

ABSTRACT:

Title of Thesis: Lethal Patriarchy: How U.S. Intervention Institutionalized Violence
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Sabrina Bilimoria, Bachelor of Arts, International Studies & Psychology,
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Over forty years of political instability in Afghanistan have affected women's rights drastically. The United States' civilizing mission during their 2001 invasion was predicated on establishing democracy and human rights, with a special focus on women's rights. However, closer examination of the democratization attempt and empowerment programs conducted by the U.S. shows that the U.S. overlooked the most egregious human rights violation — violence against women. By leaving women's rights unaddressed and through the establishment of a government overrun by warlords, the U.S. effectively facilitated the institutionalization of violence against Afghan women. Even efforts such as the inclusion of women in the Afghan government have backfired as women's empowerment efforts by proving yet another space for women to be threatened and exploited. The U.S. established a patriarchal government that perpetuates a system of violence against women by forgiving and facilitating violence against women.

Lethal Patriarchy: How U.S. Intervention Institutionalized Violence Against Afghan Women

By

Sabrina Diana Bilimoria

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Thesis Committee:

Doctor Juan Cole
Doctor Anthony Marcum

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Dedication

To all the strong women in the world working to overthrow the patriarchy.

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Chapter 1

Lethal Patriarchy

1.1 Research Topic and Question

Upon the backdrop of over forty years of political instability, Afghan women's rights have been a topic of domestic and international political discourse. Women's rights became a marker for the many different political ideologies that have taken hold within the country through years of conflict. Most recently, the U.S. used women's rights as a war cry to justify intervention and democratization in Afghanistan in 2001. This rhetoric suggested that the U.S. would end the Taliban's violent oppression of women and establish gender equality through access to healthcare, education, and economic opportunities. Scholars have debated the relative failure of the U.S. democratization effort to establish a truly democratic system (Goldstein 2012; Johnson & Piombo 2007; Lafraie 2011). Within this critique is the question of how well gender equality has been established. The 2004 Constitution of the Islamic Republic of Afghanistan, written with the help of the U.S., enshrines gender equality and equal opportunity in education and politics for both men and women. Afghan women can now serve as members of parliament, presidential cabinet members, and in regional offices. However, gender equality remains a distant goal. Despite the goal to empower Afghan women as a whole and end the era of violence against women under the Taliban, currently an estimated "87 percent of women in Afghanistan experience physical, sexual or psychological violence during their lifetime, with 62 percent experiencing multiple forms" (UN Women 2017). The current average literacy rate for women in Afghanistan has been estimated between 17 and 32 percent (UNICEF 2016; UN Women 2017). The United Nations Children's Fund estimated that in 2015, 1 in 52 women were at risk of pregnancy related death (UNICEF 2016). While these numbers are a compelling representation

of the abysmal state of Afghan women's rights, it is difficult to accurately calculate or quantify many of these markers. This is especially true for examining practices of gender-based violence, as much of this occurs behind closed doors and goes unreported.

This thesis addresses why the U.S.-led democratization effort failed to establish women's rights. Specifically, this thesis asks: how did U.S. intervention perpetuate a system of violence against women? This thesis will investigate the role of the U.S. in perpetuating widespread practices of violence against women despite its goal to empower women and promote gender equality at the institutional level. While NATO and other international powers have been involved in the reconstruction of Afghanistan in the post-Taliban era, the focus of this thesis will be the role of the U.S. as the driving force in toppling the Taliban. While Afghan women have struggled to achieve a number of basic rights, the focus of this thesis will be on violence against women. This thesis examines the institutionalization of patriarchy, which I will be describing as *lethal patriarchy*. This term combines the practices and effects of institutional (or structural) violence and patriarchy, where structural violence is violence perpetuated by a social institution that prevents marginalized individuals from meeting basic needs and patriarchy refers to a social structure where men hold power (Galtung 1969). I am defining lethal patriarchy as a system where violence is the root of women's oppression, a tool of women's oppression, and an act of women's oppression. By lethal patriarchy, I do not mean to suggest a sort of arbitrary genocide of women, but rather a system that has so little value for women's lives that it will kill women to maintain its own power. Under a lethal patriarchal system, the threat of violence, as well as violent acts themselves, are forces that keep women from acting with agency and autonomy; this is a system that often drives women to take their own lives to avoid a life of abuse. It is, therefore, impossible to consider other rights such as education, civic engagement, and economic

empowerment without addressing the system of violence that directly prevents women from freely and peacefully engaging in the public sphere.

I have three main objectives with this thesis. The first is to evaluate institutional violence against Afghan women as a product of a misrepresentation of Afghan women and an oversimplified colonial idea of what Afghan women need to be empowered. I aim to dismantle this trope of Afghan women as a monolith of helpless women in need of saving. This evaluation will be done in the context of the parallel development of U.S.-led programs that attempt to empower women and a government that produces legislation that openly facilitates violence against women. To clarify, the purpose of this thesis is not to evaluate practices of violence against Afghan women, nor to speak for or make statements about the lived experiences of Afghan women. Rather, the purpose of this thesis is to examine the legacy of U.S. intervention on women's rights within the context of claims that this intervention had a humanitarian component to it.

My second objective is to complicate the notion that Islam and a regressive Afghan culture are the root of women's oppression. In arguing that the U.S. had a hand in institutionalizing lethal patriarchy, I reject the notion that Islam is the root and perpetuating force of violence against Afghan women. In this thesis, I will not debate the texts or practices of Islam. While I may reference concepts within Sharia, I will argue that as with any religious texts, these concepts are open to interpretation. I will argue under the framework that it is precisely the ability to loosely interpret these concepts within a patriarchal power structure that allow them to work against women (Toor 2011). This thesis will be grounded in a framework that suggests that Islam is neither inherently misogynist nor a barrier to democracy. From the standpoint of democracy, discussion of the implementation of democracy and the rule of law suggests that it is

possible for equality under the law to be practically applied to any cultural context, so long as the legal and cultural histories are taken into account in structuring the government and legal system (Grina 2011).

At a broader level, my third objective is to challenge the notion of humanitarian political intervention. This is to emphasize the importance of understanding Afghan women's rights in the post-Taliban era as a case study of the effects of international intervention. This case is emblematic of the patriarchal nature of international power politics. Just as an externally imposed democracy is inherently undemocratic, externally and artificially imposed gender equality efforts fail for a number of reasons that amount to an inability to create a comprehensive and contextually relevant program.

In this thesis, I will examine both the establishment of a lethal patriarchal system and the failure of U.S.-led empowerment efforts to disrupt this system. As will be presented, violence against women, especially domestic violence, is facilitated by policing women's autonomy and stripping women of their agency. National policies created by the U.S.-imposed government have created an empty promise of women's empowerment that claims to grant women equal status and allow women to participate in education and politics. However, in practice, policies created by the same government push women into the home where they are subjected to various forms of domestic violence and have no ability to escape. Further, programs aimed at bringing women into the political sphere as a tool of empowerment were predicated on the false misconception that Afghan women will agree on one way of promoting women's rights and will be able to successfully fight for that agenda. The history of Afghan women's rights is a necessary context within which to understand its current state. The following history will contextualize Afghan women's rights at an institutional level.

1.2 Brief History of Afghan Women

Women's rights in Afghanistan have been a point of contention over the last century. Specifically, the status of women's rights has been debated within the context of changing political climates and attempts to modernize the nation. Women's rights have been the platform upon which modernists and traditionalists have asserted political authority and social influence. Advancements in women's rights have not only challenged patriarchal orders, but have come alongside regimes and political ideologies of modernization and later of Soviet Occupation that have further challenged tribal political authority. Thus opposition to women's rights and to imposing regimes often occurred in parallel. Therefore, it is impossible to separate the history of women's rights from the political contexts in which they have been debated and have evolved legally. Ahmed-Ghosh argues that women's empowerment must be understood through the conceptual framework of the family (Ahmed-Ghosh 2003). She argues that empowering women to be educated and work outside the home requires a restructuring of family structure that requires women to serve only as an integral member of the family, and in some cases as a community member (Ahmed-Ghosh 2003). This understanding of the role of women is the basis of patriarchal control of women's lives because it puts men in charge of both families and the larger communities in which they exist.

