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Rape and gang rape in war and postwar Afghanistan¹

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Abstract

Sexual violence during civil war and postwar in Afghanistan appears in different forms and contexts; however this article focuses on the most common types which are rape and gang rape. Combatants from all parts of the conflict, such as Afghan security forces, commanders, powerful figures and civilians (including family members) are responsible for these acts. Women and girls from all ages, ethnicities, classes and social statuses are at risk of sexual violence in Afghanistan. Sexual violence in Afghanistan appeared at the beginning of the war in 1978, when the Soviet Union occupied Afghanistan, but it increased dramatically during factional war or civil war amongst Islamic Parties to take over the control of the capital, Kabul in 1992. This article challenges gunmen, law and tradition and introduces them as direct, structural and cultural entities of violence. In the meanwhile the effort and struggle of Afghan people and women's rights activists continue to work for change.

Keywords:

Sexual Violence, War, Post War, Mujahideen.

Violación sexual y violación sexual colectiva en la guerra y en la posguerra en Afganistán

Resumen

La violencia sexual durante la guerra civil y la posguerra en Afganistán aparece en diferentes formas y contextos; sin embargo, este artículo se centra en los tipos más comunes que son la violación sexual y la violación sexual colectiva. Los combatientes de todas las partes de los conflictos, como las fuerzas de seguridad afganas, comandantes, figuras poderosas y civiles (incluyendo miembros de la familia) son los responsables de estos actos. Las mujeres y las niñas de todas las edades, etnias, clases y condiciones sociales están en riesgo de violencia sexual en Afganistán; éste apareció en el inicio de la guerra en 1978, cuando la Unión Soviética ocupó Afganistán, pero aumentó dramáticamente durante la guerra entre facciones o una guerra civil entre los partidos islámicos para hacerse cargo del control de la capital, Kabul en 1992. Este artículo cuestiona pistoleros, la ley y la tradición y los introduce como entidades directas, estructurales y culturales de la violencia. Mientras tanto el esfuerzo y la lucha de los afganos y los activistas de los derechos de las mujeres continúan trabajando para el cambio.

Palabras clave:

Violencia sexual, Guerra, Posguerra, Mujahidín.

¹ This article presents the results of an investigation conducted in Afghanistan in 2013 on sexual violence and war crimes committed against women, relying on fieldwork and academic experiences.

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INTRODUCTION

Sexual violence against Afghan women has been a problematic issue during the decades of war in Afghanistan. Women in Afghanistan have been raped and sexually targeted during the war and also during the postwar years. Reports from national and international human rights and women's rights organizations illustrate that Afghan women in all periods of conflict have been sexually abused by all parties involved in the conflicts. They were raped in their houses or kidnapped from streets and homes and then raped on military sites. It has been shown that women and girls from every age, ethnic group, and class have experienced sexual violence.

Sexual violence in Afghanistan appeared at the beginning of the war in 1978, when the Soviet Union occupied Afghanistan in the name of friendship and internationalism, but it increased dramatically during factional war or civil war amongst Islamic Parties who took over the control of the capital, Kabul in 1992. Under the Soviet puppet regime many male and female prisoners were humiliated and demoralized by sexual torture; there were also some rape cases involving Soviet soldiers and women in villages. The issue intensified during the civil war with the rise to power of the *Mujahideen*³.

In the time of the Taliban, women and girls also were sexually assaulted; during the war in Shamali⁴ in 1998, the Taliban committed a massacre by killing all the men within the area and raping the women or forcing them to marry their combatants. In the city of Mazar-e-Sharif, the Taliban committed the same act with

women that belonged to the Tajik⁵ and Hazara ethnic groups (see Afghan Map below). During that era, prostitution increased dramatically; the Taliban sexually abused women in return for money or food to feed their families.

Figure 1. Map: Afghanistan



Source: <http://www.infoplease.com/atlas/country/afghanistan.html>

After the Taliban regime collapsed, rape and other types of sexual violence against Afghan women and girls was still a problematic issue. Currently, women and girls are still at risk of rape, gang rape and forced prostitution. They are forced to marry against their will, or their family arranges marriage for them when they are still children and give them as *Baad*⁶. Military commanders, powerful figures in the regions, gunmen⁷, government

3 Arabic-Persian word referring to the people who believe they struggle for Islam and in the path of God.

4 Shamali Plain includes the Northern districts of Kabul and Northern provinces of Parwan and Kapisa. Most of the population in these areas are ethnically Tajik.

5 One of the ethnic groups of Afghanistan that speaks Dari.

6 Baad is a "practical way of carrying out a custom wherein a girl or a woman is given for marriage to a victim's family by the aggressor's family in order to settle the dispute or strife between two ethnic groups, clans, tribes, or even two families" (WCLRF, 2008, pp. 17-18).

7 During the decades of war in Afghanistan many people have received weapons and funds from various fundamentalists or non-fundamentalist parties and now they have their guns. They have their own power and refuse the law and power of a central Afghan government. Gunmen in Afghanistan comprise all the people who have guns; they belong to the Afghan National Army, Afghan Police, and paramilitaries, or they are commanders and powerful figures like warlords or drug lords that have formed their own private militias, or they belong to a Taliban faction and other insurgent militant groups.

officials, local communities or families, have been all perpetrators of these acts.

