

## Refugee Review Tribunal

### AUSTRALIA

#### RRT RESEARCH RESPONSE

**Research Response Number:** AFG17237  
**Country:** Afghanistan  
**Date:** 14 March 2005

Keywords: Afghanistan – Women – Girls – Education – Freedom of movement – State protection

This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

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#### Question

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#### RESPONSE

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#### General information

Human Rights Watch in its recent *World Report 2005* states:

Women and girls continue to suffer the worst effects of Afghanistan's insecurity. Conditions are better than under the Taliban, but women and girls continue to face severe governmental and social discrimination, and are struggling to take part in the political life of their country.

Afghan women who organize politically or criticize local rulers face threats and violence. Soldiers and police routinely harass women and girls, even in Kabul city. Many women and girls continue to be afraid to leave their homes without the burqa. Because many women and girls continue to fear violence by factions, many continue to spend the majority of their time indoors and at home, especially in rural areas, making it difficult for them to attend school, go to work, or actively participate in the country's reconstruction. The majority of school-age girls in Afghanistan are still not enrolled in school (Human Rights Watch 2005, *World Report 2005*, New York, pp. 244-245 – Attachment 1).

Afghanistan's Constitution grants equal rights to women and men; however, the United Nations Development Programme (UNDP) states that "its implementation is perhaps one of the most important challenges facing Afghanistan" (UNDP 2004, *Afghanistan: National Human Development Report 2004*, Chapter 3:p.79 – Attachment 2).

In a December 2004 report to the UN Commission on the Status of Women, the Secretary-General writes that the status of Afghan women and girls has improved although overall progress has been uneven:

During the past few years, Afghan women have made important strides in the enjoyment of their human rights and political participation. At the normative level, the new Constitution enshrines gender equality as one principal building block of the new Afghan society. Access to education for girls has improved. Gender equality is increasingly becoming a concrete goal, guiding Government policies, development programmes and the national budget. Recognizing the powerful force for change of religious leaders, a number of United Nations system entities have successfully worked with this group, particularly in raising their support for women's and girls' access to health care and education (United Nations 2004, *The situation of women and girls in Afghanistan*, United Nations Economic and Social Council, E/CN.6/2005/5, 22 December, p.1, 3 – Attachment 3).

The report continued:

This remarkable progress, however, is overshadowed by the persistently volatile and unstable security situation, the ongoing violence against women and girls as well as extreme poverty. Women's gains outside the main cities have been slow and uneven, and strong traditional social and cultural norms continue to prevent women and girls from fully enjoying their human rights. Moreover, years of conflict and violence have destroyed the nation's limited infrastructure, which has reduced the country's potential for further progress in almost every area of social and economic development and will necessitate the comprehensive and sustainable support of national actors and the international community for years to come (United Nations 2004, *The situation of women and girls in Afghanistan*, United Nations Economic and Social Council, E/CN.6/2005/5, 22 December, p.3 – Attachment 3).

The UN has also stated that there are a growing number of NGOs working on women's issues (United Nations 2004, *The situation of women and girls in Afghanistan*, United Nations Economic and Social Council, E/CN.6/2005/5, 22 December, pp.16-17 – Attachment 3).

According to the most recent US State Department report on human rights practices for the year 2004:

Women in urban areas regained some measure of access to public life, education, health care, and employment; however, the lack of education perpetuated during the Taliban years, and limited employment possibilities, continued to impede the ability of many women to improve their situation. In February, the Government established the first unit of female police, and small numbers of women began to join the police force during the year.

Violence against women persisted, including beatings, rapes, forced marriages, and kidnappings. Such incidents generally went unreported, and most information was anecdotal. The Ministry of Women's Affairs estimated that more than 50 percent of

marriages involved women under 16, the legal minimum age of marriage for women. It was difficult to document rapes, in view of the social stigma that surrounded them. Information on domestic violence and rape was limited. In the climate of secrecy and impunity, domestic violence against women and rape remained a serious problem (US Department of State 2005, 'Women' in *Country Reports on Human Rights Practices for 2004 – Afghanistan*, 28 February – Attachment 4).

For other information see the 2004 RRT Country Research response attached (RRT Country Research 2004, *Research Response AFG23448*, 4 November – Attachment 5).

