

Contributions of the
GIZ “Promotion of the Rule of Law in Afghanistan” (RoL) Project
to Gender Equality in Afghanistan

Gender Equality in Afghanistan – The Status Quo

Afghanistan is a country where customary and traditional values are involved in all aspects of life, including the legislative process. On the other hand, due to poor representation of female citizens at public offices, particularly in the justice sector, laws and regulations are enacted mainly by men who sometimes fail to consider the rights of women equal to men. As Afghanistan is an Islamic country with a literacy rate of 32%¹, misinterpretation of Islamic provisions and its mixture with unfair customs is easily possible. One example that can be named is the assumption that women are not allowed to work outside their home. In everyday life, the guiding legislative principle of gender equality is overridden by the deep-seated patriarchal values in society and social relations. For example, given the tightly-knit system of societal and social control, freedom of movement for women as guaranteed in the constitution is ineffective in practice. This restricted mobility also narrows the scope for women to exercise their rights. There is little access to legal services, especially for women.

Fortunately, as a result of the Bonn Conference on Afghanistan in 2001, a new chapter in Afghan women’s life has been opened. Gender equality has become an important and serious issue at least in political debates. For the first time in the history of the country, a Ministry of Women’s Affairs (MoWA) was established with the aim of empowering women in social, economic and political life. In theory, one of the important responsibilities of the Ministry is to promote gender equality and to mainstream it in all strategies, laws, regulations and policies, but in practice, such documents were being processed by the Ministry of Justice (MoJ) without involvement of the Ministry of Women’s Affairs.

What did RoL do to tackle these challenges?

The following two examples shall provide outstanding activities and achievements of the RoL project:

I. Ensure Women’s Rights on a Legislative Level – Creation of a Coordination Mechanism between MoWA and MoJ in Legislative Drafting

We, the BMZ-funded project “Promotion of the Rule of Law in Afghanistan” (RoL), realized that a coordination mechanism needs to be established between MoWA and MoJ to ensure that legislative documents are shared with MoWA for their comments and recommendations, taking into consideration the rights and interests of women.

Given the importance of laws and legislative documents in ensuring equal rights and responsibilities for men and women, the creation of a coordination mechanism between MoWA and MoJ in legislative drafting processes was realized to be one the most sustainable initiatives both in mid and long-run. Therefore, RoL started negotiating with both ministries

¹ Survey result of the UNESCO Institute for Statistics in 2015.

and commonly discussed benefits and effects of such a coordination mechanism. As a result, both ministries agreed to sign a Memorandum of Understanding (MoU) based on which the MoJ now sends draft laws and legislative documents to MoWA to receive their comments from a gender perspective.

The MoU has been signed between the two ministries on 29th July 2015 with technical support of the RoL project. Since then, RoL has been supporting both ministries to



Signing of the MoU with the Ministers of MoJ and MoWA in Kabul, July 2015

implement the MoU, e.g. by hiring two national advisors for a proper follow up on referral mechanisms of legislative documents. Additionally, an assessment on capacity building needs of both ministries was conducted, based on which trainings on how to review laws from gender perspective, how to prepare legislation documents and how to compare laws and identify its strength and weaknesses were facilitated for relevant staff of both ministries. Moreover, the RoL project moderated quarterly coordination

meetings of MoJ and MoWA in order to bring both ministries together and discuss the practical challenges.

So far, MoWA representatives attended 33 legislative sessions at MoJ and shared comments, suggestions and recommendations from a gender perspective. One of the most important achievements of MoWA in this regard is the prevention of the Elimination of Violence against Women (EVAW) Law to be merged with the newly enacted Criminal Code, which will come into force in February 2018. The aim of MoWA and women representatives was to keep this law as a special one and strengthen its position to focus even more on the fight against gender-based violence. It has become an accepted and supported fact that presence of women and their comments on laws and regulations are essential. This acceptance and support is the short-term result of the initiative, as well as women being practically involved in the legislation process. By this, positive changes in favor of women and gender equality is going to be the mid-term impact.

This initiative of the project can be seen as a first step towards a sustainable mainstreaming of gender-relevant aspects in legislative documents. The efforts of GIZ's RoL project were widely acknowledged, especially among the national and international justice institutions and civil society organizations.

II. Ensure Women's Rights "on the ground" and strengthen their Access to Justice – Volunteer Gender Focal Points at Districts

While the MoU between MoJ and MoWA focuses on a legislative level, it is also important to ensure the consideration of women's rights in everyday's life. In Afghanistan, women's mobility in rural areas is still restricted in public places. They are often deprived of access to government legal agencies (courts, state-employed lawyers, state arbitrators/mediators, so-

called *Huquqs*). There is little access to legal services, especially for women. Moreover, socially acceptable contact points for access to justice (legal information and aid) for women in rural areas lack adequate organizational and human resources.

Of particular relevance for the female population is that women seeking legal advice cannot always simply approach male legal advisers. There are hardly any female contact points for legal advice or other support in the districts; especially the existing contact points by the provincial directorates of MoWA often lack capacity and/or are only accessible in the provincial capitals.

Given the above-mentioned problems being faced by women in everyday life, as bottom up approach to address the challenge, the RoL project expanded and supported a network of contact points for women and established volunteer gender focal points at district level. Volunteer gender focal points aim to improve the conditions for access to justice for women and men, primarily in rural areas. The project's support includes setting up a network of contact persons to assist women seeking advice and disseminate legal information. These volunteer gender focal points, which in the future shall be supervised by MoWA, liaise between the district level and the Directorates of Women's Affairs in the Northeastern Provinces. They shall link civic engagement (volunteer work by dedicated women at district level) with MoWA, which is only represented at provincial level.



Volunteer Gender Focal Points from Northern Provinces discuss during a workshop in Mazar-e Sharif, October 2017

So far, hundreds of women in need of legal aid have been provided with legal information and introduced to relevant justice providers through the volunteer gender focal points, which so far received capacity building by Afghan civil society organizations. The volunteer gender focal points will also be linked to a legal helpline system, so that they will be able to re-direct women and men in need to the respective legal authority that might be able to solve the existing legal problems.

Steady steps to ensure gender equality in everyday's life

Creating a supportive environment for the sustainable improvement of access to justice for women and men by promoting internal capacities of MoWA and MoJ and strengthening coordination between these two institutions in legislative processes on the one hand, as well as addressing women in need of legal aid by volunteer and self-motivated gender focal points on the other hand have greatly contributed to gender equality on both national and sub-national level. The steps taken by the RoL project will contribute to a deeper understanding of gender equality in Afghanistan's everyday life.