METHODOLOGY

In this essay I focus on the different types of sexual violence that occurred during the years of civil war (1992-1996) in Kabul city and also in the postwar time from 2001 until now. The methodology I use in this essay is a qualitative analysis based on documents and reports from national and international human rights and women's rights organizations regarding war and post wartime sexual violence in Afghanistan.

Human Rights Watch (HRW) has been involved in Afghanistan since 1984 and has released dozens of reports regarding various war crimes. However, only the last report of HRW *"I Had to Run Away" the Imprisonment of Women and Girls for "Moral Crimes" in Afghanistan* (2012), addresses sexual violence directly. In this report, HRW interviewed 58 women and girls in the prisons and juvenile rehabilitation centers; all of these women are victims of different types of sexual violence such as rape, gang rape, forced prostitution, forced marriage, child marriage and Baad, but they have been thrown into jail for so-called "moral crimes". Nevertheless, some other HRW reports focus partially on the issue. Thus, most of HRW reports related to sexual violence in Afghanistan are used in this writing.

Each year since 2009, the United Nations Assistance Mission for Afghanistan (UNAMA) submits a report regarding women's situation in the country. The UNAMA report, which is also a reference for this article, *Silence is Violence: End the Abuse of Women in Afghanistan* focuses on two issues: (a) violence that inhibits the participation of women in public life; (b) sexual violence in the context of rape at present (UNAMA, 2009, p. 1).

The Revolutionary Association of the Women of Afghanistan (RAWA) is a women organization that has fought for women's rights, democracy and freedom since 1977. Equally, during civil war and nowadays, this organization is documenting war crime including sexual violence against women in Afghanistan. In this essay, RAWA's documents and reports are used as evidences for analysis.

Furthermore, last year I wrote a thesis about sexual violence in Afghanistan within the framework of my Master's degree in Peace, Conflict and Development at Jaume I University in Spain. In my thesis, besides the use of secondary sources, I carried out interviews with 40 women in the city of Kabul, Afghanistan. These women are victims of the war and postwar sexual violence in the country. Therefore, in this essay I will frequently refer to these interviews to exemplify my analysis although, in order to ensure the security of women, I use letters instead of their real name.

BRIEF HISTORICAL REVIEW OF CONFLICT IN AFGHANISTAN

The Soviet Union led and accomplished a bloody coup on April 27, 1978 and, on December 25, 1979 the Soviet army invaded Afghanistan in order to support its puppet regime. The regime named its coup a "revolution", and any civilian who disobeyed was to be known as anti-revolutionary and was repressed. However, Afghan people from both cities and villages launched huge anti-occupation protests. People took to the streets with slogans while the regime used guns and tanks to oppress them. Those movements were basically grassroots, but liberal and Maoist intellectuals played a significant role in organizing them (Wahab and Youngreman, 2007, p. 143).

On the other side, the USA administration and the CIA, with the full collab-

oration of Pakistan's government and its Inter-Services Intelligence (ISI), started to support the anti-Soviet Union and Afghan government groups in Afghanistan. They organized themselves into Islamic parties and began to call themselves *Mujahideen*.

After the Soviet puppet regime collapsed in 1992, different groups of *Mujahideen* conquered cities and provinces of Afghanistan and they launched a bloody war in Kabul. Each Islamic party proclaimed their desire to take and control the power. Kabul city was divided between five major fundamentalist parties. *Hezb-e-Islami* (Islamic Party) consisted mostly of Pashtuns under the leadership of Gulbuddin Hekmatyar and controlled the Southern part of Kabul. *Jamiat-e-Islami-yi* Afghanistan (Islamic Association of Afghanistan) was primarily composed of Tajiks. Burhanuddin Rabbani was their leader and also president for four years during the civil war. Rabbani and his famous commander Ahmad Shah Massoud dominated the Central and Northern part of Kabul. *Ittihad-e-Islami* (Islamic Association) was commanded by Abdul Rabb al-Rasul Sayyaf, a Pashtun man who was supported by Saudi Arabia. He controlled West and Northwest Kabul. *Hezb-e-Wahdat-e Islami* (Islamic Unity Party) was mostly Hazara and shi'a members, supported by Iran, and Ali Mazari conducted their operations and dominated the West of Kabul. *Junbish-e Milli-yi Islami* party (National Islamic Movement) was led by Abdul Rashid Dostum; Dostum and all his militants were Uzbek, and resided in the South and Southeast of Kabul (Human Rights Watch 2005, p. 5).

During the four years of civil war all these groups committed enormous and horrendous atrocities; in the first year of *Mujahideen* rule (1992-1993) 30,000 civilians were killed. Around eighty thousand civilians lost their lives in all this period, and another 100,000 were wounded, while 500,000 fled from the city. Around

70 percent of the city was destroyed, and many women and girls were kidnapped and raped (Wahab and Youngreman, 2007, p. 202). Ethnic tensions were exacerbated because each commander used race to create tension; people who had lived peacefully for centuries started to consider each other enemies.

Finally, on September 26, 1996 the Taliban seized Kabul and the other warlord leaders and militants escaped from the city, mostly to the Northern part of the country. The Taliban rapidly imposed their strictest Islamic system: all women were banned from outside work and education, they could only go out when absolutely necessary and a close male family member had to accompany them and, of course they had to wear the *burqa*⁸. This system affected more than 70,000 girl students in schools and colleges, and basically overturned 25,000 families that were headed by women (Rashid, 2000, p. 50). By the end of its rule, the Taliban controlled over 90 percent of Afghanistan's territory, and the *Mujahideen* were isolated in the Northern mountains. The groups that had fought each other for four years over power formed an alliance, called The Northern Alliance.