Gradual moves towards granting women rights and freedom from certain violent and oppressive practices began under the Afghan monarchs of the late nineteenth and early twentieth centuries. Efforts to modernize Afghan laws regarding women's rights dates back to King Abdur Rahman Khan who ruled from 1880-1901. Reportedly, he believed that women were meant to be "subservient to men" but should still be afforded rights (Ahmed-Ghosh 2003). In line with Sharia, Abdur Rahman afforded women rights to their father's and husband's property (Ahmed-

Ghosh 2003). Further, he reformed customary marriage laws to allow the right to divorce, raised the minimum marriage age, and “abolished the custom forcing women to marry her deceased husband’s next of kin” (Ahmed-Ghosh 2003). Abdur Rahman’s wife was the first queen to appear in public unveiled. His son, Habibullah Khan was influenced by modernist interpretations of Islamic law that viewed women as equal citizens and assets to future generations (Ahmed-Ghosh 2003). Habibullah opened schools for girls and his wives also participated in the public sphere in Western clothes without the veil (Ahmed-Ghosh 2003). Habibullah legislated a price ceiling for wedding celebrations to keep families from going into debt (Ahmed-Ghosh 2003). Habibullah’s modernizing agenda led to his assassination as part of a backlash by tribal leaders who operated “patrilineal and patrilocal kinship systems” and saw his reforms as challenging their power (Ahmed-Ghosh 2003).

Habibullah’s successor, King Amanullah Khan began a modernizing mission in the wake of defeating British control in Afghanistan. Amanullah wrote Afghanistan’s first constitution in 1923. Alongside his wife, Queen Soraya, Amanullah openly advocated for women’s rights and for universal education for both boys and girls across Afghanistan (Kolhatkar 2002). Together they campaigned against the veil and polygamy, and instead advocated for women’s education, employment, and freedom to dress without the veil and as they please (Ahmed-Ghosh 2003). Amanullah and Soraya’s modernization efforts were mostly enjoyed by the elites of Kabul. However, despite the wave of modernization sweeping across other Muslim nations at this time, such as Turkey and Egypt, Amanullah faced heavy backlash by mullahs and tribal leaders who felt their policies were un-Islamic and betrayed Afghan culture (Ahmed-Ghosh 2003). The push towards increasing women’s agency and autonomy was seen as a direct attack on the authority of community leaders and an obstruction of their hierarchical patriarchal orders. Though most

women who enjoyed the freedoms promoted by Amanullah were elite urban women, even the notion of women acting in the public sphere, especially unveiled, was seen as tarnishing their honor. After Amanullah abolished polygamy and raised the age of marriage to 18 years for women, tribal leaders came together to pressure Amanullah to reverse his policies, which led to his abdication and exile in 1929 (Ahmed-Ghosh 2003). Rural schools were shut down and women were forced back into the veil and mullahs asserted their power over their communities more firmly by making decisions on women's rights. Nadir Shah's successive four-year reign saw the introduction of a second constitution and a subtler push towards women's rights. Nadir Shah's attempt to avoid conflicts with tribal elders while establishing schools for girls was ultimately met with violent backlash that led to his assassination (Ahmed-Ghosh 2003).

Ahmad-Ghosh argues that the reforms attempted by this early line of kings was rejected by mullahs and tribal leaders as an assault on their authority within their communities (Ahmad-Ghosh 2003). This was the first sign of women's rights being mediated by both class and the rural-urban divide, specifically between Kabul and the rest of the country. King Mohammad Zahir Shah's forty-year rule from 1933 to 1973 marked an expansion of Afghan women's rights in law and practice. Zahir Shah saw the benefit of women working outside the home as part of a larger goal of development and modernization for Afghanistan (Ahmad-Ghosh 2003). In the 1940s and 50s, the veil was made optional and women began attending schools and universities and pursuing professional careers, namely as teachers and doctors (Kohlatkar 2002). Zahir Shah passed a new constitution in 1964 that enshrined women's suffrage and the ability to participate in politics. This reform paved the way for women to make up 15 percent of legislative positions in the 1970s (Kohlatkar 2002). Zahir Shah's reign also saw the birth of the women's organizations, such as the Democratic Organization of Afghan Women (Ahmad-Ghosh 2003).

Modernization continued under the Soviet-backed regimes of the People's Democratic Party as well as Soviet invasion in the late 1970s and was met with the strongest wave of rural patriarchal opposition. This era was the beginning of full-fledged war based largely on the debate over women's role in society. Modernization and subsequent policies to empower women led to the rise of strong, violent tribal backlash that provides the foundation for much of the modern political context of this thesis. Soviet invasion and subsequent policies aimed at raising the marriage age and expanding education for women were seen as a direct attack on and upheaval of traditional life (Kolhatkar 2002). The murder of educated and Western dressing women during this era is an early sign of the desire and willingness to kill women who challenge male authority, particularly traditional rural tribal patriarchal authority (Ahmad-Ghosh 2003). While women's education and economic opportunities were advanced by the Soviets, this was upon the backdrop of brutal war. The advancement of women into the public sphere was seen as an attack on Afghan values and helped fuel the Mujahedeen movements (Ahmad-Ghosh 2003).

The Mujahedeen movements funded by the U.S., Iran, Saudi Arabia, Pakistan, and China were violently against the advancement of women into the public sphere. This provides a unique irony to the later U.S. intervention to topple the Taliban in support of women's rights because it was precisely the patriarchal movements funded and armed by the U.S. that violently reclaimed power over women's bodies as they fought for power over the Afghan state. Civil war broke out in the wake of Soviet retreat. Under Burhanuddin Rabbani's regime, women were officially declared second class citizens and were required to wear the veil. Women who did not wear the burqa were punished with amputations, floggings, and public executions (Kolhatkar 2002). The violent crackdown of women's freedom dramatically limited their ability to freely move outside the home (Larson 2015). Torture, murder, and rape became commonplace. Many women turned

to suicide to avoid the horrors of rape and forced marriages (Ahmad-Ghosh 2003).

Though the Taliban brought stability to some areas of Afghanistan, relative to the previous period of war, little changed for women. Women were required to wear the veil and were prohibited from travelling without *mahram*, or a male relative. Through years of conflict many women have been left widowed which puts them at great risk of poverty, as their financial stability was linked to their husbands. Girls and young women left without fathers or other male relatives had little hope of accessing the public sphere, where education and economic opportunities were already outlawed for women.

During the conflicts of the 1980s and 1990s, warlords on all sides were guilty of violence against women. Warlord Gulbuddin Hekmatyar, who received 50 percent of U.S. funding, was known for acid attacks against women who did not wear the veil (Hirschkind & Mahmood 2002). Hekmatyar would later go on to be a member of the Constitutional Loya Jirga and a member of the Afghan Parliament. The U.S.-backed Northern Alliance was known for their widespread rape of girls and women of all ages (Hirschkind & Mahmood 2002). Yunus Qanooni, one of the founders of the Northern Alliance was given power in the Interim Authority by the Bonn Agreements and has since held positions of high authority in the current Afghan government. Warlike conflict in the wake of the retreat of the Taliban led to raping and pillaging by other warlords vying to reclaim power (Kolhatkar 2002). Even after the fall of the Taliban, the burqa symbolized “the level of insecurity women [felt] more than a women’s rights issue” (Riphenburg 2003).

This history serves to show an unrelenting debate about women’s rights that ultimately culminated in a violent backlash against the idea of women’s rights and women themselves. The concept of women’s rights is tied to a political history that underlies the post-Taliban fight for

women's empowerment. Violence against women as a systematic practice is integrally linked to political power and therefore cannot be considered in isolation. The Mujahedeen and Taliban regimes serve as a fitting example of lethal patriarchal systems, where women are killed to sustain a specific brand of patriarchal power. I will argue that the lethal patriarchal system is not abolished when the Taliban was overthrown, but has taken a new manifestation, where the exercise of women's autonomy in a way that goes against the new patriarchal order is still seen as a threat to the system that needs to be eradicated.

1.3 Methodology and Overview

The purpose of this thesis is to look at larger systems of international political intervention and gender equality as concepts that look vastly different in theory than in practice. For Afghan women, gender equality only exists on paper, as the status of women's rights in Afghanistan actually varies greatly by class, region, and socio-economic status. In Afghanistan, women's oppression stems from a deeply rooted system of violence which manifests itself as a severe human rights violation as well as the root and method of perpetuating male hegemony. Violence is used to keep women from accessing all other rights, such as health, education, and economic opportunities, that would allow them to actively participate in the public sphere. By beating women into submission, patriarchal power structures are able to sustain themselves without being disrupted by the dissenting voices of the oppressed. This thesis will focus primarily on the national level of violence against women as a legally sanctioned practice. Violence as a tool of oppressing women to maintain political power became part of a centralized government policy under the Taliban, however, the legal facilitation of violence has been more formally integrated into legislation and practice under the current government. This thesis will analyze the ways in which this more centralized and internationally recognized government has

both implicitly and explicitly facilitated the practice of violence against women.