## **Discrimination**

The US State Department reports that:

The Constitution provides for the equal rights of men and women; however, some local customs and practices that discriminated against women generally prevailed in much of the country. The severity of discrimination varied from area to area, depending on the local leadership's attitude toward education for girls and employment for women, and on local customs...(US Department of State 2005, 'Discrimination, Societal Abuses, and Trafficking in Persons' in *Country Reports on Human Rights Practices for 2004 – Afghanistan*, 28 February – Attachment 4).

The report continued:

Discrimination against women in some areas was particularly harsh. Some local authorities excluded women from all employment outside the home, apart from the traditional work of women in agriculture; in some areas, women were forbidden to leave the home except in the company of a male relative...According to the Institute for Media, Policy and Civil Society (IMPACS), women in Logar were prohibited from traveling to the area of town where a community radio station was based, and male journalists often were not allowed to interview women for their reports (US Department of State 2005, 'Women' in *Country Reports on Human Rights Practices for 2004 – Afghanistan*, 28 February – Attachment 4).

## **Education**

A UNDP report states that of 3,705,235 school students, 1,171,963 are female; amongst over 22,000 students in the higher education system, 4,363 are women (UNDP 2004, *Afghanistan: National Human Development Report 2004*, Chapter 3: pp.66-69 – Attachment 2).

It is estimated that approximately 34% of enrolments in primary school are girls, but drop-out rates are high. Of the girls attending primary school, 9% go onto secondary school (Human Rights Watch 2004, *Between Hope and Fear: Intimidation and Attacks against Women in Public Life in Afghanistan*, October, p.7 – Attachment 6).

Estimates of net enrolment rates in the UNDP report indicate stark regional and gender disparities. In Kabul, there is a 81% net enrolment rate for girls; in Herat city, Herat province and Badakhshan province net enrolment of girls is higher than that of boys; in Badghis and Zabul provinces enrolment is as low as 1%. However, the rates in the Human Rights Watch suggest these estimates relate to primary school attendance (UNDP 2004, *Afghanistan: National Human Development Report 2004*, Chapter 3: p.69 – Attachment 2; Human Rights Watch 2004, *Between Hope and Fear: Intimidation and Attacks against Women in Public Life in Afghanistan*, October, p.7 – Attachment 6).

The UNDP report states that the unavailability of schools is a major obstacle preventing children attending school – more so for girls than boys. Additionally, for girls, family commitments, marriage and tradition play a larger role (UNDP 2004, *Afghanistan: National Human Development Report 2004*, Chapter 3: p.66 – Attachment 2).

The State Department wrote for the year 2004:

UNICEF reported that 34 percent of children enrolled in school were girls, although this figure hid large disparities from province to province, with enrollment as low as 15 percent in some, and an estimated 1.5 million school-age girls not yet enrolled in classes. Since 2002, the number of girls attending school had increased by over 30 percent. Southern provinces also showed a net increase of about 30 percent, despite higher levels of insecurity and conflict.

Nevertheless, lack of teachers and materials as well as security concerns remained deterrents to girls' education. In some parts of the country, access to education was further impeded by violence in which schools, teachers, and students were threatened or physically attacked. For example, two girls' schools were partially destroyed in attacks in Badakhshan and Farah on February 19 and March 2, respectively. Similar attacks on schools in general took place throughout the year. There were approximately 40 attacks on girls' schools during 2003.

While most girls throughout the country were able to attend school, a climate of insecurity persisted in some areas. On April 28, suspected Taliban burned and destroyed two primary schools in Kandahar Province. Girls' schools also continued to be the target of attacks by Taliban and other extremists...The Government and international donors built more than 2,000 schools during the year. (US Department of State 2005, 'Children' in *Country Reports on Human Rights Practices for 2004 – Afghanistan*, 28 February – Attachment 4).

Further information on women's education may be found in: United Nations 2004, *The situation of women and girls in Afghanistan*, United Nations Economic and Social Council, E/CN.6/2005/5, 22 December, pp.14-15 – Attachment 3.