The 9/11 attacks that left 3,000 American civilians dead changed the political route of Afghanistan. The Bush administration asserted that Bin Laden was the mastermind behind the terrorist attacks and that he and his frightful organization Al-Qaeda resided in Afghanistan. The Taliban regime was not willing to cooperate with the Bush administration as they were not ready to help the USA. Under the patronage of the United Nations (UN), the Bonn Conference took place in December 2001 where the "War on Terror" in Afghanistan was accepted as a military

⁸ An Afghan traditional *hejab*, which cover head-to-toe of a women. Since the beginning of twenty century, the *burqa* gradually disappeared from cities, however when the Taliban emerged it spread again.

humanitarian intervention by the adoption of Resolution 1386 of the UN.

Furthermore, the Bonn Conference established the transitional government comprised of anti-Taliban groups including the Northern Alliance (former *Mujahideen*) and supporters of the former Afghan King Zaher Shah. The main agenda was to expunge Al-Qaeda, the Taliban and other terrorist groups and established a democratic government in Afghanistan. Women's rights, freedom of speech, improved security, efficient and accountable state institutions and economic progress were the aims of a new Afghan government and its international supporters. Billions of dollars had been sent from the international community to achieve these goals (Wahab and Youngreman, 2007, pp. 241-245).

However, after almost fourteen years, none of these aims have been achieved; violence against women, particularly sexual and domestic violence has increased more than at any other time, security remains fragile; each warlord group has guns and gunmen, which is an enormous threat to the central government.

RAPE AND GANG RAPE IN CIVIL WAR

Rape and gang rape were widely used against women and girls during the civil war from 1992-1996. Human rights and women's rights groups in their reports corroborate the issue of rape and gang rape in these areas during civil war.

Women's survival testimonies show that during war in Kabul, systematic rape was used as a weapon of war against women. Evidence shows that militants rape women and girls to establish fear among people, to coerce them to leave their houses, and also to dishonor rival ethnic groups. S.G., around 38 years old, a woman who lives in Sher-e-Kona, was raped by a Junbish militant in the winter of 1993. Here is part of her testimony:

When the war started some of our neighbors who had money left the area and went to a safe place or outside the country. But many people like my family did not go anywhere. Junbish commanders who controlled the area named Khoshhal and Smahel, they kept asking people to leave the area. It was a winter day when Junbish commanders gathered all the men and asked them to leave the area. People answered them that they do not have money to go. On the night of that day, around 10pm our door was knocked on and pushed open by force; ten or eight gunmen came into our yard. My father and brothers went out, and militants beat them. Two of them entered our room. My sister-in-law and I were in that room. My father came in and told them, 'please anything you want I give you, kill all of us but do not do anything to my girls'. They pushed my father, they accused my father and brothers of being spies of *Shura-e Nazar* and for this reason we did not want to leave this place. One of the militants came to me. I had the Quran in my hand and asked him not to do anything to me but he lay me down and raped me. My sister-in-law fled to the basement. The other gunman followed her and raped her there. The day after, we left our house and for eight years we did not return (Interview with S.G., a resident in Shar-e-Kona, Kabul, June 1st, 2013).

More evidence shows that some other women in the same area were also raped on the same night by Junbish militants. In some cases it was gang rape. R.J. is 35 years old, she was only 15 when Khoshhal a commander with his gunmen entered her house and wanted to rape her. R.J. ran to the roof and threw herself off. Militants thought she had died but her family found her in the morning when the militants left their house; she was in a coma, her back was badly fractured and she could not walk (Interview with R.J., a resident in Shar-e-Kona, Kabul, June 4th, 2013).

38 years old, was gang raped during the massacre in Afshar. She told that Ittihad commanders arrested all of her male family member on the morning of February 12, 1993, and how in the afternoon three gunmen came in their house. She was alone with her old mother, and they raped T. One soldier who beat her after the gang rape, told her:

Hazara Dokhter [Hazara girl], do you know who we are? We are Zulmay's men [one of Ittihad commander]. We rape you and other Hazara girls so that all you Hazara remember us and dread us, and in future never want to be in power" (Interview with T., a resident in Afshar, Kabul, June 8th, 2013).

Human Rights Watch and Afghanistan Justice Project in their reports also talk about the systematic rape in Kabul during the civil war. A former Shura-e Nazar official in an interview with Human Rights Watch talked about the crimes committed by one of Shura-e Nazar commanders Rahim "Kung Fu," and his militants against Hazara people in Kabul. He mentioned that Rahim killed many Hazara women and men and raped unknown numbers of women (Human Rights Watch, 2005, p. 57). The Afghanistan Justice Project writes in its report:

Every *Mujahideen* group fighting inside Kabul committed rape with the specific purpose of punishing entire communities for their perceived support for rival militias. Thus, rape, as well as other targeted attacks on civilians, was ethnically based. In many cases, it was used as a means of ethnic cleansing (2005, pp. 62-63).