Chapter 2 analyzes the U.S.'s approach to democratization in Afghanistan, specifically focusing on the transition government, the writing of the 2004 Constitution, and women's empowerment programs funded and run by the U.S. This chapter outlines how the U.S. established the institutional framework for a government that perpetuates lethal patriarchy. This chapter also discusses how U.S. funded empowerment programs failed to address violence against women at a systemic level and ultimately failed to uplift all women in Afghan society. This chapter will present U.S. political discourse and government reports discussing these empowerment programs. These empowerment programs were meant to serve as an integral step towards the goal of empowering Afghan women. The failure of these programs to uplift all Afghan women was compounded by the parallel establishment of institutions that directly disenfranchise all women. This chapter highlights the problems with how the U.S. conceptualized Afghan women, specifically how thinking about women as needing saving guided the creation of programs and legislation that attempt to empower women, but only further disenfranchise them.

In chapter 3, I discuss the codification of violence against women as a direct result of the institutions established with the help of the U.S. Specifically, this chapter will dismantle the idea that Islam is the root of misogynist laws by drawing out the influence of the patriarchal structures established by the U.S. This chapter reveals inconsistencies between the 2004 Constitution and national laws that openly legislate violence against women and the policing of women's agency. Chapter 3 also presents legislation aimed at curbing violence against women and deconstructs the failed implementation of these policies. These chapters will discuss the institutionalization of patriarchy into Afghanistan's national government and how these systems that have worked to

strip women of their autonomy in both the public and private spheres since the establishment of the current government.

Chapter 4 centers Afghan women's voices in a more nuanced discussion about women's rights and democratization in Afghanistan. This chapter will present memoirs, speeches, quotes, and articles by Afghan women politicians. This chapter will discuss the unintended consequences of U.S. policies that aimed to increase women's political participation by allocating seats and positions for women in national and regional governments. I demonstrate that for Afghan women, having a seat at the table is not enough to reverse the deeply rooted systemic practice of violence against women. In this chapter, I argue that the inclusion of women in government was meant to empower women, but instead has created another avenue for their exploitation. While important, the premise of this policy plays into the notion that Afghan women are a monolith, but simply giving certain political seats to women does not uplift Afghan women as a whole.

Chapter 5 will conclude the thesis with a summary and implications for the future of women's rights in Afghanistan. Further, in this chapter I use the evidence presented in this thesis as a case study to argue against the notion of political humanitarian intervention and provide implications for what the international community can learn from the case of Afghan women. On a whole, this thesis will argue that the U.S. democratization effort upheld and institutionalized patriarchal political power dynamics that directly disenfranchise women and facilitate and forgive violence against women.

Chapter 2

Laying the Foundation: Establishing a System that Fails Women

2.1 Introduction

The U.S. approach to democratization in Afghanistan outlined women's empowerment as a key goal. The U.S. had two primary focuses in working towards establishing gender equality. First, the U.S. government was heavily involved in laying the foundation for the current government. This chapter will briefly discuss the establishment of the current Afghan government and the process of writing the 2004 Constitution as it relates to gender equality efforts. In this discussion, I evaluate the effectiveness of institutional policies and programs created with the intention of engaging women in government. This chapter lays the foundation for further discussion of the importance of fully inclusive democratic institutions. This point is further complicated by the fact that U.S. involvement in the establishment of the Afghan government inherently rendered this process undemocratic.

The U.S. government, largely through programs such as USAID, also funded women's empowerment programs that focused primarily on economic empowerment and civic engagement. In this chapter, I will evaluate on a whole the many empowerment programs funded under the Bush administration, focusing on the projects conducted during the period of transition in Afghanistan (2001-2004). Within this discussion, I will highlight discourses from the U.S. government regarding the importance of funding these projects and the goals and motivations of these programs. I will evaluate these programs and discourses under the pretext that achieving the goal of gender equality requires structural changes that uplift all women.

Holistic women's empowerment efforts require acknowledging and addressing gender based violence is a form of institutional oppression that Afghan women face that prevents them

from engaging in the public sphere. As with democratic reform, engaging in such a wide-reaching effort requires the U.S. to both holistically understand the status of women in Afghanistan and to understand Afghan women as a diverse group. Afghan women are not a monolith and empowerment efforts should not treat them as such — class, region, ethnicity, tribal affiliation, religion, and level of education all affect the experiences of Afghan women and how they are able to approach the public sphere. This chapter aims to lay the foundation for how the U.S. engaged with the issue of gender and democracy and how the institutions they established ultimately did not promote gender equality in practice. To accomplish this, I will cover the democratization effort as it relates to gender — touching upon the drafting of the 2004 Constitution — as well as simultaneous and subsequent U.S. women’s empowerment programs.

2.2 Democratization and 2004 Constitution

2.2a Patriarchy Becomes the Foundation of Democracy

The Bonn Agreements began the process of creating a new government for Afghanistan. Warlords and members of the Mujahedeen played an integral role in early discussions about reconstruction with the international community. The Bonn Agreements openly express their “appreciation to the Afghan mujahidin” for fighting “terrorism and oppression” and being “champions of peace” for Afghanistan (Bonn 2001). This began a trend of granting warlords significant political power — many of the same men who perpetuated systematic violence against women as part of maintaining a patriarchal social order. The Bonn Agreements recognize and thank Burhanuddin Rabbani, former president of Afghanistan, Mujahedeen leader, and head of the Afghan faction of the conservative, anti-woman Jamait-i-Islami Party (Bonn 2001). Hamid Karzai, who became Chairman of the Interim Administration by decree of the Bonn Agreements, worked as Rabbani’s cabinet as Deputy Foreign Minister. Some of the men who participated in

the Bonn Agreements and Interim Administration are the same warlords and Mujahedeen fighters the U.S. had been funding and training since the Soviet occupation (Marten 2007). The presence of the Northern Alliance was especially strong during the Bonn Agreements and continues to be. Yunus Qanooni and Dr. Abdullah Abdullah played founding roles in the Northern Alliance and were part of the Interim Administration; Qanooni was also part of the initial Bonn Agreement talks (Bonn 2001). The political empowerment of the Northern Alliance by the U.S. is ironic as a counter-terrorism move given the Northern Alliance's history of terrorist activities across Afghanistan (Murray 2001). Women's rights activists, such as Malalai Joya, have criticized the inclusion of the Northern Alliance in the reconstruction effort, citing war crimes it has committed against women and communities (Joya 2011).

Of the 23 Afghans involved in the UN talks that yielded the Bonn Agreement, only two women were included, Amen Afzali and Sema Wali and were chosen by a male-dominated delegation (Bonn 2001; Kolhatkar 2002). The thirty-person Interim Authority, which established the Emergency Loya Jirga, also only included two women, Dr. Sima Samar and Dr. Suhaila Seddiqi (Bonn 2001). At this time, women made up 60 percent of the Afghan population, but less than 10 percent of seats in early negotiations. Eleven percent of Emergency Loya Jirga seats were allocated to women; after elections, women held fourteen percent of the seats (Riphenburg 2003). Then President Karzai was given the power to appoint members to the Transitional Authority without any quota or allocated seats for women (Riphenburg 2003). This minimal representation of women in early peace-talks stands in direct opposition with the goals of the Bonn Agreement that directly state that the participation of women is necessary and important. The Constitutional Loya Jirga was a minimal improvement — 64 elected and 25 appointed seats (of 502 total) were allocated specifically for women (Thier 2007). The Constitution allocates two

seats per province to women in the Wolesi Jirga (lower house of Parliament) and requires 50 percent of the one-third of Presidential appointments to the Meshrano Jirga to be women.

Gender-based allocation of Parliamentary seats will be discussed further in chapter 4.

During the Emergency and Constitutional Loya Jirgas, ethnic and tribal rivalries became a platform upon which community leaders asserted their authority (Rubin 2004). Warlords and Mujahedeen members used intimidation as a tactic to assert themselves (Rubin 2004). Often, these men would claim that anyone who opposed them were betraying Islam (Riphenburg 2003). This tactic was used to silence and ostracize women, like Malalai Joya, who spoke out against corruption and abuse of power (Thier 2007; Joya 2011). This is an example of how, on a whole, efforts towards gender equality enacted during the reconstruction period amount to creating space for women in government, but this space is mediated and controlled by men. Afghans have criticized these reforms as simplistic reforms enacted to appease international donors (Billaud 2012). These simplistic reforms, however, do not go without strong implications for women. As will be further discussed in chapter 4, these reforms require women to operate within the patriarchal foundation of this government.