Of interest are the attached maps relating to education in Kabul and Wardak provinces:

AIMS 2003, *Students per District: Kabul Province*, September <http://www.aims.org.af/> - Accessed 8 March 2005 – Attachment 7; (note: this map graphs a male/female student per teacher distribution)

AIMS 2003, *Number of Students per Teacher: Kabul Province*, September <http://www.aims.org.af/> - Accessed 8 March 2005 – Attachment 8;

AIMS 2003, *Students per District: Wardak Province*, September <http://www.aims.org.af/> - Accessed 8 March 2005 – Attachment 9; (note: this map graphs a male/female student per teacher distribution)

AIMS 2003, *Number of Students per Teacher: Wardak Province*, September <http://www.aims.org.af/> - Accessed 8 March 2005 – Attachment 10.

## **Freedom of movement**

The US State Department reports that the Afghanistan constitution provides for freedom of movement; however, certain laws limited movement. It continued:

The passport law requires women to obtain permission from a male family member before having a passport application processed. In some areas of the country, women were forbidden by local custom or tradition to leave the home except in the company of a male relative. The law also prohibits women from traveling alone outside the country without a male relative, and male relatives must accompany women participating in Hajj. Additionally, sporadic fighting, brigandage and landmines hampered travel within the country. Despite these obstacles, many men and women continued to travel relatively freely, with buses using routes in most parts of the country (US Department of State 2005, 'Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation' in *Country Reports on Human Rights Practices for 2004 – Afghanistan*, 28 February – Attachment 4).

Human Rights Watch states that restrictions on movement and continuing security threats affect women's lives, particularly impeding their ability to travel, study and work. The control of some areas by conservative military commanders, the social barriers imposed by some religious leaders and the lack of effective control by the central government means that women do not have choices about travelling with *mahram* (close male relatives), wearing the burqa or restricting their movements (Human Rights Watch 2004, *Between Hope and Fear: Intimidation and Attacks against Women in Public Life in Afghanistan*, October, pp.7-8 – Attachment 6).

In respect of Wardak province there are reports that, culturally, women were not permitted to venture out ('Afghanistan paper calls for equal rights, better conditions, education for women' 2005, *BBC Monitoring email alert* (source: Cheragh), 3 January – Attachment 11); (Noori, Sweeta 2005, 'Journals...Afghanistan', *Women for Women International*, January <http://www.womenforwomen.org/owafjn.html> - Accessed 10 March 2005 – Attachment 12).

### **State Protection**

The US State Department reported that, although the government had progressed in asserting its authority, a few major provincial centres remained under the control of regional commanders for most of 2004. In practice, the recognition of the rule of law, particularly outside Kabul, was limited (US Department of State 2005, '[Introduction]' in *Country Reports on Human Rights Practices for 2004 – Afghanistan*, 28 February – Attachment 13).

The report noted that:

...Legal and law enforcement institutions operated unevenly throughout the country, and justice was administered on an intermittent basis according to a mixture of codified law, Shari'a law, and local custom (US Department of State 2005, 'Arbitrary Arrest or Detention' in *Country Reports on Human Rights Practices for 2004 – Afghanistan*, 28 February – Attachment 13).

In a similar vein a UNDP report also states:

Surveys and studies carried out show that the majority of judicial cases outside Kabul are dealt with by informal justice mechanisms. There is still insufficient knowledge of how prevalent their use is, how effectively they work, and what their impact is. While traditional justice systems provide access to established conflict resolution

mechanisms, they are also widely criticized for reinforcing traditional practices that infringe on human rights, especially those of women (UNDP 2004, *Afghanistan: National Human Development Report 2004*, Chapter 5: p.148 – Attachment 2).

In respect of the security situation for women, Habiba Surabi, Afghanistan's first female provincial governor, recently stated:

“The biggest challenge for women generally in Afghanistan is safety from warlords and commanders. Security is very important for women to be able to come to court or visit rights associations” (‘Afghanistan's first female governor blazes trail for women’ 2005, *Afghan Online Press* (source: AFP), 7 March – Attachment 14).

The report to the Commission on the Status of Women states that:

...Women and girls are specifically affected by lack of security, since it limits their freedom of movement to reach schools, health-care facilities and work. In mostly traditionally conservative areas, at least 11 incidents have been confirmed that have affected girls' schooling, including arson and explosive attacks. Some attacks on women government officials, journalists, potential political candidates, teachers, NGO activists and humanitarian aid workers seem to have the specific goal of intimidating them and undermining all efforts to strengthen women's status in society...(United Nations 2004, *The situation of women and girls in Afghanistan*, United Nations Economic and Social Council, E/CN.6/2005/5, 22 December, pp.8-9 – Attachment 3).

Also, the UN report stated:

...The lack of legal and social protection systems has left many women trapped in abusive situations which have caused a number of women to commit suicide or self-immolation...(United Nations 2004, *The situation of women and girls in Afghanistan*, United Nations Economic and Social Council, E/CN.6/2005/5, 22 December, p.10 – Attachment 3).

On the provision on shelters for women sources differ. The UN reports that efforts to assist women at risk of violence, or survivors of violence, have started in Kabul, Herat and Mazar-i-Sharif where a few shelters for women are operating (United Nations 2004, *The situation of women and girls in Afghanistan*, United Nations Economic and Social Council, E/CN.6/2005/5, 22 December, p.10 – Attachment 3).

Amnesty International mentions that there are four shelters in Kabul to provide assistance to survivors of sexual violence and none outside the capital (Amnesty International 2004, *Afghanistan: Women failed by progress in Afghanistan*, ASA 11/015/2004, 28 October – Attachment 15).

However, the US State Department writes that there are no shelters for women:

...Some women resided in detention facilities because they had run away from home due to domestic violence or the prospect of forced marriage, and there were no shelters for women in this situation...(US Department of State 2005, ‘Women’ in *Country Reports on Human Rights Practices for 2004 – Afghanistan*, 28 February – Attachment 4).

The State Department continued:

Police authorities often placed women under detention in prison at the request of family members for defying the family's wishes on the choice of a spouse, or for other moral offenses. An unknown number of women were imprisoned for these reasons. Some women were in detention centers because they were runaways from home (US Department of State 2005, 'Arbitrary Interference With Privacy, Family, Home, or Correspondence' in *Country Reports on Human Rights Practices for 2004 – Afghanistan*, 28 February – Attachment 4).

On impediments to the advancement of women the UNDP reports:

The lack of security across the country not only impedes progress in the rehabilitation of Afghanistan, but also in the advancement of women. Many girls, while having the legal right to education, do not attend school for fear of being kidnapped or attacked and raped on the way. But security is not the only challenge to women's full and equal participation in the rebuilding of their country. The prevalence of conservative attitudes limits their role in civil, cultural, economic, political and social life, at all levels of society (UNDP 2004, *Afghanistan: National Human Development Report 2004*, Chapter 3: pp.79-80 – Attachment 2).

With respect to the criminal justice system the UNDP report states:

According to Amnesty International, the criminal justice system is simply unwilling or unable to address issues of violence against women. "At the moment it is more likely to violate the rights of women than to protect and uphold their rights." (UNDP 2004, *Afghanistan: National Human Development Report 2004*, Chapter 3: p.80 – Attachment 2).

Referring to the judicial system the UN reports:

Women's inability to access the judicial system remains a challenge to addressing violations of their rights. The restrictions on movement without a male relative severely limits a woman's ability to report abuse by her family to the authorities. Other factors denying women redress for violations of their rights are: the lack of official reporting mechanisms; lack of knowledge of statutory laws by those who administer justice; insufficient understanding and sensitivity of officials towards the needs of victims; a high reliance on customary dispute resolution mechanisms; limited trust in law enforcement structures due to the long-term conflict and factional and ethnic divisions; and the perceived shame surrounding crimes of sexual violence. Victims fear for their safety if families push for police investigations (United Nations 2004, *The situation of women and girls in Afghanistan*, United Nations Economic and Social Council, E/CN.6/2005/5, 22 December, p.12 – Attachment 3).

In the October 2004 report Human Rights Watch has outlined the death threats, intimidation and attacks against women, particularly women activists. It noted that women's rights activists had "expressed frustration at the inadequate security provided to them by the central government and international peacekeeping forces" (Human Rights Watch 2004, *Between Hope and Fear: Intimidation and Attacks against Women in Public Life in Afghanistan*, October, pp.12-15 – Attachment 6).

Human Rights Watch, however, continues in the context of writing on women's development projects:

The presence of international security forces makes a critical difference. In places with greater assurances of safety and where NGOs feel safe to work, for example, Kabul, Afghan women and girls have participated enthusiastically in education, rights awareness programs, and other activities. In other locations, threats and harassment of staff working on women's development projects, intimidation of beneficiaries, and attacks on offices and vehicles has contributed to premature closure of projects or has prevented projects from even getting started (Human Rights Watch 2004, *Between Hope and Fear: Intimidation and Attacks against Women in Public Life in Afghanistan*, October, p.16 – Attachment 6).

For additional information see:

Amnesty International 2004, *Afghanistan: Election pains point to ailing state*, News Service No: 249, AI Index: ASA 11/014/2004, 8 October – Attachment 16;

Amnesty International 2004, *Stop violence against women: Afghanistan – abduction and rape at the point of a gun*, ASA 11/013/2004, 12 October – Attachment 17;

'Women killed by husband in Northern province' 2005, *Afghan Online Press* (source: Pajhwok Afghan News), 8 March – Attachment 18.

## List of Sources Consulted

### Internet Sources:

Google search engine

UNHCR      *REFWORLD*      UNHCR Refugee Information Online

Reliefweb <http://www.reliefweb.int/rw/dbc.nsf/doc108?OpenForm&emid=ACOS-635N96&rc=3>

### Databases:

Public	<i>FACTIVA</i>	Reuters Business Briefing
DIMIA	<i>BACIS</i>	Country Information
	<i>REFINFO</i>	IRBDC Research Responses (Canada)
RRT	<i>ISYS</i>	RRT Country Research database, including Amnesty International, Human Rights Watch, US Department of State <i>Country Reports on Human Rights Practices</i> .
RRT Library	<i>FIRST</i>	RRT Library Catalogue

## List of Attachments

1. Human Rights Watch 2005, *World Report 2005*, New York, pp.244-245. (RRT Library)
2. UNDP 2004, *Afghanistan: National Human Development Report 2004*, Chapter 3, pp49-90; Chapter 5, p.131,144-149; Chapter 6, p.185.
3. United Nations 2004, *The situation of women and girls in Afghanistan*, United

Nations Economic and Social Council, E/CN.6/2005/5, 22 December.

4. US Department of State 2005, 'Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation', 'Discrimination, Societal Abuses, and Trafficking in Persons', 'Women', 'Children' in *Country Reports on Human Rights Practices for 2004 – Afghanistan*, 28 February.
5. RRT Country Research 2004, *Research Response AFG23448*, 4 November.
6. Human Rights Watch 2004, *Between Hope and Fear: Intimidation and Attacks against Women in Public Life in Afghanistan*, October.
7. AIMS 2003, *Students per District: Kabul Province*, September. (<http://www.aims.org.af/> - Accessed 8 March 2005)
8. AIMS 2003, *Number of Students per Teacher: Kabul Province*, September. (<http://www.aims.org.af/> - Accessed 8 March 2005)
9. AIMS 2003, *Students per District: Wardak Province*, September. (<http://www.aims.org.af/> - Accessed 8 March 2005)
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11. 'Afghanistan paper calls for equal rights, better conditions, education for women' 2005, *BBC Monitoring email alert* (source: Cheragh), 3 January. (CISNET Afghanistan CX110814)
12. Noori, Sweeta 2005, 'Journals...Afghanistan', *Women for Women International*, January. (<http://www.womenforwomen.org/owafjn.html> - Accessed 10 March 2005)
13. US Department of State 2005, '[Introduction]', 'Arbitrary Arrest or Detention' in *Country Reports on Human Rights Practices for 2004 – Afghanistan*, 28 February.
14. 'Afghanistan's first female governor blazes trail for women' 2005, *Afghan Online Press* (source: AFP), 7 March.
15. Amnesty International 2004, *Afghanistan: Women failed by progress in Afghanistan*, ASA 11/015/2004, 28 October.
16. Amnesty International 2004, *Afghanistan: Election pains point to ailing state*, News Service No: 249, AI Index: ASA 11/014/2004, 8 October.
17. Amnesty International 2004, *Stop violence against women: Afghanistan – abduction and rape at the point of a gun*, ASA 11/013/2004, 12 October.
18. 'Women killed by husband in Northern province' 2005, *Afghan Online Press* (source: Pajhwok Afghan News), 8 March.