Amnesty International, in its report about civil war in Afghanistan, documented rape and gang rape perpetrated by *Mujahideen* militants against women and girls in Kabul from 1992 to 1994. Amnesty International and RAWA's reports clarify that massive and systematic rape

and gang rape were used by fundamentalist militants as a trick and weapon of war against civilians. A 45-year-old Afghan refugee woman in Peshawar (a city in Pakistan) in late 1993 described the battle between *Hize-e-Islami* (mostly Pashtun and led by Gulbuddin) and Uzbek forces under the command of Dostum in the Deh Dana area of Kabul. The war took place in 1992 when she was living in Deh Dana; her place had been conquered a couple of times by each party in the battle. She talked about the atrocities committed by militants against the civilians of opposing ethnic groups:

These guards were only looking for Pashtun people, and would not actually kill non-Pashtuns. We were not Pashtun, so at least our lives were spared [...] The next day armed guards of Hizb-e-Islami came to us. They carried out a lot of atrocities. For example, a number of young women on our street were raped by them. One young woman was taken away by them and a few days later her body was found somewhere in the city (Amnesty International, 1995, p. 26).

Rape and gang rape were committed systematically and following orders; several survivors in the interviews said that commanders and militants who raped them noted that they had the order to commit rape and other atrocities. N. repeated the words of Junbish's militants when they attacked her house in Shar-e-Kona in 1993: "We have been ordered that your heads belong to our leaders and your honor and property belong to us. So you have no right to ask us about anything that we want to do" (Interview with N., a resident Shar-e-Kona, Kabul, Jan 2nd, 2013).

Some survivors' testimonies and reports of human rights organizations show that *Mujahideen* groups, regardless of ethnicity, treated all Kabul residents as enemies, because Kabul city, during the fourteen years of Soviet Union war,

was under the domination of the Soviet-supported regime. The *Mujahideen* government in the first days of its power announced an amnesty law, based on this amnesty they forgave crimes of sides involved in the conflict. Khalq and Parcham leaders who were involved in crimes against humanity benefited from this law and thus had the opportunity to escape from the country. Civilian residents of Kabul were considered to be the “communist enemies” by *Mujahideen* groups. This idea invigorated their Afghan and foreign leaders; for instance Rasul Sayyaf, the leader of *Ittihad* party in 1993 in one of his speeches through Kabul TV declared: “We want to destroy Kabul, because it was built by communists, and then we will build an Islamic Kabul”. Also General Akhtar Abdur Rahman, director of ISI (secret service of Pakistan) from 1980-1987, who supported and led Afghan *Mujahideen* during the war against the Soviets, said: “Kabul must burn” (Yousuaf and Adkin, 2001, p. 163). So, fundamentalist militants raped women in Kabul because they considered them as an “enemy”. As women in Afghan society are considered powerless and represent the honor of men, their status contributed to them being targets of rape. *Mujahideen* raped women in Kabul because on the one hand, they wanted to assault the honor of men in Kabul and humiliate them and, on the other hand, it displayed their power over people in Kabul and reminded them that they had been defeated for being the “communist enemy”.

Some interviews showed evidence that women were raped during the civil war in Kabul when trying to obtain their basic needs of life; women had to take care of their children and wounded people, they had to rescue their family from the cold weather and hunger. Many women were raped as they were carrying out their roles and responsibilities as mothers or caregivers. In early 1993, S. was a wid-

ow who fled from her house in Shar-e-Kona and was displaced within a mosque in Parwan province (North of Kabul). The weather was cold and she did not have food and enough clothes for herself and her children; so she decided to go back to their home with her male neighbor, so they could carry some supplies back. When she arrived at her house, all of her household goods had been looted, and a man named Na Nai was living there. He was a commander of Hezb-e-Islami. First she and her neighbor were accused of spying. After that, the commander raped her. S. explained that two other women in Shar-e-Kona experienced a horrible fate; when they went to get some of their needs they were arrested by gunman and after two days of rape were killed and their bodies were thrown into the street (Interview with S., a resident in Shar-e-Kona, Kabul, June 5th, 2013).

A RAWA report says that on April 10, 1996 a widow was gang raped by two militants when she was collecting firewood for cooking (2012, p. 268). P.G., a resident of Kabul lost her son when a rocket hit her house on May 24, 1996. Her husband Abdul Karim was injured in this incident. He was in the hospital and P.G. walked every day to visit him and bring him food. One day on the way home gunmen that belonged to the faction of Shura-e-Nezar raped her (Interview with P. G., resident in shar-e-Kona, Kabul, June 4th, 2013).

RAPE AND GANG RAPE IN POSTWAR

As previously stated in the post-Taliban years, *Mujahideen* leaders and commanders came back to power with the support of the USA and NATO troops. Right away, the new Afghan parliament wanted to approve an amnesty law, according to which neither the victims nor their families could seek justice from past crimes during the wars. Finally, “Parliament passed the National Stability and

Reconciliation Law in 2007, backed by a coalition of powerful warlords” (Human Rights Watch, 2009, p. 51).

According to an official from the Office of the High Commissioner for Human Rights (OHCHR), in the current conflict era rape is not used as a weapon of war against women (Interview with the official from the Office of the High Commissioner for Human Rights (OHCHR), August 12th 2012 in Kabul). The official states that despite the enormous number of rape cases around the country, there is no evidence that parties involved in the conflict (Taliban and NATO with Afghan security forces) use rape or other forms of sexual violence during their military operations. Other reports and documents regarding war and civilian abuse do not mention systematic rape in the current era between conflicting parties.

However, reports by human rights groups explain the dreadful rape cases in Kabul and other parts of the country. It is clear that rape and gang rape are not systematically used as weapons during present military operations such as during the civil war years, (though present day combatants have committed rape and gang rape), but numbers of other elements contribute to putting Afghan women and girls at general high risk of rape and gang rape. Furthermore, in the previous period, the perpetrators were mostly combatants, wherein rape occurred during military operations. Now perpetrators are unengaged combatants like commanders and their private gunmen, powerful men in various regions, police and other security forces, and non-combatants comprising family members, relatives, neighbors and civilians (people in the streets).

Interviews and reports by Human Rights Watch, Global Rights, and RAWA demonstrate that honor and revenge are the main forces putting women at great risk. Men are fighting each other and

when they want to take revenge upon their rivals, women are the ones who pay, because, as we repeatedly said, women and girls in Afghanistan are still considered the honor of men. In September 2005 Sara, who was a resident of the village Ruyi Du Ab in Samangan province in the North of Afghanistan, was raped by three gunmen. Now she is in Kabul. The rape had been ordered by a powerful local figure, a commander named Karim. He ordered the rape after Sara’s son Islamuddin refused to join commander Karim’s parliamentary election campaign in 2005. This is what Sara testifies. Some other reports say that the rape was the revenge of commander Karim after one of his relatives had been raped by Sara’s son Islamuddin (Human Rights Watch, 2009, p. 36).

In another case several gunmen, who are members of the American-trained local police, raped Lal Bibi, an 18-year-old girl. She was raped in her village in Kunduz province and now she is in Kabul asking for justice. Lal Bibi was gang raped after her cousin Mohammed Issa hid his relationship with a girl who is a relative of commander Nezaami, the leader of the local police in Kunduz province. Lal Bibi says that Mohammed Issa tried unsuccessfully to elope with the girl; they wanted to run away because he failed to pay the bride price to the girl’s father. Mohammed Issa managed to escape alone and Lal Bibi was then raped. After this incident Lal Bibi’s family wanted to kill her because they were thus dishonored by what had happened to her. However, Lal Bibi changed the scenario by arriving in Kabul and asking for justice (Interview with Lal Bibi in Kabul, June 10th, 2013).

Six men raped seventeen-year old Gul Chehrah M. in her house in Kabul. One of the men was her cousin who wanted to marry her. She had refused his proposal and got married to another man. After four years the perpetrators succeeded

one night in attacking her in her house. They killed her husband and raped her (Human Rights Watch, 2012, p. 71-72).

In some other cases, women and girls were raped because they were in the wrong place at the wrong time or supposedly did a “wrong” act. Najibullah, son of Haji Mohammad Payinda who is an Afghan MP and ex commander of Junbish, raped a 12-year-old girl Bashira when she was outside her house (Human Rights Watch, 2009, p. 39). Two men raped A.N. when they found her in the night alone in one of Kabul’s streets. She had escaped from her house because of domestic abuse and forced marriage, but she could not find a place to stay and remained in the street (Interview with A.N., in safe house, Kabul, June 10th, 2013). In the case of A.N. the court surprisingly accused her of *zina* (sexual intercourse by two individuals who are not married to each other) and sentenced her to two and a half years in prison. Now she has been released from prison, but her family refuses to have her back, they want to kill her. Thus A.N. is in a safe house. Human rights Watch denoted the court’s comment about another girl who had been raped in the night on the street and the Afghan court also accused her of *zina*: “The court in considering A.N.’s case, wrote, ‘A woman going out, especially at night, is followed by certain dangers [...] that women should know that it is unsafe for them to go out at night’” (Human Rights Watch, 2012, p. 70).

Two other men raped Marya K., a 15-year-old, in Kabul when she wanted to visit her mother in the hospital. She took a taxi that had another male passenger; the driver and the male passenger abducted her, brought her into a house in Kabul and raped her for days (Human Rights Watch, 2012, p. 68-72).

In some cases rape is used as punishment for the victim or her family. Eight

men who were bodyguards of a powerful commander Haji Rahim in North Afghanistan raped a girl named Samia. Haji Rahim prohibits school and literacy courses for girls. Samia’s father, a poor farmer in the village, disobeyed this order and sent his daughter to literacy class. Samia was kidnapped as she was returning home and over the course of ten days eight men raped her several times. Samia was raped because she was the only girl in the village going to literacy class (Interview with Samia, Kabul, June 12th, 2013).

AFGHAN INSTITUTIONS IN THE FACE OF SEXUAL VIOLENCE

In the interviews with the victims of sexual violence in war and postwar time, and in a review of reports by international and local human rights and women’s rights organizations, three elements illustrate the factors that contribute to putting Afghan women at risk of sexual violence: gunmen, weak law and tradition. These elements have different origins, however evidence shows that many times these elements work together and support each other. For example, a gunman forces a family to marry their daughter to him without the consent of the girl. He becomes the husband of this girl, and according to the tradition the wife has to obey her husband’s demands; she must have sex with him even without her consent. During interviews almost all women who had a husband mentioned that their husband many times had intercourse with them when they did not want to. Some women said that their husband beat and punished them when they refused to have sex, or they were treated badly by their husband and his family, resulting in the husband choosing to marry another woman. In that case, the first wife becomes a slave to the in-law’s family. In Afghan civic law nothing is mentioned about rape within marriage, and it is not considered a crime. Thus, this form of violence is legitimate

within a tradition in conjunction with weak laws that do not come to defend victims.

I compare these three elements with the three types of violence in Galtung's violence theory. Gunmen are the powerful men in Afghanistan who have guns; they probably belong to the Afghan National Army, Afghan Police, and paramilitaries, or they are commanders and powerful figures like warlords or drug lords that have formed their own private militias, or they belong to a Taliban faction and other insurgent militant groups. Gunmen are responsible for direct violence (Galtung, 1996) such as rape, gang rape, forced prostitution, forced marriage, child marriage and *baad*.

On June 10, 2013, the Afghanistan Independent Human Rights Commission (AIHRC) released a report, *National Inquiry on Rape and Honor Killing in Afghanistan* (2013). This report says that 91% of sexual assault and honor killings that occurred in the last two years were perpetrated by people who are gunmen or that had a connection with gunmen (AIHRC, 2013). Interviews with victims from civil war time along with special reports (Human Rights Watch, 2005; Afghanistan Justice Project, 2005; Amnesty International, 1995; RAWA, 2012) explicitly illustrate that gunmen and militants were primarily the perpetrators of rape and gang rape, forced prostitution. Also in the majority of forced marriage and child marriage gunmen were involved. Currently, even though militants are not the only ones who engage in sexual assault, the power of the gun has a strong role in rape and forced prostitution cases. Of the cases I interviewed or reviewed in reports, a majority of them involved gunmen having a direct or indirect role. Many types of sexual violence (forced marriage, child marriage and *baad*) in the current time occur because of family members or the community (elder *jirga*) forcing the issue, but the role of the gun

and gunmen in most of these cases is very clear: numbers of women in the safe houses mention that after they escaped from their homes because of sexual violence, their family or in-law family enlisted the support of commanders or other powerful figures in their region.

Mujahideen leaders, with the money and guns they obtained during the war against the Soviet Union, each supported their own local militias and men that were loyal. Through these thirty-five years of war, these people have risen as powerful commanders and figures in their respective regions. During the civil war they fought with each other around the country, and after the fall of the Taliban regime they came back into power again. USA and its NATO allies made a coalition with them against the Taliban. Now they are not simply commanders, instead they dominate all power structures in Afghanistan. Furthermore in the last 12 years [after the Taliban collapsed] the Afghan government and its international supporters have been remiss and seemingly disinterested in pursuing justice and rule of law. People who are being linked to war crimes occupy power. This condition puts Afghan women and girls at the highest risk of violence and particularly sexual violence.

The Afghan Constitution that was adopted in 2004 is, on paper, strongly supportive of human rights and women's rights (Constitution, Art. 7.22). However, the Afghan Civil Law (Civil Code) adopted in 1977 and the Afghan Penal Code adopted in 1976 are still existent and legal throughout the country though they are too vague, outdated, and do not have sufficient clarification regarding women's rights. These documents cannot defend and protect Afghan women from violence and particularly sexual violence. Afghan law and its judicial system work as a form of structural violence against women. For example, according

to Afghan Civil Law, a man can have more than one wife at the same time. Although this law specifies three conditions for a man who wants to marry again (Civil Law, Art. 87), these conditions are not so difficult and complicated: a man can easily manage a way around them. Secondly, these conditions mentioned are private and occur in private spaces (home) and no one, not even the law, can verify their existence. Additionally, Civil Law in some ways gives rights for a male family member to carry out child marriage and forced marriage; Civil Law article 70 specifies the age of marriage for a girl as 16, however article number 71 says if the girl is under age 16 her father has the right to marry her off (Civil Law, Art. 70-71).

In the Afghan Penal Code, there is confusion between *zina* and rape. The article 426 of the Penal Code defines *zina* as sexual intercourse between a man and woman who are not married. *Zina* is a criminal offense according to Afghan law, and both man and woman are to be punished if they have a sexual relationship outside of marriage (Afghan Penal Code. Art. 426). Article 429 of the Penal Code says that if the sexual intercourse occurs through violence and threat, it is rape (Afghan Penal Code. Art. 429). This perfunctory definition of rape is very tricky and causes a quandary; it is not difficult for a rapist to claim that intercourse was done voluntarily and not through violence, thereby marking the woman as a "sinner" instead of a victim requiring protection. At the same time, four male Muslims must be present in court to show proof of the rape act, which in most cases is impossible. Thus, it is not surprising that according to the Human Rights Watch's report around 400 women (HRW, 2012, p. 3) who are victims of rape must survive now in a Kabul jail as culprits of *zina*. Human Rights Watch writes in this report:

[...] police often treat a report of rape as an admission of *zina*, arresting the victim along with the perpetrator. Many police officers, prosecutors, and judges accept a mere counter-allegation of consensual sex to trump a complaint of rape and transform it into a complaint of *zina*, instead of treating consent as a defense that can be pleaded by a person accused of rape during a criminal investigation or trial. (HRW, 2012, p. 37).

Article 430 of the Penal Code assesses punishment for persons who force women to be prostitutes, however many women and girls who are victims of this act are blamed by police, sentenced for *zina* and then imprisoned. United Nations Population Fund (UNPFA) in the report *Police Taking Action on Violence Against Women in Afghanistan 2011*, alleges that "[t]his attitude and approach of police leads to very low reporting of victims of violence to the state agencies and reluctance of victims to file criminal charges" (UNPFA, 2011, p. 62).

On top of all this, in the Afghan Penal Code forced marriage, child marriage and *baad* are only forbidden but not punished so no accountability is demanded from the perpetrator. Therefore, it gives a free hand to anyone to continue these acts.

Women's rights activists in Afghanistan are aware of these gaps and defects in Afghan Civil Law and the Penal Code. They prepared the Law on the Elimination of Violence against Woman (EVAW), and President Karzai approved it on July 20, 2009, while the Afghan parliament was on its summer holidays⁹. Although there are still many controversial instances, at least this law has provided much clarification regarding gender-based violence and sexual violence. This law has a more specific and clear definition of sexual violence and

⁹ According to the Afghan constitution

openly bans rape, forced prostitution, forced marriage, child marriage and *baad*. Furthermore, this document specifies the state's different institutions that must take action to stop and enact prevention of violence against women (Law on the Elimination of Violence against Women, 2009). However, there is a general problem in Afghanistan, as with all societies experiencing war or those that are recently entering postwar, that the rule of law is very weak. Thus the realization of this law in the real lives of women is not easy. Rahima Rezae, head of family court in Kabul says: "the 'Law on the Elimination of Violence against Women' is still not officially recognized and no Afghan court uses this law to deal with cases of sexual violence" (Interview with Rahima Razai, Kabul, May 22nd, 2013).

On June 1st, 2013 the Law on the Elimination of Violence against Women was discussed in the Afghan parliament session; however the conservative parliamentary members disagreed with some articles of this law, and they found it contradictory to *Sharia* law. Article 23 of EVAW says: "If a person beats a woman which does not result in damages and injury, the offender in view of the circumstances shall be sentenced to the short term imprisonment not more than one month" (EVAW law, article 23, p. 25). Some parliamentary members claim this part is against *Sharia* law, because if beating does not damage and injure the woman there is no punishment for that in Islam. Article 27 condemns any personal act that prohibits a woman from marrying, article 26 prohibits forced marriage and 37 condemns polygamy; all these articles were refuted by the Afghan parliament, saying these contradict Islam. Thus, here religion is used to legitimize direct violence and so is a form of cultural violence.

ACTION TO STOP AND PREVENT SEXUAL VIOLENCE IN AFGHANISTAN

Under the most violent conditions it is possible to find and meet some actions that can terminate violence and transform it into peace. When we look at war we see men and women that perpetrate violence; however in the meanwhile there still exists men and women in the war and postwar years that endeavor for peace and try to stop violence. We talk here primarily about those peace actions that are collective and more organized. For sure, these types of actions are calculable and have stable and comprehensive results. Nevertheless we cannot disregard individual efforts for peace and the ending of violence. Many people during war operate their competencies and capacities to organize their relationships in peaceful ways.

During my interviews with victims of sexual violence in the Afshar district, everyone talked about the action of three neighbors during the massacre in the area. These three families were non-Hazara residents in Afshar at that time; two of them were Pashtuns and one family was Shamali (Tajik). In the Afshar massacre Ittihad militants (Pashtuns) and Jamiat and Shura-e Nazar militants (Tajiks) targeted Hazara and shi'a people. Commanders and militants would only enter Hazara houses. Non-Hazaras were safe. So, these three families hid many Hazara people in their house. They told militants that these families had earlier escaped from Afshar (Interview with L. S., a resident in Afshar, Kabul, June 11th, 2013). M. O., the Pashtun resident who saved the lives of a number of his Hazara neighbors says:

I asked all my neighbors to send their women and girls to our house; I can see most violation but raping and other sexual assault on women or young girls is impossible to accept. How I should have accepted, they were Hazara women and

girls but I knew them. They are like my sisters and daughters (Interview with M. O, a resident. in Afshar, Kabul, June 13th, 2013).

Saber, a Tajik resident whose father gave safe haven for Hazara women mentioned that he was a 7-year-old boy when the Afshar massacre occurred. Saber remembers his father's effort to rescue other people, saying:

When Shura-e Nazar militants came in our door, my father told them that we are from Shamali, militants accepted and went away. But in the evening Ittihad militants came and they told my father that they know some Hazara are in our house. My father told them if they want to enter first they should kill him. Militants got angry and beat on my father's chest with guns, but they did not enter our house (Interview with Saber, a resident in Afshar, Kabul, June 13th, 2013).

Evidence also shows the help of doctors, aid workers and civilians after they had been raped. After the fall of Taliban the new situation gave opportunity to some women's rights activists and NGOs to work more systematically and seriously against sexual violence in Afghanistan. Some of these people and groups took radical action and in their speeches and statements asked openly for justice, accusing *Mujahideen* leaders who were responsible for the civil war and violence including sexual violence against women. Malalai Joya is one of the Afghan women who arrived as a representative from Farah province in the *loya jirga* of 2003. Joya demonstrated against the presence of *Mujahideen* leaders in the *loya jirga* and said that these leaders are criminals and rapists of Afghan women, that Afghanistan cannot establish a democracy and promote women's rights with a government full of these criminals (Interview with Malalai Joya, Kabul, June 19th, 2013). Joya became a heroine for the Afghan people. She was elected to the

first Afghan parliament in 2005 where her strong speeches in support of women's rights in the parliament prompted other conservative members to oust her from parliament in 2007. After that time she became a peace activist, and one of her efforts is to help and assist Afghan women and girls who are victims of sexual violence.

Samia, who was raped by eight men that were bodyguards of a powerful commander Haji Rahim in North Afghanistan, says after she was raped nobody believed her. Haji Rhim has since lost power. He accused Samia of *zina* and put her in jail for some days. Samia was released from jail and Joya met both her and Bashira, another girl who had been raped by Najibullah, son of Haji Mohammad Payinda, and an Afghan MP and ex commander of Junbish. Samia says neither she nor Bashira had any hope but Joya's message was very strong and supportive for them. Joya offered her bodyguards and house to protect both. Joya says: "I tried to change Samia's and Bashira's feeling and energy; they feel themselves to be victims without power. They put all their energy into crying and self-blame. I encouraged them to raise their voices, not to feel shame but to be strong" (Interview with Malalai Joya, Kabul, June 19th, 2013).

When I interviewed Samia she was hopeless because of her case in the Afghan court. She said that only two of her rapists were jailed for a short time, but then released without her consent, and the others were never arrested. This is due to the fact that commander Rahim has more power now. However this does not hamper her. Her hope is to establish a school for girls in her village and raise awareness about women's rights and justice (Interview with Samia, Kabul, June 12th, 2013).

RAWA is one of the oldest women's organizations, established in 1977.

RAWA has documented the violence against women including sexual violence since the Soviet invasion and the civil war. RAWA, through their magazine, webpage, and other social networks, established awareness around the world about the pain of Afghan women; RAWA's activity during the civil war and Taliban time was particularly significant. They collected hundreds of rape, gang rape, forced prostitution, forced marriage and child marriage cases when hardly any media anywhere in the world was paying attention to Afghanistan. At the current time, RAWA's webpage continues to keep the world informed about the story of women and girls who are victims of sexual violence. A RAWA member says:

We always try to be the voice of voiceless! Women and girls who are raped or sexually abused are forced to be silent; on one hand Afghan conservative society blames women for all sexual acts. In many cases society justifies the rapist's act, they accuse women, saying that they were in the wrong place at the wrong time or women dress in such clothes that provoke men to rape them. On the other hand the patriarchal system supports and maintains this culture through their political representatives who in Afghanistan represent fundamentalists groups (Interview with RAWA member, Kabul, June 18th, 2013).

RAWA, besides providing worldwide awareness about sexual violence in Afghanistan, helps to raise consciousness among victims and empowers them to struggle to achieve justice and women's rights. RAWA believes: "we cannot only fight to stop rape and sexual violence, if we want to end sexual violence and violence at all in Afghanistan, it needs a political and cultural struggle through Afghan women" (Interview with RAWA member, Kabul, June 18th, 2013). RAWA

establishes underground classes for women and girls to empower them.

Some women's groups and NGOs are offering humanitarian facilities for sexual violence victims, such as safe houses and advocacy. Humanitarian Assistance for the Women and Children of Afghanistan (HAWCA) under the directorate of Salay Ghafar and some other women's rights activists established a safe house for sexual and gender-based violence victims in early 2004. HAWCA was the first women's organization that took initiatives and despite serious threats provides a safe place including advocacy, psychological treatment and literacy classes for women victims. After HAWCA several women's organizations have started to provide a safe house for women, not only in Kabul but also in a number of provinces like Mazar-e-Sharif, Herat, Bamyan, Kunduz, Badakhshan, Sarpu and Jalalabad (Interview with Salay Ghafar, Kabul, June 20th, 2013).

Now there are twelve safe houses run by women's activists in Afghanistan; seven of these houses working under the administration of Women for Women. Manizha Naderi, director of the women's organization claims that the main concern that has driven her to establish safe houses was the pain of sexual violence victims. Naderi states: "young girls and women raped by commanders and paramilitaries got no assistance from the Afghan government that is very weak and unmotivated to ask for justice for these victims. Thus, it is the responsibility of civil society to defend women's rights" (Interview with Manizha Naderi, Kabul, June 19th, 2013).

CONCLUSION

Gender relations in the country were formed mostly under two institutions: religious and tribal traditions. Women are considered part of the honor of the

family, tribe and community. Men have the responsibility as protector of women, homeland and treasure. Some other tribal norms and traditions isolated women from the public sphere and female bodies were considered as a kind of wealth to protect. The honor of the community and isolation from public space created a typical masculine patriarchal society that put Afghan women at high risk of violence and sexual violence.

Evidence and reports illustrate that sexual violence was present in the decades of war and now in the postwar era in Afghanistan. During the civil war in Kabul city from 1992 to 1996 unknown numbers of women and girls were sexually abused. Some districts of Kabul city were more affected by war; Shar-e-Kona and Afshar are examples of these. They are areas that witnessed mass rape and other forms of sexual violence. The dark phenomenon of rape and sexual violence arrived in postwar time as well; numbers of Afghan women victims of sexual violence are surviving in safe houses.

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Meanwhile Afghan women, despite the enormous barriers and oppression, have tried to participate in political, social and economic activities. Afghan women, whether in a political or social movement or whether individually have been rais-

ing their voices against oppression and misogynistic action.

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