2.2b Ministry of Women's Affairs

The Ministry of Women's Affairs (MoWA) was established by the Afghan Interim Administration in 2001. The first Minister of Women's Affairs, Dr. Sema Samar, served as a Vice-Chair of the Interim Administration, as envisaged in the Bonn Agreements. Ironic to the establishment of this Ministry serving as a manifestation of an implied mission to protect women, Dr. Samar stepped down from her position after being falsely accused of blasphemy and receiving death threats. To this point, MoWA has been criticized both as an empty, symbolic establishment by the Bonn Agreements and a symbol of "hegemonic liberal Western views on

gender” (Billaud 2012). This suggests a far-reaching disdain for MoWA’s role within Afghan society. Popular understanding of MoWA as merely a symbolic institution is further compounded by frequently changing ministerial appointments and subsequent restructuring of the Ministry and its goals. Amidst the evolving mission and role of MoWA, they currently state their vision:

MoWA’s vision is creation of an Afghan society free of sexual discrimination, and its mission is growth of women, promotion of women’s leadership and their participation in all aspects of life, and women’s access to opportunities, services and facilities of growth and development. The Ministry plays a bridge role between women and the government; The MoWA is both a protector of women’s interests and profits in the country and responsible to empower and mobilize civil servant women’s human resources to contribute in the government programs (Ministry of Women’s Affairs).

Similar to women’s empowerment efforts under King Amanullah and King Zahir, MoWA takes a top-down approach to women’s rights and is rooted in an idea of the elite urban woman, as they make up the majority of MoWA staff (Billaud 2012). Thus, it may be unrealistic to expect MoWA to act as a “protector of women’s interests” when women’s interests vary by class and region. The Minister of Women’s Affairs is the only cabinet position that has consistently been filled by a woman, and has been at times the only cabinet position filled by a woman. MoWA currently employs the most number of women in middle management positions in the Afghan government (Human Rights Watch 2009c). Though MoWA has worked with parliamentarians to introduce and pass pro-women legislation, MoWA has only indirect legislative power through political influence.

The majority of MoWA’s work is reactionary to violence against women and does little to challenge systemic violence that Afghan women face. MoWA works alongside organizations like UN Development Fund for Women, Medica Mondiale, and the Afghan Women Judges

Association to establish and run development centers that offer healthcare, counseling services, and legal aid to women (HRW 2009c). MoWA has worked with women's shelters to protect victims of domestic violence and has been accused by its critics in Parliament for "encouraging girls to run away from home" (HRW 2009c). Government support and funding for women's centers are a step forward for Afghan women considering the history of violent targeting of such centers. However, these centers are reactionary to violence and do little to prevent the cycles of violence of which the women they treat are victims. Threats by parliamentarians to shut down MoWA or to kill its ministers are further evidence it operates within a system that is actively working to destroy it.

2.3 U.S. Aid and Women's Empowerment Efforts

2.3a U.S. Political Discourses

The U.S.'s dedication to helping Afghan women began with the Afghan Women and Children Relief Act of 2001 and the State Department Report on the Taliban's War Against Women. This Report discusses violence against women singularly as a product of the violent Taliban regime (U.S. State Department, 2001). The report discounts the complicated history of women's rights to suggest that the Taliban is the only source of women's oppression. This denial of the many tribal and community actors and forces that underlie the patriarchal system of violence against Afghan women allows for the U.S. to subsequently deny the role of the actors like the Northern Alliance in oppressing women. The purpose of the 2001 Act is to allocate funding for education and health care aid to women and children in Afghanistan and to Afghans living as refugees in bordering countries. This Act cites Taliban policies as "deny[ing] women full participation in society" and therefore preventing women from accessing education, work, and healthcare, and focuses heavily on health disparities affecting Afghan women and

implications for maternal and childhood mortality (U.S. Congress, 2001). While this Act correctly highlights the public-private divide of the Afghan social structure, this is discussed primarily within the context of how women being relegated to the home affects their health outcomes. The Act also emphasizes economic disenfranchisement women face from not being allowed to access education and work. This Act fails to mention women's security and gender based violence altogether. This Act not only fails to consider violence in the public sphere, but also dismisses the threat of domestic violence within the private sphere. Much of the physical, sexual, and psychological violence Afghan women face is at the hands of their husbands and other male relatives who customarily hold power over women's lives.

The State Department submitted annual reports to Congress on the progress of the Afghan Women and Children Relief Act from 2002-2004. Collectively, these reports classify violence against women as a security issue related to political instability. These reports propose that the improvement of Afghan military and police will help women feel a greater sense of security. This assertion ignores a number of realities about violence against women in practice. While a stronger military and police infrastructure will help establish community safety against armed warlords and their militias, these agencies are dominated by men and are often the perpetrating agents of state violence against women. Violence against women has historically been systematically committed by state actors during Taliban and Mujahedeen rule and as a tool for warlords and Mujahedeen factions to assert their power over communities when fighting to take over political power. Further, this assertion overlooks the fact that the majority of violence committed against women happens within the home and is perpetrated by families. In many cases, domestic violence instances fall out of the purview of the legal system, meaning that state institutions like the military and police can do nothing for survivors of such acts of violence.

These reports again deny the perpetuation of violence within the private sphere in suggesting that women are not able to access education and economic empowerment because of the threat of Taliban resurgence. This assertion similarly overgeneralizes women's issues to suggest that violence is solely dependent on either the Taliban's regressive policies or the broader security threats of political instability. This assertion overlooks the fact that the perpetuation of women's oppression is heavily rooted in the practice of keeping women inside the home. While years of war and systematic violence by the Taliban and Northern Alliance posed a major threat to women's safety, domestic violence that occurs in the private sphere represents a long-term threat to women's safety, rights, and progress. In oversimplifying the influence of the Taliban, these reports also claim that the establishment of Sharia into national law is the reason that Afghanistan does not comply with international human rights norms. These reports expect that the removal of Sharia will help the new government adhere to international human rights norms.

Shortly after the Afghan Women and Children Relief Act was passed, Representative Eleanor Holmes Norton addressed the House of Representatives in October 2001 about the "gender apartheid" in Afghanistan (Norton 2001). Representative Norton cites a dramatic shift in the status of women from the pre-Taliban era, explaining that women were treated as slaves under the Taliban. She insists that the U.S. must bring women into further discussions of restructuring the government. Representative Norton correctly identifies the institutionalized nature of gender discrimination in Afghanistan and suggests putting women "at the table [for future government talks]" after liberating them. Representative Norton proposes that the U.S. and the United Nations are the only hope for freeing Afghan women, claiming "There can be no freedom there if the United Nations and the United States do not yield to this plea of Afghan women" (Norton, 2001). Her statement contributes to pervasive rhetoric of a saving mission that

ultimately undermines the ability and importance of Afghans and Afghan women especially in being able to establish a democratic institution for their own community. Though having women at the table is not in and of itself a complete answer to systemic gender equality, it's impact is undermined by overemphasizing the power of the U.S. in Afghan reconstruction.

2.3b Empowerment Programs

The State Department reports on the Afghan Women and Children Relief Act also cite the success of a State Department sponsored project for The Asia Foundation and a French organization called AINA to produce a documentary about Afghan women. This project employed and trained Afghan women journalists in filmmaking. The documentary, "Afghanistan Unveiled" focuses on the experiences of women living under the Taliban. The State Department also sponsored legal clinics for Afghan women living in Pakistan as refugees. The purpose of this program was to train Afghan women lawyers to be human rights advocates and "to act as a counterweight to religious extremists" by teaching them "progressive Muslim views and models" (U.S. State Department, 2003). This program is an example of the contradicting views of how Islam should be incorporated into empowerment programs and government reconstruction.

These reports also highlight some especially niche programs that emphasize Afghan women interacting with communities in the U.S. One program brought Afghan women working as civil servants to the U.S. for leadership and computer trainings. The report does not detail the specifics of these trainings, but the transnational element of this training and changing cultural contexts for this training would inherently make it difficult to translate learnings to another context. The travel element to this program makes it inaccessible to women who live under extreme social taboos of leaving the home, let alone traveling outside the country. Similarly, another program brought Afghan women to the University of Nebraska to study farming

techniques. This program was meant to encourage women to work outside the home and participate in economic revival. This program does not consider the regionally variant social systems at play in different farming communities and how working in this sector could potentially put women at risk of violence when entering these structures. The U.S.-Afghan Women's Council fosters relationships between U.S. and Afghan women as a sort of professional mentorship program. This program assumes that business women in the U.S. would be working in a context comparable to the one that Afghan women would be. This assumption is another oversimplification of what Afghan women need to be empowered to engage with the public sphere and is patronizing in the assumption that they would need mentorship by Western women who face far fewer barriers to working in business. The social context in which Afghan women and U.S. women work is entirely different — namely, Afghan women face barriers to accessing the public sphere and physical risks once they are able to participate in it. This highlights a particular blind spot in U.S. understanding of the specific structural challenges Afghan women face and how empowerment programs can address them.

A 2006 Congressional Research Services report evaluates aid spending for women in Afghanistan. Much of the work outlined in report is for “economic, social, and political issues” (Margesson & Kronenfeld, 2006). Within this work, there is a particular focus on giving women access to jobs. This report reveals heavy allocation of funding for work on literacy, income generation, health, and gender based violence in refugee communities and for internally displaced peoples. This is one of few programs that addresses violence against women and focuses entirely on humanitarian work — much of this work is in partnership with the Red Cross and other refugee assistance organizations — rather than policy work that would have a more sustainable effect on gender based violence for these most vulnerable communities. While the

importance of addressing violence against women in refugee communities is important, U.S. programs are careful about when they will address violence against women at all. This report is indicative of the reluctance to address violence against women as a systemic and systematically pervasive problem within Afghanistan. Addressing violence selectively and primarily only in refugee communities further reinforces the idea that violence against women in Afghanistan is perpetuated from top-down perpetrating forces, like the Taliban and denies the deeply rooted systemic violence of patriarchal power structures.

While these programs empower Afghan women to help in community reconstruction efforts, the heavy hand of the U.S. and other international organizations in the planning of these programming begs the question of who these programs are really being run for. The U.S. government can use these projects to further disseminate rhetoric about the backwardness of Islam imposed under the Taliban that supports the U.S. saving mission in Afghanistan. While these programs may have been meaningful for the communities involved, the limited reach coupled with the U.S.'s ulterior motives suggest that these programs are not designed for empowering Afghan women as a whole.

2.4 Conclusion

U.S.-led reconstruction efforts only acknowledge violence against women as a function of the Taliban regime, suggesting that systematic violence against women would end with the ousting of the Taliban. The failure to acknowledge violence against women during the transition period left structural violence unaddressed, blindly allowing these systems to remain. Despite some U.S. political discourse highlighting structural violence against women, both aid programs and government reforms have failed to address gender inequality at a systemic level. By leaving violence against women unaddressed on an institutional level, the U.S., has let this practice

continue as a form of systemic oppression. The U.S.'s focus on economic and political empowerment without addressing violence against women and the social norm around the public-private divide, at best leaves the issue of gender based violence in the hands of the Afghan government, and at worst leaves it entirely unaddressed. The few times violence against women has been addressed by the U.S., it is discussed through a neo-colonial rhetoric of needing to save women from the Taliban. This rhetoric contributes to the civilizing ideology that suggests that U.S. intervention is a necessary humanitarian effort to save Afghan women from their regressive and backwards culture.

Overwhelmingly, government documents and reports discussing women's empowerment programs claim that the state of women's rights has improved drastically compared to under the Taliban. Many of these reports portray this as an immediate shift towards women being uplifted solely from U.S. presence in Afghanistan. Throughout the years, U.S. government reports make oversimplified claims of women's rights "improving drastically." Many of these programs focus on ways women can participate in the public sphere, but do not tackle the way that women as a whole are pushed into the private sphere. Civic engagement and economic empowerment can only work when women are allowed to be outside the home. Similarly, education programs are especially important for advancing women's rights, but if women cannot safely leave the home, having education programs in place does not help them. Further, these programs only engage a small and already privileged group of women. While much of this work is important, it does nothing for women as a whole because it fails to address violence as a tool for systemic oppression.

Many reports, when they talk about women's rights as an issue with its own history, discuss women's rights in the context of the rise and fall of the Taliban, suggesting that the

Taliban is the root cause of women's rights issues and that their continued oppression is due to Taliban presence and the lasting culture of the Taliban. This narrative suggests that the fall of the Taliban by the U.S. will inherently lead Afghanistan into a more progressive era, and in doing so underestimates the role of the new government in addressing systemic gender inequality. Most programs and reports group women's rights together with children's and refugee rights, which overlooks the fact that gender based violence and women's disenfranchisement is due to a patriarchal system and is more than just a symptom of war. Further, the emphasis on refugee communities allows for the U.S. to focus on short term humanitarian work rather than system changing empowerment work.

The U.S. must advocate for women by actually engaging the systematic pressures that oppress them. Leaving the implementation of "women's empowerment" up to those who have perpetuated these practices has only led to the institutionalization of violence against women. Inherent to an internationally imposed government, the U.S. created a nondemocratic excuse for a democracy. Even worse, however, the U.S. did not go through all the steps to establish a democracy — political participation is not enough, reform needs to address underlying issues at their root. Given the political structure of the Taliban, national institutions were lacking before U.S., which means that by nature the U.S. had a hand in institutionalizing everything that came to the national level. U.S. silence on violence against women has contributed to the quality of the democratic institution they established. That is to say that the U.S. was complicit in the establishment of a puppet government that welcomes participation by warlords and does not address violence against women. By failing to challenge the patriarchal social hierarchy, and instead using that framework to guide the formation of the new government, the U.S. institutionalized this system of patriarchy at a national level.

By focusing on the Taliban as the root of violence against women, the U.S. denies both the patriarchal root of structural violence against women and the role of warlords in perpetuating these systems. Specifically, the Northern Alliance, which the U.S. put in power, has a particularly strong influence in the current government. The government established through the Interim Administration and Transition Authority allowed for patriarchal powers to serve as the foundation for the new Afghan government that today functions under the 2004 Constitution. Chapter 3 will discuss how the institution established with the help of the U.S. has passed national level legislation that condones violence against women. This chapter will further discuss the implementation of the gender equality clause of the Constitution. It will also discuss specific laws passed at the national level that facilitate violence against women and how they reinforce now institutionalized systems of violence.

Chapter 3

Codifying Patriarchy: Legislating Violence Against Women

3.1 Introduction

This chapter will examine how violence against women has factored into legislation written by the Afghan parliament, specifically on laws that facilitate violence against women. The 2004 Constitution allows both the executive and legislative branches to propose legislation, but laws must be approved by a majority in both houses of parliament (Thier 2007). Therefore, the focus of this chapter, and this thesis overall, will be on the parliament as the institution that both establishes and reinforces patriarchal power structures through legislation. Though the judicial system has been complicit in upholding laws that facilitate violence against women, I will be focusing on the legislature as the branch of the government whose role is to write laws that fall in line with the democratic principles outlined in the 2004 Constitution.

This Chapter outlines the most egregious examples of how the legal system is used to police women's bodies and agency and further has even punished women for violence committed against themselves. It focuses on national legislation that addresses violence against women, and will include both attempts to curb violence against women and legislation that openly permits or helps facilitate legal forms of violence against women. Many of these laws have patriarchal biases which favor impunity for men and further punishment for women (the victims) in cases of violence against women.

Though regional customs and practices have historically permitted equally egregious forms of violence against women, this thesis will focus on national legislation. The purpose of this chapter is to examine the legislation written by the government put in place by the United States that institutionalizes violence against women, therefore the focus will be national

legislation. This chapter will not consider measures towards gender equality that have not directly been produced by the Afghan legislature. This includes international covenants that Afghanistan has ratified, such as the Convention on the Elimination of Violence Against Women (CEDAW), and non-legally binding action plans regarding gender equality, such as the National Action Plan for the Women of Afghanistan (NAPWA).

3.2 Contextualizing Parliamentary Legislation

To understand parliamentary legislation in the context of the 2004 Constitution, the distinction between constitutional and statutory law must be drawn. It is common for nations to not uphold rights provisions enshrined in constitutions, this is especially pervasive across nations for women's rights provisions (Law & Veersteg 2013). In the absence of accountability structures that directly hold the entire state accountable to its violation of constitutional rights, constitutional rights can become empty promises (Chilton & Veersteg 2016). In this chapter, I will be evaluating the violation of Article 22 of the Constitution by statutory laws — laws written and enacted by the legislature. The issue of constitutional law carrying empty promises is further compounded by the legal tradition of Afghanistan that prioritizes local tribal and customary laws over national law. Afghan political history is marked by tension between centralized national and local, tribal authority (Kandiyoti 2005). As outlined in chapter 1, this tension is particularly present regarding women's rights. This is particularly evident under King Amanullah's reign when tribal leaders pressured him to undo modernizing and centralizing efforts enshrined in his 1929 Constitution (Ahmed-Ghosh 2003). Tribal leaders forced his abdication and exile largely because they felt that his women's rights reforms were encroaching on local authority (Ahmed-Ghosh 2003). This tension continued to hinder the wide-spread implementation of women's rights initiatives by later monarchs (Ahmed-Ghosh 2003). The

failure of U.S. to acknowledge this aspect of legal tradition led to the establishment of a more centralized legal system. By overlooking this dissonance between national and local authority, the U.S. created a legal system that were destined to fail at implementing centralized constitutional provisions.

In a state where women have historically been subjected to honor killings and child marriages, and have been traded to end disputes between families, a single constitutional article is only the first step in eliminating the practice of violence against women. Article 22 of the 2004 Constitution states, “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” (Islamic Republic of Afghanistan, 2004). The nature of constitutional law allows for empty promises regarding gender because historically local and tribal laws have taken priority over constitutional law, other national laws, and even Sharia (Ahmed-Ghosh 2003). Article 22 lacks mention of a method or accountability system that would ensure its implementation. It is unreasonable to expect one article to establish gender equality without concrete goals and robust mechanisms for implementation. The only articles that come close to discussing concrete goals to implement gender equality are Articles 44 and 54, which respectively call for women’s education and protection of women as family members (Islamic Republic of Afghanistan 2004). However, these articles also lack accountability mechanisms.

Not only has the Afghan government failed on their responsibility to implement Article 22 in practice, but also it has blatantly passed laws that directly counter the principle of equality. Often, these laws are passed under the jurisdiction of Article 3, which states, “No law shall contravene the tenets and provisions of the holy religion of Islam in Afghanistan” (Islamic Republic of Afghanistan 2004). This Article becomes a convenient excuse for members of

Parliament to arbitrarily accept and reject laws as they please. The root of the problem with these laws is not Islam, but rather a legal system that was created for and by men — a system that allows them to maintain dominance over women’s lives in both the public and private spheres. Islam becomes an ambiguous legal foundation upon which men are able to openly enforce their own interpretations (Toor 2011). As Sadia Toor argues, Islam can be used by patriarchal powers to assert their opinions when they have no legal basis to drive their agenda (Toor 2011). Article 3 allows for men to interpret Islam in a manner favorable to their cause. The current state structure gives men greater power and this Article allows them to use their power to interpret the law as they please, under the guise of Islam. The interweaving of patriarchy into the law has created a normative framework which allows for the continuation of violence against women. The inclusion of Islam as an arbitrary source of law that is open to interpretation gives patriarchal powers of the state a legal foundation upon which to assert their own interpretations that, as will be discussed, justify violence against women.

Neither Islam nor culture can be blamed for the continued practice of violence against women in modern Afghanistan. The U.S.’s efforts towards creating a culture that respects women’s rights and gender equality have backfired and led to stronger assertion of patriarchal power by men who feel threatened by Western powers (Bahri 2014). The U.S. occupation and the subsequent mission to save Afghan women led to a backlash from Afghan men who felt they should have control over their women and their communities, rather than an external force (Bahri 2014). In an attempt to exert their masculinity and autonomy, Afghan men took a stronger hold of women’s rights and continue to be defensive about the strict gender hierarchy they have historically maintained (Bahri 2014). This reassertion of patriarchal authority over women as representations of the extent of their power has ultimately led to harsh restrictions on women’s

rights and autonomy (Bahri 2014). There is a distinction between a culture that kills women for the sake of killing them and a system that kills women to maintain its own power. The practice of subjugating women does not serve a cultural or religious function, but rather serves to maintain a patriarchal social structure that has been under attack by international powers. Just as tribal powers have historically felt threatened by centralized Afghan governments, their authority is challenged by international actors. Ultimately, this practice was bred from a strict hierarchical social structure based on the subjugation of women. Islam and Islamic law have been leveraged both by the legal system and by the same patriarchal agenda underlying not only the government, but the social practices of the nation as a whole.

3.3 Laws Facilitating Violence Against Women

3.3a Afghan Penal Code

The Afghan Penal Code does not recognize rape as a crime (HRW 2009c). Instead, it criminalizes extramarital sex — known as *zina* under Islamic law (hereafter used interchangeably). This leads to women being charged for committing *zina* in cases of rape or other nonconsensual sexual acts. In cases where *zina* cannot be proven, the Penal Code treats it as a Ta'zir crime (UNAMA & UNHCHR 2013). As a Ta'zir crime, the state has discretionary power over punishment, which means that police and judges can convict and prosecute individuals at their discretion (UNAMA & UNHCHR 2013). This provision allows state actors to arbitrarily accuse and prosecute individuals on the “attempt to commit *zina*”, despite this not being an explicit crime under the Penal Code. This allows for women to be charged with *zina* for acts unrelated to sex altogether when a woman disobeys her family (Ahmadi 2015). Women have been jailed for *zina* in cases of eloping or fleeing arranged marriages and domestic violence (Ahmadi 2015). In some cases, women have been charged with attempt to commit *zina* for only

being seen in public with a man who is not her *mahram*, or male relative (UNAMA & UNHCHR 2013). Overwhelmingly, however, *zina* is used as a justification for prosecuting women for their own rape. Because rape is seen as little more than extramarital sex, women are often forced to marry their rapists (UNAMA & UNHCHR 2013). The Penal Code also allows for families to commit honor killings in cases where women are perceived to be engaging in acts categorized as *zina* (Ahmadi 2015). Men who kill their wives under the justification that they committed or intended to commit *zina* cannot be sentenced for more than two years (Ahmadi 2015).

The Penal Code is the first of a number of laws that have a clear patriarchal bias in how they treat men versus women for the same crime. By denying the crime of rape and equating it to extramarital sex, the Penal Code forces more violence upon women who are survivors of rape by either prosecuting them or forcing them to marry their rapist, or both. This provision prevents women from receiving justice while men can go free. The virtual impunity in cases of honor killings is especially skewed towards men by allowing them get away with murder for only a short prison sentence. The loose interpretation of *zina* and intention to commit *zina* allow for individual men to assert power over their wives as they please, especially if a man has connections to state authorities that will exercise their discretionary power in his favor. For polygamous families or families with multiple daughters, instances of honor killings also serve as a tangible threat that other women in the family must live under. Such a threat of violence allows men to assert themselves over their families without consequence or rebellion.

3.3b Shi'ite Personal Status Law (2009)

Shortly before Karzai endorsed EVAW, he signed the Shi'ite Personal Status Law after it was passed by the Grand Assembly in July 2009. While only about 15 percent of Afghans are Shi'ite Muslims, this law has come under scrutiny by the international actors, such as Human

Rights Watch, for how devastatingly it affects Shi'ite women's basic freedoms (HRW 2009b). This law prohibits married women from leaving their homes unless for a "legitimate" reason. When women leave the house, they are required to be accompanied by *mahram* (HRW 2009b). This law also allows for marital consent to be given after the couple is already married — essentially, a woman can be forced into marriage and be forced to give consent after marriage by their husbands or family. The taboo around women engaging in premarital sex also keeps women from voiding the marriage as they will be known within the community to have engaged in *zina*, whether or not they have.

This law drastically affects not only women's agency, but also more specifically, their ability to access education, work outside the home, or be politically informed and active (Ahmadi 2015). By legally enforcing that women remain inside the home, this law makes women more vulnerable to domestic violence and having their lives controlled entirely by male family members. Under this law, women are not allowed to deny their husbands sex — if they do, their husbands are allowed to keep food from them (HRW 2009b). Divorce is not a choice for these women, as divorce is under the discretion of a judge — who is almost always a man — and the husband must agree to it (Ahmadi 2015). If a woman is able to go through with a divorce, she is only allowed custody of her children when they are very young — daughters until age seven and boys until age two (Ahmadi 2015). Women who choose to run away from home are often caught and charged with *zina* or "aggravated intention to commit *zina*" and sent to jail (Ahmadi 2015). In cases where these women are actually raped, they will be charged with *zina* and forced to marry their rapist (Ahmadi 2015).

The full patriarchal bias of this law shows through it how it treats men. Men are allowed to have up to four wives at once (Ahmadi 2015). Men are also allowed to easily divorce their

wives under the accusation of adultery (Ahmadi 2015). Men who commit rape or *zina* are able to use the legal defense that they could not “distinguish” the woman they had relations with from their wife (Ahmadi 2015). The Shi’ite Personal Status Law not only effectively facilitates domestic violence and male dominance over women’s lives, but also allows men the freedom to rape and have extramarital sex as they please with no consequences. In full assertion of patriarchal power, Karzai passed this law to win the favor of anti-women Shi’ite parliamentarians, thus building an alliance on the system of violence against women (HRW 2009a).

3.4 Law on the Elimination of Violence Against Women

Written in 2009, the Law on the Elimination of Violence Against Women (EVAW) stands as the only comprehensive piece of national legislation regarding violence against women. EVAW was drafted by lawmakers in partnership with women’s rights activists and civil society organizations on the basis of Articles 24 and 54, enshrining liberty as a natural right and protection of families, respectively (Koofi 2015; EVAW 2009; Constitution 2004). In contrast with Constitutional articles, EVAW is explicit in the acts of violence it refers to and the mechanisms by which this law will be implemented and enforced. Article 5 of EVAW explicitly names 22 acts of violence and defines the extent of these acts and punishments for them (EVAW 2009). Similar to the definition I am working under for this thesis, EVAW defines “prohibiting [a woman] from the right to education, work and access to health services” as an act of violence against women (EVAW). This is significant because it recognizes the entire system of violence against women that not only physically harms women, but also prevents them from accessing the public sphere and threatens their ability to lead a dignified life guided by their own autonomy.

EVAW claims both Sharia and legal rights as mechanisms to protect women (EVAW

2009). Chapter 2 of EVAW discusses the obligations of seven government ministries in the implementation of this law; most notably, the obligations of the Ministry of Religious Affairs follows those of the Ministry of Women's Affairs (EVAW 2009). EVAW works on both the prevention and protection sides of violence against women, by explicitly naming ways in which each ministry can incorporate programs to help victims as well as prevention trainings into the scope of their work (EVAW 2009). Mentions of Sharia and the inclusion of the Ministry of Religious Affairs are indicative of the ways in which Islam and women's rights can be compatible. Chapter 2 also establishes the EVAW High Commission as an accountability mechanism for holding participating ministries accountable by bringing together members of these ministries for the explicit purpose of "combating violence and establishing coordination among the governmental, non-governmental institutions and relevant organizations" (EVAW 2009). In an effort to curb open interpretation, EVAW states that its provisions are above any other contradicting laws.

While revolutionary in its explicit naming of violent acts and how they will be punished, EVAW still works under the model of women as members of the family. Given its basis in Article 54 of the Constitution and the explicit objective outlined in Article 2 to "maintain family integrity," this law continues to see women within the same framework as customary patriarchal structures do (EVAW 2009). While this grants women protections against violence by their family members, it is still predicated upon their role within the family. This indicates a sort of compromise between the assertion of women's rights and the maintenance of customary social structures.

Former President Hamid Karzai endorsed the EVAW in 2009 during a Parliamentary recess. Despite the work of parliamentarians like Fawzia Koofi, EVAW still has not been

approved by Parliament. According to the Constitution, laws must be passed by Parliament for them to be enacted, which leaves EVAW as an emergency executive order that can easily be overturned by future presidents. The specific articles of EVAW have been heavily debated by Parliament, even by women parliamentarians, with provisions about marriage under special contention (Koofi 2015). It is unsurprising that marriage is a heavily debated topic as it is the foundation of customary family and social structures. Koofi summarizes the current futility of the law: “The fact that the EVAW law has not been approved by the parliament is a key to its weak implementation rates; many justice officials are questioning the law’s status and therefore do not apply it” (Koofi 2015). While EVAW symbolizes a recognition of the pervasive institution of violence against women and provides a comprehensive strategy to begin to uproot it, it remains just that — a symbol.

3.5 Conclusion

The legal landscape after the 2004 Constitution shows a clear break from Article 22. Taken together, the laws presented above push women back into the home and under the dominance of male relatives. These laws allow men to both police and abuse women’s bodies as they please, as the private sphere remains unregulated. The Afghan legal system has failed women by not only not implementing the clause of gender equality enshrined in the 2004 Constitution, but by actively undermining women’s rights. As discussed in Chapter 2, intention aside, the new Afghan government was set up to fail women. By allowing for such loose interpretations of Islamic law to guide national legislation and by putting patriarchs and warlords in power, the nation on a whole is continuing a tradition of social structures that not only permit, but facilitate violence against women. Women are unable to avoid violence, and should they try, they will be blamed for violence inflicted upon themselves. The legal system traps women in a

system where they have no control over their own lives, let alone equal rights.

Former President Karzai's simultaneous approval of two drastically different laws, ERAW and the Shi'ite Personal Status Law call into question his motives. Karzai's ability to pass a law that violently oppresses women in their own homes suggests a distinct disdain for women's rights that renders them less important than political motives. Similar to the function of MoWA under ever-changing ministerial appointments, Karzai's approval of ERAW can be seen as an empty gesture towards gender equality to appease the U.S. and other international stakeholders. Karzai is paying lip service to both women's rights activists and the international community knowing full well that no changes would end up being made. Parliament's inability to agree on legislation addressing violence against women, despite presidential approval, is indicative of the not only the patriarchal powers that serve as the foundation of the Afghan legislature, but a deeper disagreement about women's rights. The reach of patriarchal power is evident in the codification of violence against women. However, what is unclear is how genuine efforts towards women's rights reforms are going to be made. Chapter 4 will further explore this question by looking to Afghan women politician's voices as actors who are working to disrupt the patriarchal legislative system and push pro-women legal reforms. In doing so, it will deconstruct the structural make up of women in government and how they individually work towards fighting for women's rights. Chapter 4 will also discuss how Afghan women politicians have also fallen victim to a system of violence within Parliament.

Chapter 4

Disrupting the Patriarchy: Women in Politics

4.1 Introduction

Much of the conversation around Afghan women's rights paints Afghan women as a monolith. U.S. political discourse, as discussed in chapter 2, is a prime example of rhetoric that suggests that the story of Afghan women begins and ends with the violent oppression of the Taliban. The oversimplified programs for women's empowerment are a product of this surface level understanding of women's oppression. To properly understand such deep rooted institutional violence and how this cycle of oppression perpetuates itself requires debunking the myth of all Afghan women's experiences being the same and that this system of violence affects all women in the same way. The diversity in how policy affects Afghan women is most evident in the variety of experiences with civic engagement. Civic engagement, broadly speaking, is an integral fundamental right that has the power to give Afghan women the voice and power to break the cycles of violence that have been institutionalized and perpetuated by a government that facilitates violence against women.

As discussed in chapter 2, the purpose of establishing a quota system in the Afghan government was to increase women's participation as a measure towards establishing gender equality. Voting, representation, and direct participation in government positions are the ways by which Afghan women can disrupt the system of violence that is condoned by the current government. The U.S. focused heavily on civic engagement as a concept they deemed necessary for the establishment of a successful democracy. The U.S. imposed a quota system within the Wolesi Jirga, the lower house of the Afghan Parliament, which requires a minimum of two women representatives per province, which equates to twenty-five percent women in total. The

quota system offers a unique paradox — while it requires the participation of women in the Afghan government, it oversimplifies the issue by suggesting that women having a seat at the table will inherently lead to broad scale empowerment. This suggestion plays into the idea that Afghan women are a monolith who all have the same ideas about women’s rights and will collectively fight for those ideals as members of government. This does not play out in practice as the theory would suggest. In certain cases, the quota system becomes another way for patriarchal power to be violently asserted over women, especially in provinces where warlords have the political power to force certain women into running for the seats in their province (HRW 2009a). These women are then, unsurprisingly, forced to vote on behalf of and voice the opinions of the warlords they answer to. Similarly, women who are aligned with political parties are often given little freedom in asserting dissenting opinions and voting against party ideology. In cases where women run for political office on their own volition, they are often threatened, harassed, and attacked by their communities as well as fellow politicians. This system is similar to many other U.S. supported empowerment programs and efforts in that it provides an oversimplified and narrow approach to a large and deep rooted issue, but a solution that allows both the U.S. and Afghan governments to point to policy that suggests they are working towards establishing women’s rights.

Despite the many flaws with the quota system, the importance of Afghan women’s voices and ideas being integrated into Afghan political discourse and policy making cannot be understated. The presence of Afghan women in the political sphere inherently disrupts the cycle of violence that pushes women into the home, stripping them of their agency on the way. Afghan women need to be in politics not only to advocate for their own rights, but also to disrupt the patriarchal hegemony that began this cycle. However, women who do work in government are

still confined by a patriarchal structure that controls how they participate. The transition government, without protest from the U.S., built patriarchy into the foundation of this new government which has resulted in the continuation of now legally facilitated acts of violence against women. By breaking out of the narrow space this institution forced women into, Afghan women politicians are disrupting the patriarchal political hierarchy.

4.2 A Seat at the Table

4.2a The Women

This section will discuss the experiences of Afghan women politicians to challenge the notion that having a seat at the table does not inherently translate to political power or influence for individuals or for women as a whole. All of the women discussed in this section have either been appointed by the national government or have been elected to the national Parliament. This section will draw on quotes, articles, and memoirs by prominent women politicians who have fought for women's rights. These have either been elected as members of the lower house of the National Assembly, the Wolesi Jirga, or have been appointed to national or regional appointments by former President Hamid Karzai. Azra Jafari was the first woman to be appointed mayor; she was appointed by Karzai as mayor of Nili in Daykundi in 2008. Dr. Habiba Sarabi served as Minister of Women's Affairs from 2002 to 2004 and was appointed by Karzai in 2005 as the first female governor, serving the Province of Bamyan. Dr. Sima Samar was the first Minister of Women's Affairs, appointed as part of the Interim Administration by decree of the Bonn Agreements in 2001. Dr. Samar was accused by the Jamait-i-Islami of blasphemy for allegedly speaking against Sharia (Riphenburg 2003). Despite her charges being dropped for lack of evidence, Dr. Samar received death threats and ultimately stepped down from her position as Minister of Women's Affairs and took a position in the Afghan Independent Human Rights

Commission, where she currently serves as Chair Commissioner. Malalai Joya was elected by her southwestern home province of Farah as a member of the Constitutional Loya Jirga and later as a member of the Wolesi Jirga in 2005. Joya was suspended from parliament in 2007 for speaking out against corruption in the new government. Fawzia Koofi was also elected as a member of the Wolesi Jirga in 2005 as a representative of her northeastern home province of Badakhshan. Koofi was elected as Deputy Speaker of the Wolesi Jirga. This analysis draws heavily on Malalai Joya and Fawzia Koofi's memoirs as in-depth insights into the experiences of women in government, how they rose to political power and what drives them to continue their work. The stories of these women's lives helps to contextualize their involvement in parliament through their journey to their positions, which goes beyond the limited information provided in articles and quotes by other women politicians.

Despite the diversity among women politicians in Afghanistan, most share many telling similarities. Afghan women politicians tend to be literate and of a higher socio-economic status than average Afghans who have felt the effects of forty years of war. Statistics on the literacy of Afghan parliamentarians reveals a higher standard for women parliamentarians, where more men in parliament are illiterate and women tend to be highly educated and have professional careers (Jones 2006). Many of these women speak English and are educated as a result of a family that — whether initially or after convincing — found value in and had the means to educate their girl children. Sarobi and Samar studied medicine and became doctors before Taliban rule. Koofi began medical school in Kabul during the civil war but was not allowed to complete her medical education when the Taliban took over. Jafari and Joya were educated in refugee camps in Iran and Pakistan and subsequently helped educate other members of their refugee communities (Koofi 2011). While Joya's only formal education ended after high school, her family prioritized

her own education and her desire to educate other Afghan women and girls (Koofi 2011). Many of these women, such as Joya and Koofi, are descendants of tribal leaders and therefore are well known in their communities for continuing the legacy of their fathers and grandfathers. In communities that are especially segregated by gender, often the kinship ties push communities to rethink the idea of only men working in politics, and vote for these women as representatives on the basis of trust and shared values with the family and its commitment to the community. For example, Joya's father was part of the local anti-Soviet mujahedeen movement (Joya 2011). Dr. Sarobi's father served as a minister in Mohammed Dawoud's government and as a vice president of Mohammad Najibullah. Koofi's father was a famous politician in the northern province of Badakhshan (Koofi 2012). As the only one of her father's daughters to be educated, Koofi committed to continuing her father's work as a member of the national parliament, advocating for building infrastructure and roads that would connect this mountainous region with more urban areas of Afghanistan. These trends of being educated and being raised by politically engaged families point to a level of privilege shared by women who are able to make it into government seats. Quota system and measures towards including women in government are meant to increase representation of all Afghan women, but the privileges these women hold render them as part of a minority of women who have had opportunities many Afghan women who have been subjected to the most extreme forms of patriarchal violence have not.

Joya, Jafari, and Koofi worked in community engagement through education and other humanitarian efforts prior to beginning their political careers. In the 1990s, Jafari ran a school for fellow refugees in Iran (Motevalli 2013). Joya used the education she received in Pakistani refugee camps to move back to Afghanistan in 1998 during Taliban rule to run underground schools for girls in Heart with the Organization for Promoting Afghan Women's Capabilities

(OPAWC) (Joya 2011). Through this underground network, Joya describes how she had to rely on the good will of neighbors and other community members to help her stay safe from the Taliban (Joya 2011). Joya increased enrollment of girls in her class through many of these clandestine friendships. Joya's father and brothers were supportive of her working in girl's education — her father would help her prepare lessons and her brothers would often serve as her *mahram*, escorting her from school to home (Joya 2011). In 1998, with the support of her husband, Koofi began teaching English in Faizabad, where the Taliban had no control (Koofi 2012). Koofi describes the independence she felt having her own school where she had over 300 students ranging from children to doctors of both gender (Koofi 2012). The unique experience of working as community leaders at such young ages put these women in positions that elevated them within the community to be seen as more than just young women. Through engaging with their communities and providing social services, these women were known for being dedicated to revitalizing Afghanistan. This reputation within their communities would allow them to break out of the singular identity of being a woman to gain political legitimacy more easily than other women who were not known by their communities.

Joya continued working with OPAWC to provide necessary services to the community in her native province of Farah. Through OPAWC, Joya opened and directed the Hamoon Clinic in Farah in 2003, a clinic that provided care and medicine for free (Joya 2011). Soon after, OPAWC opened an orphanage for children whose parents either could not afford to take care of them or were killed during the years of war (Joya 2011). Joya helped expand the clinic's services to offer an ambulance and soon she became well known throughout the province of Farah for running the clinic and orphanage. Joya describes how as a young woman running a health clinic and orphanage, people knew her name but when they met her they often could not believe that a

woman so young held so much responsibility. From working in the orphanage, Joya came to know girls and young women who faced forced marriages and brutal forms of domestic violence. Many of these young women had run away from their families and it became Joya's job to mediate between these women and their male relatives when they came to take them back home (Joya 2011).

After the birth of her second daughter, Koofi began managing an orphanage. At this time, Koofi's husband was too sick to work and in a reversal of traditional gender roles, Koofi became the primary breadwinner of the house, while her husband looked after their older daughter (Koofi 2012). Her role expanded to working with an aid agency and Koofi went on a trip across the Badakhshan province to assess medical needs (Koofi 2012). She traveled with her three-month old daughter through destitute mountain terrain for six weeks (Koofi 2012). During this trip, Koofi met community leaders who knew her father and were therefore eager to engage with her about the issues their communities were facing (Koofi 2012). Despite being a woman, she was highly respected as the daughter of a politician who cared about their needs — she was seen to be continuing her father's work of improving Badakhshan. Soon after, Koofi became a children's protection officer for UNICEF in Faizabad (Koofi 2012). Within this role, Koofi worked with children and internally displaced people (IDPs) and to organize alongside organizations like the Badakhshan Volunteer Women's Association (Koofi 2012). Through this role, she began organizing and speaking explicitly about women's issues, even organizing International Women's Day events and criticizing the violence of the Taliban and warlords of northern Afghanistan, such as former president Burhanuddin Rabbani (Koofi 2012). As political representatives, each of these women has a strong background in community engagement that gives them a comprehensive understanding of issues affecting the most marginalized

communities, especially women who come from far less privileged backgrounds.

4.2b Community Engagement as Politicians

A poignant commonality among the many women presented is their commitment to revitalizing their communities as a whole. These politicians focus on tangible goals that impact entire communities, such as building infrastructure and improving education and healthcare systems. