status of mothers-in-law in Afghan families, Rahimi explained that not all women occupy the same status; the age of a woman is also an important factor that confers some privileges over younger women. This means that Afghan women acquire power as they age and become mothers-in-law. While these intersectional dynamics are an important dimension of DV in Afghanistan, they have mainly been overlooked as the dominant image of Afghan women is that they are victims.

Different factors are used to explain the perpetration of DV by men against women. Some scholars argue that external factors, such as “violent socialization during childhood... alcoholism, drug addiction, mental illness, or lack of self-control”, are important (Stacey and Shupe, 1983, cited in Abraham, 2000, p. 5). Other scholars have linked men’s violence against women to armed conflict, arguing that “men who either witness or partake in violence during conflict” are highly likely to exercise violence against their intimate partners during peace time (Clark et al., cited in Mannell, 2020, p. 3). However, I argue that external factors – such as poverty, violent socialization during childhood, or armed conflict – are not the main causing factors. Indeed, several of my interviewees demonstrated the role of these external factors by taking drug addiction as an example. For instance, Asra explained:

[It is] tricky is when they say he uses drugs or [she] was under drugs and [he] beat his wife. But my question is how we justify domestic violence among others who are not

drug addicted and have a full-time job with a house and no worries about rent or monthly income. Yet they still abuse their wives by beating them.

Here, Asra challenged the dominant perception of DV as occurring due to external factors. As I argued earlier in this chapter, in Afghanistan, DV is not about a lack of self-control. Rather, it is primarily about exercising and demonstrating power and control over another person. As a result, DV as a form of gendered violence is formed by constructing the gender identity of the woman as less valuable and inferior to the man, thus justifying the use of violence against her.

## **Conclusion**

This chapter has demonstrated that the patriarchal social and religious construction of gender in Afghanistan, and associated ideal notions of masculinity and femininity, shape understandings of DV as a normal aspect of life. They also provide greater opportunities for perpetrators of DV to justify their abusive actions – both to themselves and to society. This justification happens by titling DV as reformatory control or a mechanism to put women into their original (or rightful) place and to save the family's honor. Other factors, such as understandings of women as personal property, have also resulted in the invisibility of DV and a failure to locate it as a crime. Thus, understanding DV in a patriarchal society such as Afghanistan requires insight into how Afghan women are constructed as repositories of honor, shame, and property of their families. These concepts are the core pillars of DV in Afghanistan.

This chapter also presented the complex entanglement of gender and DV. It showed that in, DV is widely accepted and indeed normalized. This understanding of DV within society will be used in Chapter Four to analyze the establishment of WPCs as a response to DV in Afghanistan. In order to reach this point, there is a need to first understand how DV is perceived in the country's legal framework. Thus, in the following chapter, I will focus on Afghanistan's national and international legal frameworks on DV. However, it is vital to note that the government since its establishment in 2004 did not operate in a vacuum. In fact, there was a strong international climate dominating the country. The US invasion of Afghanistan in 2001 and the influx of international personnel, the UN, NGOs, and international aid came with ideas of what the new government should look like. Considering this, I will also examine international law and conventions around DV to situate my topic within a broader context.

## **Chapter Three: National and International Legal Frameworks on Domestic Violence**

This chapter will examine Afghanistan's national legal framework's response to domestic violence (DV) which, I argue, is a prerequisite for understanding the presence and acceptance of WPCs in the country. To do this, in the first section of this chapter I will look at international guidelines and standards regarding DV to situate this discussion within the broader context of international law and conventions around gendered violence and women's human rights. I will focus specifically on agreements and conventions that arose in the post-World War Two period. In the second section, I will highlight the complex relationship between Islam and the state and its implications for Afghanistan's national legal framework on DV. Lastly, I will draw on my interview findings to outline the main challenges in terms of the implementation of justice for victims of DV in Afghanistan. Through this chapter, I argue that the high prevalence of DV and the strong opposition to WPCs are linked to Afghanistan's poor and contradictory legal frameworks towards women's human rights and DV specifically.

### **International Human Rights Standards on Domestic Violence**

According to international human rights law, violence against women, including DV, is "a violation of fundamental human rights" (Nijhowne and Oates, 2008, p. 7). This means that states have a due diligence to protect individuals' fundamental human rights. According to this logic, any state's "institutionalized inaction" in response to DV cases is a violation of its international obligations (Thomas and Beasley, 1993, p. 36; UN Commission on Human Rights, 2006, p. 6). Additionally, the use of law in a discriminatory manner delivers "more attention and resources to crimes other than domestic violence" also violates a state's international legal obligations (Minnesota Advocates for Human Rights, 2003, para. 22). Therefore, states are responsible for assessing their responses to gender-based violence cases such as DV "in concert with other human rights principles such as equality, dignity and non-discrimination" (Goldfarb and Goldscheid, 2016, p. 8).

There are a number of international instruments that aim to protect and promote women's human rights, as well as relate to DV more specifically. These instruments and conventions largely came about in the post-World War Two period and during the UN Decade for Women (1975-1985) During this time, countries from around the world came together to discuss policies and issues that impacted women, including pay equity, gendered violence, land holding, and other human rights (Keck and Sikkink, 2014, p. 179). The following list contains

specific conventions which address violence against women, which I discuss in more detail below:

1. Universal Declaration of Human Rights (UDHR) (1948)
2. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1979)
3. International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966)
4. Declaration on the Elimination of Violence Against Women (DEVAW) (1993)
5. International Covenant on Civil and Political Rights (ICCPR) (1966)
6. United Nations Security Council (UNSC) Resolution 1325 (UNSCR 1325)

The Islamic Republic of Afghanistan is a signatory to all the above conventions (Qazi Zada, 2020, p. 6). In line with its association, Afghanistan has due an obligation to protect, prevent, and prosecute cases of violence against women, including DV (ibid). Protection usually consists of the provision of services such as “health care, counselling centres, legal assistance, shelter [or women protection centers]” to abused women (UN Commission on Human Rights, 2006, p. 11). As a signatory to the above international human rights treaties, Afghanistan has confirmed that “Everyone has the right to life, liberty and security of person” (UDHR, 1948, Article 3). Based on the UDHR, Afghanistan also recognizes the legal status of victims of violence and their “right to adequate housing [women protection centers]” (OHCHR, 2019, para. 1). Moreover, the CEDAW Committee’s General Recommendation no. 35 notes that it is the responsibility of states to “provide specialist women’s support services, including adequate shelters” (CEDAW/GC/35, para. 24.b). In addition to the provision of shelter, Article 2 of this convention emphasizes the elimination of discrimination against women and requires states to take reasonable steps (see Appendix A).

Furthermore, through General Comment N. 16 of the ICESCR, the implementation of Article 3 in relation to Article 10 requires state parties “to provide victims of domestic violence, who are primarily female, with access to safe housing” (Committee on Economic, Social and Cultural Rights 2005, para. 27). Likewise, Article 9, 10 and 14 of the ICCPR together focus on “just trial and equal treatment” of individuals before the law (Qazi Zada, 2020, p. 7). This means that Afghanistan is obliged to grant victims of gender-based violence, such as DV, with “protection before, during and after the legal process” of their cases (Qazi Zada, 2020, p. 7). Similarly, DEVAW in its preamble, notes that acts of

violence against women [such as DV] is a manifestation of historically unequal power relations between men and women, which have led to domination over and

discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men.

Therefore, Article 4(F) of DEVAW requires its member states to develop, in a comprehensive way, “preventive approaches and all those measures of a legal, political, administrative and cultural nature that promote the protection of women against any form of violence, and ensure that the re-victimization of women does not occur because of laws insensitive to gender considerations, enforcement practices or other interventions”.

The launch of United Nations Security Council (UNSC) Resolution 1325 (UNSCR 1325) on Women, Peace, and Security in 2000 is a significant international obligation for member states (UN Security Council, 2000, p. 1). Following decades of transnational feminist activism, this historic resolution stressed the importance of women’s *participation* in peacebuilding and post-conflict reconstruction; the *protection* of their human rights; and the *prevention* of gender-based violence against women and girls (UN Security Council, 2000, p. 3-4). UNSCR 1325 expanded upon the UDHR and CEDAW, which I discussed above. All UN Member States, including the government of Afghanistan, became responsible for the full implementation of UNSCR 1325.

In line with the above explanations, Afghanistan has several international obligations to protect victims of gender-based violence, who are mainly women. Additionally, Afghanistan has a due diligence obligation to grant these victims with rights to protection, which can be in form of provision of WPCs. In the context of international law, due diligence serves as a mechanism for measuring whether states have met or failed to satisfy their international commitments. However, it is important to note that the concept of “due diligence” is also debated as a term which lacks precision and is difficult to measure (Qazi Zada, 2020, p. 262; Grans, 2018, p. 734). Nonetheless, as a signatory to the above conventions, Afghanistan has a due diligence in the prevention and protection of gender-based violence, such as DV. This obligation is highlighted in Article 7 of Afghanistan’s Constitution, which I discuss below. Afghanistan’s responsibility can be invoked under human rights law if steps taken by the state are not deemed adequate under human rights law (Qazi Zada, 2020, p. 8). Considering the above discussion of Afghanistan’s commitment to international conventions and obligations regarding violence against women, the next section will focus on the country’s national legal framework’s response to DV.



## **Afghanistan's Legal Framework on Domestic Violence**

This section will examine Afghanistan's national legal framework on DV. It argues that this framework provides some level of legal impunity to perpetrators by legitimizing men's supervision over women through Sharia law and, therefore, breaching the country's international obligations as outlined in the above section. To achieve this, I will look at Afghanistan's Constitution, Penal Code and Sharia law, and examine their compatibility with the international human rights and conventions to which Afghanistan is a signatory.

Years of war and internal conflict resulted in the total destruction of Afghanistan, including its justice institutions and documents. The Bonn Agreement in 2001 focused on the reconstruction of Afghanistan's national legal system by stating: "with the assistance of the United Nations, a Judicial Commission [will be established] to rebuild the domestic justice system in accordance with Islamic principles, international standards, the rule of law and Afghan legal traditions" (Bonn Agreement, 2001, p. 4). This agreement resulted in establishment of the current legal framework of Afghanistan, which is comprised of the state legal code, customary practices, and Islamic or Sharia law (Wardak, 2004, p. 319). In 2004, along with the establishment of the new government, Afghanistan developed and approved a new constitution that "pledge[d] to be both Islamic and democratic" (Otterman, 2007, para. 1). Article 3 of the Constitution states: "In Afghanistan, no law can be contrary to the sacred religion of Islam and the values of this Constitution". Article 7 indicates: "The state shall abide by the UN charter, international treaties, international conventions that Afghanistan has signed, and the Universal Declaration of Human Rights". However, according to some observers, the Constitution "fails to draw a line between liberal and Islamic teachings" (Qazi Zada, 2020, p. 14): that is, it does not specify "which interpretation should take precedence when shari'a and international conventions come into conflict" (Nijhowne and Oates, 2008, p. 38) because "[m]any principles in human rights instruments are 'deemed' contrary to Islamic principles" (Weiss, 2003 cited in Qazi Zada, 2020, p. 14). This placement of Article 3 and 7 of the Constitution together has resulted in a "high degree of ambiguity in the legal system" when it comes to cases of violence against women, especially those that occur in the domestic sphere (Nijhowne and Oates, 2008, p. 38).

The Constitution of the Islamic Republic of Afghanistan and the country's Penal Code do not contain any articles that directly addresses DV or condemns perpetrators' actions. Instead, the Constitution comprises articles which emphasize equality between men and

women. Article 22 of Chapter 2 of the Constitution, for example, states that: “Any kind of discrimination and distinction between citizens of Afghanistan shall be forbidden. The citizens of Afghanistan, man and woman, have equal rights and duties before the law” (Constitution of Afghanistan, 2004, Chapter 2). Correspondingly, Article 54 of the same chapter asserts that: “The family is the fundamental unit of society and is protected by the state. The state shall adopt necessary measures to ensure the physical and psychological well-being of the family, especially of the child and the mother” (Constitution of Afghanistan, 2004, Chapter 2).

Despite the emphasis upon gender equality, these articles have not been effective in protecting women from DV (Nijhowne and Oates, 2008, p. 38). This failure is due, in part, to the fact that when cases of DV are reported, judges mostly refer to Article 53 of the Penal Code. This direction serves to justify perpetrators’ actions as rightful and condemn the victim, in most cases the woman, for her “disobedience” (UN Human Rights Council Report 2015, p. 5; Nijhowne and Oates, 2008, p. 38). This happens while in general, perpetrators of DV cases could be “criminally prosecuted” for “beating or laceration, offences” of the Penal Code (Nijhowne and Oates, 2008, p. 38). In this cycle, Afghan women in general and victims of DV in particular are trapped between “constitutional rights and cultural constraints and religious and secular law” because the judicial system is “unsupportive” of them (Qazi Zada, 2020, p. 25).

Article 53 of the Afghan Penal Code is used for addressing most cases of DV. This article has its roots in Sharia law and specifies that “[c]ommitment of a criminal act with good will for the purpose of exercising a right, which is granted to a person by the way of religious or other laws, shall not be considered a crime” (Afghanistan: Penal Code, 1976). This article refers to a specific verse in the Quran which has been interpreted in ways that not only justify men’s supremacy over women, but also defend men’s abusive behavior towards women. This method of justification also relates to the concept of “reformatory control” performed by men over women, which I discussed in Chapter Two. Afghan judges, by referring to Article 53 of the Penal Code, also refer to the following verse of Surah *An-Nisa* to build their justification for men’s violence against women, typically spouses. As Alkhateeb explains:

Men are the protectors and maintainers of women because Allah gave more to the one than the other, and because they support them from their means. So devout women are extremely careful and attentive in guarding what cannot be seen in that which Allah is extremely careful and attentive in guarding. Concerning women whose rebellious disloyalty (*nusbooz*) you fear, admonish them, then refuse to share their beds, then hit them (Alkhateeb, 1999, pp. 54-55).

This conservative and patriarchal interpretation of the Quran and Sharia is well clarified by Hajjar (2009). Hajjar explains that in most Muslim societies, including Afghanistan, Sharia is interpreted in ways which reinforce the notion that men and women are “essentially” different (2004, p. 7). These dominant interpretations basically “allow or “tolerate some forms and degrees of interfamily violence” (2004, p. 9). For instance, although marital rape is also a form of DV, it is more controversial and mostly “not recognized by the courts, and ... rarely reported by victims” (Nijhowne and Oates, 2008, p. 40). Indeed, within Sharia law and the Islamic framework of Afghanistan, marital rape does not exist. The state bases its claim on Sura 2, Verse 223 of Quran, which says that: “Your wives are ploughing fields for you; go to your field when and as you like” (Hajjar, 2004, p. 11). Based on the dominant interpretation, this verse provides men with a sense of entitlement over women’s bodies and reinforces the notion of men’s superiority and “women as personal property” (Gill, 2009, p. 477). Thus, it is important to note, as Hajjar argues, that although Sharia law is “administrated, interpreted and used in variety of ways across Muslim societies, in many contexts it provides a potent justification for states to deny or limit women’s rights to the extent that this leaves women vulnerable to violence at home (Hajjar, 2004, p. 32).

The above explanation shows that Article 53 of the Afghan Penal Code not only contradicts Article 22 and 54 of the Afghan Constitution, but also violates Articles 2(f) and (g) and 5(a) of CEDAW (to which Afghanistan is a signatory). These articles are listed below:

Article 2 of CEDAW: “States Parties condemn discrimination against women in all its forms... and, to this end, undertake: (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women; (g) to repeal all national penal provisions which discriminate against women” (UN General Assembly, 1979).

Article 5 of CEDAW: “States Parties shall take all appropriate measures: (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women” (UN General Assembly, 1979).

Following on from these articles, the Afghan Penal Code “fails” to prevent the usage of Article 53 of the Penal Code, which “condone violence being perpetrated against them [women] by their husband” (Nijhowne and Oates, 2008, p. 39). Furthermore, although Articles 22 and 54 of the Afghan Constitution focus on equality among all Afghan citizens and the “physical and psychological well-being of the family, especially of the child and the mother” (Constitution

of the Islamic Republic of Afghanistan, 2004), in practice, women's rights are not taken into consideration.

This discrimination against women can be seen in their rights to divorce. Under the country's legal framework, Afghan men have the "unilateral right" to divorce their wife/wives "for any reason [and] at any time" (Nijhowne and Oates, 2008, p. 43). This right is granted to men by Article 135 of the Afghan Civil Code. However, Afghan women do not possess the same rights. In fact, Article 183 specifies that women are only permitted to demand divorce "when the wife receives any harm from intercourse with her husband and if this makes the continuation of intercourse between the couple impossible" (Nijhowne and Oates, 2008, p. 43). This law not only demonstrates a high level of discrimination against Afghan women, but also reveals the government's tendency in legitimating the psychological, emotional, and all other physical harms that women may endure as result of DV.

It is important to highlight that Afghan women's lack of protection from DV not only stems from "scarcity of provisions within statutory law to prosecute DV" (Nijhowne and Oates, 2008, p. 38). Other factors, such as "severe absence of knowledge [of] the judiciary, the police, and the public [about DV] as well as interpretive practices ... often criminalize victims and routinely re-victimize" them (ibid). A joint report by UNDP and the Center for Policy and Human Development explains that a survey of 175 judges found that "44% had obtained university degrees from an Islamic law faculty, 11.5% obtained a degree from a law faculty and 20.5% had no university education" (2007, p. 70). Although this statistic does not reflect more recent changes, it still provides a general overview that in Afghanistan, judges – who are officially supposed to hold the highest degree of legal knowledge – are not competent enough to "properly" perform their duties (Max Planck Institute, 2005, p. 22). As a result, given that most judges in Afghanistan are Sharia trained and judiciary courts are dominated by Sharia graduates "with no training in law school" (Qazi Zada, 2020, p. 16), they "tend to by-pass statutory law" and proceed with Sharia law. Even then, they typically misinterpret Sharia law (UNDP and Center for Policy and Human Development, 2007, p. 70).

Another main obstacle to addressing DV cases in Afghanistan is the issue of constructing women as the carriers of honor and shame of the entire family, as I discussed in Chapter Two, which is recognized by Afghanistan's Penal Code. Gill describes that when women are constructed as the bearers of honor and shame of the family, it becomes men's duty – as the head and protector of the family – to defend women's honor and keep it safe (Gill,

2009, p. 477). Due to this perception, honor killing (a severe form of DV), is also very common in Afghanistan. Honor killing refers to the murder of a woman who has been “accused of bringing shame” to the family (Amnesty International UK, 2020, para. 10). The Afghanistan Independent Human Rights Commission reported that in 2019, out of 238 cases of the murder of Afghan women, 96 were identified as honor killings (AIHRC, 2020, p. 6). Since the entire nature of these crimes is deeply rooted in the concepts of honor and shame, they mostly remain hidden and unreported. Even if some cases get to formal trial, perpetrators of honor crimes receive legal impunity by the law. In fact, a UNAMA investigation of cases from 2016 to 2017 showed “de facto impunity” for honor killings of women in Afghanistan. This is because of Article 398 of the Penal Code, which states:

A person defending his honor who sees his spouse or another of his close relations in the act of committing adultery or being in the same bed with another and immediately kills or injures one or both of them shall be exempted from punishment for laceration and murder but shall be imprisoned for a period not exceeding two years as a *tazeeri*<sup>2</sup> punishment.

Article 398 of the Penal Code is not only discriminatory and unjust towards victims of DV, but also contradicts General Recommendation No. 19 of CEDAW, which states: “(r) measures that are necessary to overcome family violence include: (ii) Legislation to remove the defence of honor in regard to the assault or murder of a female family member” (CEDAW Committee General Recommendation No. 19, para. 24).

In light of the above controversies and patriarchal interpretations of women’s rights in Afghanistan, President Hamid Karzai – under pressure from the international community and Afghan civil society – endorsed the Law on the Elimination of Violence against Women (EVAW) in 2009 by bypassing the parliament (Qazi Zada, 2020, p. 10-11). The promulgation of the EVAW law was a landmark achievement that promised to change the way that DV was perceived in Afghanistan. The EVAW law explicitly “criminalises DV, child and forced marriages” (Qazi Zada, 2020, p. 17) and any form of “verbal abuse, [or] degradation” of women (Wimpelmann, 2017, p. 61). Article 6 directly lists access to shelter, health, and legal services along with compensation of damage and rights to confidentiality as primary rights of DV victims (EVAW, 2009, Article 6). The law also provides victims with some level of flexibility in filing their complaints. For instance, Article 39 allows victims to withdraw their complaint at any

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<sup>2</sup> Tazeeri are offences with no specific penalties under Islamic law thus judges are authorized to determine the punishment (Hussin, 2004, p. 1)

stage of the proceeding meaning “detection, investigation, trial or conviction” (EVAW, 2009, Article 39). However, crimes such as “sexual assault, enforced prostitution, publicizing the identity of the victim, burning or using chemical substances, and forced self-immolation or suicide” are exempted from flexibility and prosecution of these crimes shall proceed even if “complaint is subsequently withdrawn” (Hakimi, 2020, p. 56). The law also indicates that “punishment of persons convicted for violence crimes shall not be suspended, pardoned or mitigated” (EVAW, 2009, Article 43). The law also leaves no room for contradiction, stating that: “In cases of contradiction between provisions of this law and of the other laws the provisions of this law shall prevail” (EVAW, 2009, Article 43).

Although under this legislation victims of DV can benefit from a just trial and access to protection, its implementation become problematic as it has thus far failed to acquire the force of law from the parliament. One of the main reasons behind its rejection is that the EVAW law was seen to contradict Article 3 of the Constitution, which states: “no law shall be in contrary to the sacred religion of Islam” (Qazi Zada, 2020, p. 17). Additionally, the law is seen illegitimate as it violates Article 79 of the Constitution, which states that if legislative decrees – even if endorsed by the President – are rejected by the National Assembly, then they “become void”. Unfortunately, the EVAW law was rejected outright by the parliament in 2013 and has since been abandoned. This point has resulted in “fragility and unreliability” of the law among jurists (Qazi Zada, 2020, p. 17). Thus, the law has become more of a symbolic law rather than a practical one, as members of the judiciary see it as “unconstitutional” (Qazi Zada, 2020, p. 17-18). However, data from the 2018 Universal Periodic Review (UPR) of Afghanistan showed that the Afghan government claimed to “strongly believe” in the EVAW law, as well as “persecution and punishment of perpetrators of violence against women” (Human Rights Watch, 2018, para 11). But in reality, the police “routinely refuse to register [DV] cases and instead tell victims of DV to return to their husbands” (Human Rights Watch, 2018, para 12).

It is therefore evident that the Afghan government’s refusal to recognize DV as a crime, along with its confusing and contradictory legal framework, has resulted in the legitimization of DV and strengthening of legal impunity for perpetrators. Further, this impunity has resulted in the normalization of DV and contributed to objections to the existence of WPCs. The implications of this situation are that when DV is understood as a form of women’s disobedience, then the entire existence of WPCs also comes into question. In addition to this contradictory legal framework regarding the persecution of DV cases, the implementation of

national legislation regarding DV also remains a challenge. The following section will focus on the main challenges in terms of the implementation of DV law in practice.

### **Implementation of Law in Practice**

*“We are not going to register your case – it is not important enough. You should resolve this with your family.”*

*Told a police officer to a victim of DV after she reported her case of being knife attacked by her husband and raped by her father-in-law (Barr, 2018, para. 2)*

DV against women is a pervasive reality in Afghanistan. As discussed in the above section, despite the national legal framework and presidential decree of the EVAW law, which explicitly criminalizes violence against women, DV cases usually remain unreported (OHCHR, 2018, p. 5). This lack of reporting is associated with various factors, including the silence of victims, mediation, cultural norms that refer to violence against women as a private family matter, “fearing retaliation from perpetrators ... economic vulnerability” and corruption (Hakimi, 2020, p. 57; Barr, 2018, para. 1; Ashna, 2020, para. 1). Similar concerns were raised by my interviewees. This section will explore the main challenges to the implementation of justice for victims of DV, which I identify as corruption, mediation, and perceptions of DV as private family issue.

#### *Corruption*

One of the main challenges to the implementation of justice for victims of DV raised by my interviewees was the existence of corruption in all governmental offices of Afghanistan. One of my participants, Setara Barakzai (pseudonym), a local women’s rights activist, said:

Corruption is everywhere in Afghanistan. The judges, policemen, lawyers, and the entire justice system in Afghanistan do anything for some money. There was a case of 9-year-old girl raped by an elderly man. You should not be surprised to hear that the rapist freely roams around the city while the poor girl was accused for ‘wanting it’ ... in reality, the rapist should be punished but he bribed them, then she was blamed.

By narrating this case, my interviewee emphasized the role of corruption in the creation of an unjust society and wider platform for perpetrators of violence. Another interviewee, Sultan Ali Rahimi, Deputy of the Women and Children Legal Research Foundation also highlighted this connection between corruption and government’s inability to implement justice. Rahimi explained:

In terms of legislation, Afghanistan might be the number one country in the region. But in practice we are the lowest. Gender equality is mentioned in the constitution of the country. Equal and equitable access of men and women to the judiciary is also mentioned in the constitution. The EVAW law was also enforced in the country according to presidential decree. One of the articles of this law states that whenever this law is in conflict with other laws in the country, preference should be given to [the] EVAW law. These are the things we have. What hinders the resolution of cases of DV in the courts and official bodies is corruption. Corruption hinders the implementation of the law.

In addition to the above views, Seema Ghani, a member of the NGOs Hand in Hand and the Khorasan Organization in Afghanistan, also drew on the legal achievements of the country and highlighted corruption as a causing factor of unjust trials. As she explained:

One of the best achievements of the last 20 years is the strategies, laws, regulations, policies etc. that have been put together in the country. We have the best of everything on the paper. The problem is the implementation of it, meaning there is no rule of law. Corruption doesn't allow the man or woman [to] receive a fair trial because the other party always pays the system to be released of responsibility.

A 2018 report by the United Nations Assistance Mission in Afghanistan (UNAMA), a political UN mission established at the request of the Government of Afghanistan to assist it and the people of Afghanistan in laying the foundations for sustainable peace and development, also identified corruption as a barrier to the implementation of justice. It stated that victims of gender-based violence, who are mainly women, usually choose “traditional mediation mechanisms” due to the existence of “corruption in the justice sector” (2018, p. 26). However, it is important to mention that mediation itself is also one of the other key issues in the implementation of law in the country.

### *Mediation*

A 2018 report by UNAMA indicated the high usage of mediation as a method for resolving DV cases (2018, p. 6). In fact, UNAMA reported that EVAW institutions, along with other NGOs, either “facilitated, referred or observed mediation” even in cases of honor killing (ibid). UNAMA reported that mediation was used even in catastrophic cases of DV such as “rape, enforced prostitution... burning or use of chemical substances and forced self-immolation or suicide” of the victims (2018, p. 6). Mediation is a “traditional dispute resolution mechanism” which is also used by police and prosecutor's offices. Through mediation process, victims usually receive nothing aside from “empty promises from her abuser[s]” to not to repeat the abusive behavior again (Barr, 2018, para. 1). This process leaves the victims with “insufficient



or no attention given to the protection of the survivor from future violence” (UNAMA, 2018, p. 34).

One of the main reasons behind the use of mediation by police and prosecutor officers is the importance of the family unit to “achieve a reunification of families, at the expense of criminal accountability and formal justice” (UNAMA, 2018, p. 34). Even Article 54 of the Constitution gives special importance and value to the concept of the family, describing it as “the fundamental pillar of the society and shall be protected by the state”. UNAMA reported that despite undergoing several mediation sessions, “staff at the center [WPC] convinced the survivor to withdraw her complaint and undertake another mediation” (2018, p. 34). UNAMA also reported that a victim of DV was told by a staff member of a WPC that the formal justice system would “break the family system and will add more to your sufferings as an almost aged woman. Women who are divorced or separated are not well respected by the community, in particular when they are aged” (UNAMA, 2018, p. 34). A similar point was raised by my interviewee Setara (pseudonym), a local women’s rights activist, who described this process of mediation:

[U]sually elder men of the village along with *Mola* [clergy men] try to resolve the issue by hearing both parties. In most cases, the woman is not present in the process. Her father or brother will talk on her behalf... I witnessed a case which the woman was forced to go back to her husband. She went, [and] the next time the elder people [men] had to gather again was a week later when she passed away because of beating... they [clergy and elder men] again made a council to solve the issue... she [the victim] was blamed for disobeying her husband... her father never filed an official complaint.

My participant further explained that the existence of law and criminal codes regarding violence against women will not assist with the betterment of Afghan women’s lives. Instead, she suggested that there was a need for “grassroot programs that will eradicate such practices [mediation] because these are the main obstacles towards implementation of actual law in the country”. Sohaila Forogh, another participant, also added that:

People prefer to make *jirgas* [local council] and to solve issue by mediation. If there is DV issue happening they rather go to mosque and religious leaders to solve the issue through mediation instead of going to a court... There might be very good laws, but the implementation is weak.

For Forogh, despite the existence of a strong law and justice system, the process of its implementation is far from satisfactory.

### *Domestic Violence: A Private Family Issue*

Another key issue that hinders the implementation of laws regarding violence against women in Afghanistan is the perception of DV as a private family issue that results from women's disobedience. This perception stems from the dominant social construction of gender that "require the assertion of masculine control or power over women and the enforcement of "traditional" gender roles", which I discussed in Chapter Two. Proponents of this ideology are not only ordinary people, but also a vast majority of justice authorities in the country. In other words, this patriarchal mentality contributes to an ignorance of DV cases in the country. For instance, in 2014 only 10.6% of 4873 cases of DV were processed (Hakimi, 2020, p. 26). This statistic is associated with the mentality of DV as a private family issue; therefore, authorities in charge – instead of prosecuting the perpetrators and protecting the victims – dismiss DV cases by attributing them to woman's disobedience.

My interview findings featured the perception of DV as a private family issue as one of the key points that downplays DV cases. Sima Samar, an Afghan woman's and human rights advocate, activist, a social worker for more than forty years, as well as a former minister of Women's Affairs of Afghanistan (2001-2003), added to this dominant gender norms. She explained:

Domestic violence is a common and accepted issue in Afghanistan... it is evident that gender norms have a role to play... patriarchal thinking is the main opponent of the law on elimination of violence against women... [everything] depends on how much the government believes in protecting women. In [the] case of responsible acts and beliefs on equality, [the] Afghan government could have created a better atmosphere [for victims of DV].

Here, Samar suggested that the trial of DV cases could be successful if there was a change in the mentality of the Afghan people regarding DV. Samar also highlighted the importance of the government in recognizing DV as a crime by stating that everything is "dependent on how much the government believes in protecting women". In other words, she stressed that DV is a distinct form of gender violence in Afghanistan because it occurs in the private sphere; thus, resolving DV cases depends on the government intervening in family relations.

### **Conclusion**

This chapter highlighted that cases of DV in Afghanistan are linked with the dominant patriarchal mentality which constructs DV as a family issue. For instance, Human Rights Watch reports reluctance on the part of Afghan police to register DV cases, as they told a victim

of DV “We are not going to register your case – it is not important enough. You should resolve this with your family.” This happened to a young woman, ‘Soraya’, after she was attacked with a knife by her husband and raped by her father-in-law (Barr, 2018, para. 2). Following the above examination of the country’s legal framework on violence against women and its international due diligence, this chapter concludes that the Afghan government is not only breaching its international obligations due to its “institutionalized inaction” to DV, but also actively participates in the construction of DV as a response to women’s disobedience. This construction has its roots in misinterpretation of Sharia law, which basically approves men’s supremacy over women. This dominant interpretation has shaped Afghan judges’ assessment of DV as they refer to Surah *An-Nisa* to build their justification for men’s violence against women. I illustrated that the Constitution of Afghanistan, which is a combination of Islamic and democratic values, fails to create harmony between both and therefore has led to further complication and incoherency in judiciary decisions related to women’s rights. In addition, Afghanistan’s ratification of DEVAW, the ICCPR, and CEDAW, has further placed the country under additional investigation as the country’s penal code itself violates several articles of these international instruments regarding women’s rights. Together these contradictory laws and provisions have created space for selective discriminatory interpretations through which victims of DV are blamed while perpetrators gain legal impunity. Now that the broader context regarding women’s legal status and handling of DV cases against women has been provided, the next chapter will focus on the complexities associated with WPCs in Afghanistan as a mechanism to protect women and prevent violence against them.

## **Chapter Four: Women's Protection Centers as a Response to Domestic Violence**

The first Women's Protection Centre (WPC) was established in Afghanistan in 2003 as a response to the widespread problem of domestic violence (DV). Yet despite almost two decades having passed, WPCs are still understood as places that violate the social order of Afghan society. This chapter will examine the controversies surrounding the establishment of WPCs as a response to DV in Afghanistan. It builds upon Chapter Two, in which I argued that the dominant patriarchal constructions of gender in Afghanistan have shaped understandings of DV not as a violation of human rights, but rather as an appropriate and normalized action required for the betterment of the family. I also draw upon the relevant national and international legal frameworks on DV, which I discussed in Chapter Three, in terms of the Afghan government's responsibility to protect women and prevent violence against them.

This chapter will begin by examining the establishment, activities, and aims of WPCs in Afghanistan. Following this background information, I will draw upon my interview findings to discuss the factors that lead to social and religious opposition to WPCs as a response to DV. I argue that there are three underlying reasons behind the widespread opposition to the establishment of WPCs in Afghanistan. The first reason is closely linked to the patriarchal social construction of gender and "red lines" in Afghan society. I argue that WPCs are located beyond the red lines of Afghan society. Thus, when women transgress these lines (by seeking refuge in WPCs), they are seen as violating the social order and results in the loss of the woman's – and the family's – honor and reputation. My interview findings show that cases of DV were traditionally handled within the family or, in the most severe cases, by elder men. However, WPCs have mediated this scenario by giving women a chance to escape. The second reason is the existence of a strong, patriarchal interpretation of Sharia (Islamic) law, especially when it comes to women's rights and status. The third reason is the place of WPCs as non-governmental autonomous centers with direct funding from external, Western sources. As a result, WPCs are generally perceived as foreign impositions on Afghan society.

### **The Establishment of WPCs**

As I discussed in Chapter Three, Afghanistan is a member state to several key international conventions regarding women's rights. Among these, United Nations Security Council (UNSC) Resolution 1325 (UNSCR 1325) on Women, Peace, and Security is one of the most recent commitments (UN Security Council, 2000, p. 1). In accordance with this resolution, UN

Member States, including Afghanistan, are responsible for the full implementation of its mandates. At the same time, the US invasion of Afghanistan in 2001 and the Bonn Agreement on the establishment of a new government in accordance with Islamic and international human rights standards widened the scope and status of women's rights in Afghanistan (Bonn Agreement, 2001, p. 4). It was within this international atmosphere that concepts such as "women's protection" and the "prevention" of gender-based violence were introduced to the post war society of Afghanistan.

As a result, the first Women Protection Center (WPC) [خانه امن], also known as a women's shelter or safe house, was established by Mary Akrami, an Afghan women's and human rights activist, in Kabul in 2003 (The International Service for Human Rights, 2015, para. 1). Akrami argued that WPCs were "a new need in Afghanistan, brought about by the upheavals of war and the accompanying impoverishment and dislocation" (Wimpelmann, 2017, p. 114). In her interview with the BBC, Akrami explained the urgency of this need:

I have never seen in my life before, before the Taliban, a woman on the streets as a beggar. Women were facing a lot of domestic violence, a lot of challenges... [also] those women who were in jail during [the] Taliban [regime], they were in jail for nothing, for example she did not respect her in-laws. If the safe houses were not there, all these women would become used and abused by everyone as prostitutes.

As Akrami indicated, the recent context of war and Taliban rule had created an urgency to the problem of DV in Afghanistan. As I suggested in Chapter Two, however, this problem also has its roots in the social and religious construction of gender in Afghanistan. The WPC received its first residents in April 2003 (Akrami, 2020). It also opened its door to "single Afghan women deported from Iran or Pakistan" and others who had "fled forced marriages, threats, or violent abuse" and had no other place to go (Wimpelmann, 2017, p. 115). As a result, the first WPC had residents with a very diverse background. To establish a proper referral system, Akrami also worked with the Ministry of Women's Affairs (MoWA) and the Afghan police (ibid). By 2010, nine additional WPCs were registered in the country (Wimpelmann, 2017, p. 114). The most recent report shows that there are 30 WPCs across 20 of 34 provinces (Women for Afghan Women, 2019). However, other sources have noted the existence of about 40 WPCs in the country (Kramer, 2018, para. 1). According to the MoWA, WPCs are "temporary housing of the women who are the victims of, or at risk of, violence" (International Development Law Organization, 2014, p. 1).

Since the establishment of the first WPC, all centers in the country have been operated independently by local NGOs, among which Women for Afghan Women (WAW) is a leading organization with 12 WPCs across 11 provinces. Founded in April 2001, WAW is the largest

women's organization in Afghanistan with over 1,000 staff members, the majority of whom are Afghan women (Women for Afghan Women, 2019, para. 1). WPCs as independent centers have their own budget lines and are completely funded by external aid sources, such as UN agencies and international NGOs, among which the US government is one of the main donors (Wimpelmann, 2017, p. 115). These centers are mainly run by local NGOs, such as Afghan Women Skills Development Center, Humanitarian Assistance for the Women and Children of Afghanistan, Voice of Women Organization, and Cooperation Center for Afghanistan (International Development Law Organization, 2014, p. 42).

In 2011, the Afghan government recognized the “critical service” that WPCs provide by acknowledging that WPCs have saved “countless victims” of DV (UNAMA, 2011, p. 3; International Development Law Organization, 2014, p. 3). In light of this recognition, in 2014 the MoWA, in cooperation with the Afghanistan Shelter Network (ASN), drafted official guidelines for WPCs to standardize their services across the country (International Development Law Organization, 2014, p. 1). In accordance with the Women's Protection Centre Guidelines, WPCs provide support services to Afghan women whose lives are under threat or have suffered some forms of abuse, including: comprehensive legal support; medical, psychological, and counseling services; and basic education and training workshops (International Development Law Organization, 2014, p. 3). With these training skills, WPCs aim to raise the capacity of abused women so that upon their exit from the centres, they will be able to start their own businesses and be self-sufficient.

Despite these achievements, WPCs have faced widespread hostility from various sectors of Afghan society. For instance, Mary Akrami explained that during her first encounter with the Afghan court in 2003, she and the abused women were disrespected (Akrami, 2020). Akrami stated that the court kept the abused women, their lawyers and legal advisors “waiting for hours,” saying that they were “bad women” and thus deserving of this disrespect (ibid). Since 2003, other WPCs have shared similar experiences of disrespect. As I discussed in Chapter One, in 2011, a conservative member of parliament condemned the centers as “the official places for increasing perversion” in the country (Rubin, 2011, para. 23). In 2012, the Minister of Justice condemned WPCs as places of “immorality and prostitution” and claimed that women in the centres were “prostitutes” (RAWA, 2021, para. 1; Nelson, 2012, para. 1). Such opposition was not limited to members of the government. Opposition also extended to Afghanistan's highest religious body, the National Council of Religious Scholars (*Shura-ye Sartasari-ye Ulama-ye Afghanistan* شورای سران علمای افغانستان), (Lawrence, 2011, para 12). In

2010 Enayatullah Balegh, a leading member of this council, explicitly argued that WPCs are “illegal” as they are against Sharia law (Lawrence, 2011, para 12). Balegh claimed the only “safe house” for women is “their family home” (Starkey, 2011, para. 11). These public expressions of opposition resulted in the stigmatization of WPC personnel and women residing or seeking protection in them (UN Human Rights Council, 2015, p. 13).

Subsequently, the domain of opposition to WPCs reached the Afghan government. In 2011, the government threatened to take control of the WPCs, suggesting that the centers were “brothels” (Barr, 2018, para. 3). However, this plan failed due to the strong backlash from Afghan human rights activists (Rubin, 2011, para. 24). In 2013, the Afghan government through the MoWA again sought to take control of WPCs. This time, the government stepped away from earlier accusations and proposed new legislation for WPCs (ibid). According to the proposed legislation, abused women had to convince a an eight-person panel “stacked with representatives from government ministries” that she was in need of protection (Mosadiq, 2011, para. 6-7). The legislation also introduced a requirement of a “forensic medical examination” if requested by the admission panel and granted full agency to the relatives of the abused women to discharge her from the WPC without her consent (Barr, 2018, para. 4).

Once again, these efforts were interpreted by Afghan women’s and human rights organizations and their international counterparts as the government’s systematic attempt to take control of WPCs and eventually close them down (ibid). For instance, the Afghan Women’s Network argued that the government was surrendering to the “pressure of conservatives” and in order to please them, it was prepared to “betray” its “commitment to women’s rights” (Kouvo, 2011, para. 1). Rachel Reid, a researcher at Human Rights Watch, stated that the government is “full of misogynist warlords” and “increasingly dominated by hardline conservatives who are hostile to the very idea of shelters” (Human Rights Watch, 2011, para 3, 6). Selay Ghaffar, executive director of the Humanitarian Assistance for Women and Children of Afghanistan, which also runs a WPC, argued that the “real reason” for this regulation was that “conservatives in the supreme court, the cabinet, the parliament, the ministries, all want to close down” WPCs (Human Rights Watch, 2011, para 16). In response, the Afghan government defended itself and stressed that its decision was “part of the broader transition process from dependency on foreign agencies” (Nordland, 2011, para. 12). In response to this act, a United Nations spokesman declared that international donors would “frown at funding government-run” WPCs (Lawrence, 2011, para 24). To this day, this debate remained unresolved as the Afghan government has not yet declare its intentions. The

following section will unpack these debates by presenting the main reasons behind such strong opposition to the existence of WPCs.

## **Sources of Opposition to WPCs**

### *Patriarchy*

In the patriarchal society of Afghanistan, as I argued in Chapter Two, there exist a set of culturally defined “red lines” that should not be crossed (Zakar et al., 2013, p. 259). Challenging or crossing these red lines can result in social exclusion and the loss of one’s honor and reputation. These red lines are closely linked with the dominant social constructions of gender. For instance, the dominant social construction of gender obliges Afghan women to perform their femininity by accepting violence from their men without complaint (Merry, 2009, p. 11). However, when abused women take actions against DV – for instance, by seeking refuge in WPCs – then they are perceived to be challenging these red lines. My interview findings also show that many WPCs and women who seek refuge in them are perceived to be beyond the red lines of Afghan society and therefore, they are met with widespread hostility. For instance, Asra (pseudonym), a local women’s rights activist, stated:

These centers [WPCs] are generally seen as beyond the social values of our society [pause] ... because they [advocates of WPCs] say WPCs are places for abused women, for victims of domestic violence, etc. But [...] to many Afghans, what we say [call] domestic violence is not violence at all. It is men’s rights over their women and girls. With this mentality, then of course WPCs and all women who seek refuge there are defined as bad places and against our sociocultural values.

Asra’s explanation refers to the social construction of DV in Afghanistan. She clarified that WPCs were established as a response to a chronic social problem (DV), but that the problem itself is not defined as such within Afghan society. Here, Asra demonstrated that one of the main causes of opposition to the existence and even idea of WPCs in Afghanistan is the lack of a clear understanding of DV. Here and throughout her interview, Asra highlighted that WPCs are indeed a great achievement for the recognition of women’s rights; however, in a society where DV against women is accepted, then WPCs will for sure stand as beyond the norms or red lines of the society.

Another of my interview participants, Sohaila Forogh, also emphasized this point regarding the sociocultural boundaries and values of Afghan society. She explained:

It is like saying format setting [she laughs] we have something like this in our devices. WPCs are like ‘here we are to format the setting into a new style’... but social values are not easy to change or challenge. In 2001 we were born again, like a newborn child.



A newborn cannot eat food, he is too weak, it is beyond his capability to digest, you can force feed him but he will most likely vomit it back, or it will suffocate him, his body will react in every possible way to refuse the food... we are that child. Born in 2001 but the expectation was like 'okay here are WPCs... these are women's rights, you [the husband] are a criminal because you slapped your woman, I am taking her away [putting women in WPCs] or wait I put you in jail because you abused her'... no you can't do this, we have been raised by these social values, men have rights over their wives and violence against them at home is normalized. It is not a problem. You see these are such big steps, we had to prepare for this, otherwise it will cause reactions as we see now.

Through this passage, my participant argued that social opposition to WPCs originates from the challenges that WPCs (as a new concept) pose to the social values of Afghan society. The examples that Forogh used illustrate that WPCs are seen as radical steps that have been taken in a conservative society. My interviewee also referred to decades of war and destruction by mentioning that 2001 marked the start of a new life for Afghanistan. In her comparison of Afghanistan with a "newborn child", Forogh emphasized that decades of war and instability had deprived the Afghan people of any progress. As a result, Afghanistan did not get a chance to improve and become ready to digest international human rights norms and values, such as women's rights. Forogh clarified that performing violence against women has been an integral part of the social construction of men and masculinity in Afghanistan. However, WPCs entered society with high aims and values, such as providing shelter to abused women and helping them file legal cases against their husbands. This account demonstrates that the strong contrast between the dominant social norms and values of Afghanistan, and the aims and values of WPCs, resulted in further disapproval of WPCs.

As I argued in Chapter Three, in Afghanistan, DV is defined as a private family issue that results from women's disobedience. As such, cases of DV have always been privately handled at home. Only in severe situations, such as women's self-immolation or other major bodily injuries, have cases of DV reached public places such as the police or justice authorities. However, even at this stage, the authorities in charge – instead of prosecuting the perpetrators and protecting the victims – dismiss DV cases by attributing them to a woman's disobedience (Hakimi, 2020, p. 26). This act has not only contributed to the normalization of DV, but has also added further validity to perpetrators' abusive actions. Thus, I argue that once DV is essentially defined as a form of women's disobedience, then the entire existence of WPCs also comes into question. This is because WPCs facilitate opportunities for the so called "disobedient" woman to not only break the traditional boundaries of home, but also gain legal assistance to file a complaint against her husband.

This link between perceptions of DV and WPCs was also highlighted by Seema Ghani, a women's rights activist who also works towards the economic empowerment of Afghan women. Ghani addressed the pervasiveness of DV in Afghanistan and the criticism that WPCs as a response mechanism to DV have received. She argued that the negative implications of identifying DV as a family issue rather than a crime have been extended to WPCs, as well. Thus, this perception has contributed to the Afghan people's disapproval of WPCs. Ghani also clarified that it is not only Afghan men who oppose and express opposition to WPCs, but that even "some women feel the same". Through this point, my interviewee illustrated that the general negative attitudes toward WPCs in the country are supported by both men and women. The fact that even some women share this view has further strengthened the justification of DV as a private family issue. This privatization of DV then leaves no room for the approval of external mechanisms, such as WPCs, to address and respond to it.

### *Religion*

In addition to this perception that DV is a private family issue, my interview findings also revealed that one of the main causes of opposition to WPCs in Afghanistan is the existence of strong patriarchal interpretations of Sharia (Islamic) law, specifically in terms of women's rights and status. As I argued in Chapter Three, in Afghanistan, Sharia law is interpreted in ways that reinforce the notion that men and women are "essentially" different (Hajjar, 2004, p. 7). I also explained that this dominant interpretation of Sharia law basically "allows" and tolerates "some forms and degrees" of DV committed by men (Hajjar, 2004, p. 9). When the perpetration of DV by men against women is justified and supported by religious sources, then the violence gains a high level of acceptance and validity within society more broadly. This point was raised by all my interviewees. Maryam Popal Zahid, for instance, a women's rights activist, stated:

No matter how many times we say these are women's rights according to Islam and these are women's rights based on the country's constitution and its international agreements and obligation, there will be a 'but' at the end... 'but' according to Sharia law women should stay obedient to their husband[s], they should not leave the house alone. When it is said that women should not leave the house alone, then what do you think they would think of protection centers that allow women to escape and live there on their own? To those conservative ones, protection has no meaning [...] instead the centers are tagged as immoral places because only bad women who challenge Islam and its values go there.

Zahid explained that despite agreements on women's rights, as well as the emphasis on gender equality in Afghanistan's constitution, which I discussed in Chapter Two, Sharia law has its

own place and role in the country. Zahid argued that dominant patriarchal interpretations of Sharia law reinforce particular ideas about men controlling women and the acceptable means of doing so. Zahid mentioned that Sharia is used to generate commands such as that women should not leave the house alone, and that they should be protected or accompanied by their male guardians. But WPCs challenge this idea by providing women with a place to reside (albeit temporarily) away from a male guardian. Zahid argued that in response to this, WPCs are labelled “immoral” places because they are seen to disrupt the social norms of Afghan society.

My other interviewees shared this idea that religion plays a key role in facilitating opposition to the establishment of WPCs. Indeed, Asra argued that religion was *the* most significant factor. She said: “if there are [a] thousand reasons behind this [opposition] religion is the number one among all. It is easy to influence people using religion, they [conservatives and opponents to WPCs] do this, they use religion”. Asra thus argued that religion played a critical role in shaping people’s mindsets about WPCs; and further, that the negative influence of religion is the main cause of opposition to WPCs. As she explained:

If we study, we know that Prophet Muhammad said ‘The best Muslim men are those who are good to their wives’. But we hardly hear this by clergy men or other elderly people who can influence the rest. Instead, we are always reminded that ‘men are in charge of women, and women should obey’. You see the change in focus here. I once had an encounter with a leading *Mula*, clergy man, he started an argument with me, he said, those centers have no supporting pillars in Islam. They are against Islamic rules and soon will be destroyed... he said if they were Islamic, the Afghan government would fund them, but now it is [the] USA that pays.

Asra underlined the role of religion and religious leaders in shaping people’s mindsets about women and men’s rights over them in Islam. She also pointed to the effects of the external funding that WPCs receive, which I argue is another key factor leading to widespread opposition to WPCs as a response to DV in Afghanistan.

### *Funding Structures*

Over the past two decades, Afghanistan has received billions of dollars in international aid. This aid is divided in two sections: military and nonmilitary aid (Ahmed, 2019, para. 3). While the first section is evident in its avenues of expenditure, the latter is channeled to NGOs that use it for “developmental works such as building infrastructure, education and youth empowerment” (ibid). In general, this aid is aimed at the reconstruction of the country in specific ways with tangible outcomes, such as economic development or

the reconstruction of schools, hospitals, mosques, libraries, and factories. Although it is not captured within this general division of aid, a huge amount of funding has also been delivered to WPCs run by local NGOs (Wimpelmann, 2017, p. 115). Since their inception, WPCs have functioned as autonomous centers “completely funded by international aid” (Wimpelmann, 2017, p. 128). Despite extensive research, I could not find any breakdown of the annual or total amount of aid allocated for WPCs in the country. However, reports show that in 2010, Hussan Ghazanfar, the former acting Minister of Women’s Affairs, claimed that a total of US\$11 million had been spent only in 11 WPCs (Nordland, 2011, para. 5). As mentioned earlier in this chapter, WPCs are supported by UN Women and funded by members of the international donors, such as Australia, Finland, the European Union, Iceland, Sweden and Norway, with the US serving as one of the main donors (UN Women, 2018, para 7; Nordland, 2011, para. 8; Wimpelmann, 2017, p. 115).

Based on my interview findings, I argue that the independence of WPCs from the government and the fact that they are supported entirely by external sources has added to the opposition to the establishment of WPCs in Afghanistan. To many Afghans, WPCs are temporary centers that work in Afghanistan only because of the support of Western countries. Despite the government’s proposal to take control of the WPCs, once the international financial support ends, none of the centers will be supported by the Afghan government. This concern was also highlighted by Manizha Naderi, whose organization Women for Afghan Women runs 12 WPCs. Naderi argued that the government’s proposal to take control of WPCs is a way of targeting the centers, and that the government “keep at it until all rights for women are taken away and the Taliban can come back in” (Nordland, 2011, para. 14). The dependency of WPCs on the international community was raised by my interview participants both as a causing factor for the social and religious disapproval of these centers, as well as a central point of concern. Forogh, for instance, explained that:

The strong beliefs that these centers are Western concepts implemented in the country is worrying. It is so because clergy men always say Western countries have corrupted our women... now women do not listen to their husbands, they dress as they want and even ask for divorce... they run away and they shelter here, no one knows what goes on in those corrupt places.

Forogh summed up the main points that were shared by my other participants. The fact that WPCs have influenced women to leave their families and lose their “true identity” as Muslims are the two main factors that underly opposition to WPCs in the country.

The reflection of this religious opposition to WPCs can be seen in the opinions of Enayatullah Balegh, a member of Afghanistan's Council of Muslim Scholars. In 2010, Balegh argued that according to Sharia, women are allowed to "live only in the company of a close male relative — her husband, father, brother or son." WPCs thus teach women to lose their Muslim values and identity by encouraging them to leave their husbands and seek refuge outside the home (Lawrence, 2011, para 12). In 2018, Balegh expressed his strong opposition to the existence of WPCs, stating that they contradicted Sharia law and therefore had no place in Afghanistan. It is important to highlight that religious opposition to WPCs as Western impositions have their foundations in Afghanistan's leadership. For instance, the former President of Afghanistan, Hamid Karzai, during whose presidency the first WPCs were established, "repeatedly commented that he felt pressured by the United States to uphold values not shared by the majority of his Afghan support-base" (Wilson, 2018, para. 12). In 2014, President Ashraf Ghani Ahmadzai, like Karzai, appeared to "promotes and maintains notions of *Western* civil rights and gender equality" (Wilson, 2018, para. 14). These constant references by the former and current president have played a role in labeling women's rights to access WPCs and their protection as Western values.

## **Conclusion**

This chapter has demonstrated that the patriarchal social construction of gender in Afghanistan and associated notions of masculinity and femininity shape understandings of DV as a normal aspect of life. They also provide greater opportunities for perpetrators of DV to justify their abusive actions – both to themselves and to society. This justification results in confusion over the existence of WPCs as centers for women who are the victims of, or at risk of, violence by their families or intimate partners. By drawing on my interview findings, this chapter presented the complex entanglement of WPCs and DV. It also showed that in Afghanistan, WPCs as independent centers with external funding are seen as Western imports and are therefore met with hostilities from a range of actors in Afghan society and politics. This chapter also illustrated that due to this association, WPCs are perceived to be against the sociocultural and religious values of Afghan society. Together, these factors have tightened the scope of activities of WPCs to the extent that in 2011, the Afghan government sought to take control of all WPCs in the country, justified by the argument that they were places of ill-repute. Since 2011, these accusations have led to no other changes aside from adding further resistance to, and stigmatization of, WPCs. This opposition means that the Afghan government has thus far

unable to fulfil its national and international obligations, discussed here and in Chapter Three, to protect women and prevent gender-based violence in the country.

## Conclusion

The first Women's Protection Center (WPC) launched its activities in 2003 as a response to a perceived "new" need in Afghan society (Wimpelmann, 2017, p. 114). Although DV was present in the country, it was not perceived as a violation of women's human rights. With the gradual increase of WPCs in the subsequent years, these centers focused on providing services in response to a chronic social problem, DV. Despite almost two decades of WPCs' invaluable contribution and the gradual social growth of the country in general, these centers are still met with hostility from various sectors of Afghan society. Additionally, the prevalence of violence against women has remained steady. This thesis aimed to understand the root causes of opposition by taking a step back and studying the term DV as a chronic social problem. I argued that the complexities of WPCs in Afghanistan require an understanding of DV as a social problem; that is, "the process by which members of groups or societies, through assertions of grievances and claims, define a putative condition as a social problem" (Spector and Kitsuse, 1973, p. 145). This means that social recognition or general agreement on a phenomenon is the prerequisite for a condition to be perceived as a "problem". However, this thesis illustrated that the problematization of DV in Afghanistan did not emerge through a social agreement. Instead, it was introduced after the establishment of the first WPC in 2003. In line with this, WPCs received and still are receiving strong social and religious opposition.

This thesis argued that while WPCs provide critical services that have saved the lives of many Afghan women, they do not operate as independent centers that are simply embraced by Afghan society. Rather, they are complex institutions that are deeply embedded with international discourses on women's protection and the prevention of violence against women. This means that the international discourse of DV as a violation of human rights is not fully embedded in Afghanistan. Thus, the existence of WPCs has simultaneously protected – as well as posed challenges to – Afghan women's lives. While it is beyond the scope of this thesis to examine this point in detail, such challenges are evident in the socioreligious revictimization of Afghan women and an increase in threats and violence after women leave WPCs. The reintegration process of abused women into society is often not a smooth one. After their exit, many women are not accepted by their families due to the perceived loss of honor and shame that the woman has inflicted upon the family. Some women therefore end up living a life of seclusion far away from their local community (Rasa, 2017, para 13).

Analyzing the effectiveness of WPCs in Afghanistan is a complex task that cannot be simply addressed. A full assessment of WPCs requires a careful deconstruction of the

interconnected relationship between patriarchy, gender, religion, and DV. As this thesis has demonstrated, this process requires an in-depth understanding of the context of women's subjugation in Afghanistan. In addition to the entanglement of opposition to WPCs and perceptions of DV, this thesis also argued that the initial establishment of WPCs under the presence of a strong international climate is one of the main sources of opposition to WPCs. The international and national legal framework of the country both called for and enabled the establishment of WPCs, while at the same time, constituted sources of opposition to them. This means that opponents of WPCs often draw upon the language of human rights to argue that WPCs are Western impositions.

The literature used in this thesis showed that WPCs in Afghanistan have primarily been discussed by human rights organizations and NGOs. This has meant that much of the material on WPCs has been written from the perspective of human rights, and often by foreign observers, and does not fully situate WPCs and DV within the broader social, religious, and legal context in which they are located. Hence, my thesis addresses this paucity by bringing together the fields of women's human rights, understandings of gender, and the international and national legal frameworks that establish the context for WPCs as a response to DV in Afghanistan. This thesis thus presents a more nuanced picture of WPCs as by taking a step back and exploring violence against women, particularly DV, as a social phenomenon. Additionally, much of the theoretical literature on the social construction of gender and DV upon which this thesis draws does not relate specifically to Afghanistan. In applying these insights to the context of Afghanistan and complementing them with original data derived from my in-depth interviews with Afghan women's and human rights activists, this thesis not only enriches our understanding of these concepts, but also sheds critical light on the social, legal, and religious complexities of WPCs in Afghanistan.



## Appendix

### A: Interview Questions

#### *Social*

1. How do you think Afghan society at large views domestic violence (DV)?  
Follow up: What do you think is Afghan society's view on women protection centers (WPCs)? Why? (When we talk about society in general, we include men and women. Would you differentiate here? Saying that men and women have different views on WPCs?)
2. Would you say Afghan gender norms play a role in shaping the image of DV and WPCs? How?
3. In your view, has there been a change in views about WPCs in Afghanistan during the last 10 years? If yes, *how*, and *why*?

*Further specific questions to for participants who run/work at WPCs: how do you define the group of women seeking shelter? Are there common characteristics (region, age, class, educational background, religious sector, ethnic, etc) among the women?*

#### *Religious/Sharia*

4. WPCs have received and still are facing religious opposition from multiple actors and groups. Following these criticisms and attacks, would you say that WPCs as local organizations are compatible with Sharia law? Please explain if your answer is yes or no.
5. How would you place WPCs in relation to the Afghan constitution as a democratic and Islamic document? For instance, Article 3 of the constitution states that "In Afghanistan, no law can be contrary to the sacred religion of Islam and the values of this *Constitution*". Article 7 of the same constitution indicates "The state shall abide by the UN charter, international treaties, international conventions that Afghanistan has signed, and the Universal Declaration of Human Rights".
6. Do you think there is a difference between the religious official authorities in Afghanistan and the Muslim communities? How would you evaluate the role of religious authorities in this context and their possible impact on societal views and behavior?

#### *Legal Framework*

7. How is DV defined within the legal framework of the country? Specifically, I mean what is your understanding of how DV is framed within religious-based laws and the criminal law code (based on international law)
8. Do you think the country's legal framework(s) is effective enough in addressing DV?

9. In 2018, Afghanistan revised its 1976 *Penal Code*, but the chapter penalizing violence against women, that was supposed to be part of the new *penal code*, was removed before its launch. Considering this, would you say the Afghan government's lack of recognition of DV as a crime has contributed to the stigmatization and opposition to WPCs?
10. In 2009, the *Law on Elimination of Violence against Women* (EVAW) was endorsed by presidential decree that criminalizes acts of violence against women. Its implementation became very controversial among judges and members of parliament. Why do you think this was the case? Do you think its full implementation will contribute to further acceptance of WPCs in Afghanistan?
11. Who do you think are the main adversaries to DV? Who do you think are the main adversaries to WPCs?  
*For example, family members of those who have close to them victims of violence OR Political or institutional actors and stakeholders*
12. If the Afghan government had financed WPCs instead of them being foreign funded, do you think that the centres would have been more acceptable in the country? How and why? (*reference the fact that currently WPCs are run by Afghan non-governmental organizations and funded by American and other Western donors*)

**B: Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), Article 2**

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- g) To repeal all national penal provisions which constitute discrimination against women.

## C: Interview Participants

Number	Participant Name	Participant Information	Pseudonym	Interview Mode and Platform
1	Sima Samar	Former Minister of Women's Affairs of Afghanistan from December 2001 to 2003. Worked as a human rights and women's rights activist for more than forty years.	No	In writing
2	Seema Ghani	Chair of the Hand in Hand NGO for over 13 years. Hand in Hand is a non-governmental organization working towards elimination of poverty in Afghanistan. Chair and founder of the Khorasan organization, which works for the betterment of vulnerable Afghan women and children in Afghanistan.	No	In writing
3	Maryam Popal Zahid	Founder and Director of Afghan Women on the Move, which aims to create safe platform for women as survivors of war and trauma.	No	Online interview (Skype)
4	Sultan Ali Rahimi	Deputy director of the Afghan Women and Children Legal Research Foundation (WCLRF). Established in 2003, this local organization works for the empowerment of women and children; aims to reduce violence against women by focusing on areas of research, advocacy, and awareness programs.	No	Online interview (Skype)
5	Sohaila Forogh	A local women's rights activist who currently works with an NGO that is concerned with human rights issues.	No	Online interview (Skype)

6	Setara Barakzai	A local women's rights activist who has worked with both national and international organizations in Afghanistan.	Yes	Online interview (Skype)
7	Asra Kakar	A women's rights advocate with considerable work experience in Kandahar, a southern province of Afghanistan, and Kabul.	Yes	Online interview (Skype)
8	Women for Afghan Women	The largest women's organization in Afghanistan with 12 WPCs across 11 provinces.	No	In writing

## **D: Consent Form**

### **INFORMED CONSENT FORM**

This is to certify that I, \_\_\_\_\_, agree to participate in the research being conducted by Nargis Hajran of the Gender Studies Department at Central European University. The extent of my involvement in this project will be to participate in one or more interviews with Nargis Hajran, the primary investigator, in which I will be asked to speak about my own knowledge and perspective on Social, legal, and religious complexities of Women's Protection Centers (WPCs) in Afghanistan.

My participation in this project is voluntary, and I may refuse to participate, withdraw, and/or decline to answer any questions without negative consequences.

#### **A. PURPOSE**

I have been informed that the purpose of this research is to gain a deeper understanding of the major causes of confrontation to WPCs in Afghanistan. The interviews will be combined with critical analysis to produce a master's thesis and may potentially be used for future publications. This research is being performed under the tutelage of Dr. Hanna Loney, assistant Professor of Gender Studies at Central European University.

#### **B. PROCEDURES**

This component of the research consists of interviews conducted between the researcher, Nargis Hajran, and the interviewee. The interview(s) will be recorded on the personal computer of the researcher and the audio from the interview(s) will remain in the private care of the researcher for transcription purposes. Written transcripts will be included in the final publication of the research, unless otherwise indicated by the interviewee, and all files of the audio recordings will be erased at the conclusion of the research process. Interviewees will be provided with a copy of the written transcript and/or audio files if so desired. In the resulting papers and publications, the interviewee will be identified by name, subject to their consent. Should the interviewee wish to remain anonymous, a pseudonym will be used in place of their real name.

#### **C. RISKS**

There are minimal risks to participation in this interview. However, the interviewee can withdraw their participation from the interview at any time without prejudice. During the interview the interviewee may request to stop the recording at any time to discuss or clarify how she/he wishes to respond to a question or topic before proceeding. In the event that the interviewee chooses to withdraw their participation entirely from the project during the interview, any tape or transcripts made of that particular interview and any previous interviews will be destroyed.

Furthermore, if the interviewee, for any reason, would prefer to remain anonymous, she/he may request the use of a pseudonym in the published presentation of the research.

If so desired, the researcher will provide the interviewee with copies of written transcripts, and any/all related papers and publications written by the researcher.

Upon completion of the interview, the tape and content of the interview belong to the researcher, Nargis Hajran, and the information in the interview can be used by Nargis Hajran for the purposes of the master's research, and in any further publication or presentation of research.

#### **D. CONDITIONS OF PARTICIPATION (please initial to give consent)**

\_\_\_\_\_ I understand that I am free to withdraw my consent and discontinue participation at any time without negative consequences.

\_\_\_\_\_ I agree to have my interview(s) recorded.

\_\_\_\_\_ I agree to be quoted directly **OR** \_\_\_\_\_ I agree to be quoted anonymously in the presentation of the research.

\_\_\_\_\_ I agree to the release of the transcript(s) of my interview(s) for the purpose of publication.

\_\_\_\_\_ I request copies of \_\_\_\_\_ written transcripts, \_\_\_\_\_ the final publication of the research.

To be sent to me at the following email address: \_\_\_\_\_

\_\_\_\_\_ I request to be informed of any future attempts the researcher pursues to publish the research following submission of the master's thesis.

#### **E. INTERVIEWEE'S COMMENTS**

Please identify below any desired restrictions related to the collection and publication of information from your interview(s).

I HAVE CAREFULLY READ THE ABOVE AND UNDERSTAND THIS AGREEMENT. I FREELY  
CONSENT AND VOLUNTARILY AGREE TO PARTICIPATE IN THIS STUDY.

Interview Name:

\_\_\_\_\_

Interviewee Signature:

\_\_\_\_\_

Date: \_\_\_\_\_

Interviewer Signature:

\_\_\_\_\_

Date: \_\_\_\_\_

Should you have any questions or concerns about this project or your rights as a participant, please contact Nargis Hajran. Email: [Nargis\\_hajran@student.ceu.edu](mailto:Nargis_hajran@student.ceu.edu) Phone: (+41) 078 666 03 17

I WILL BE GIVEN A COPY OF THIS FORM FOR MY OWN RECORDS.

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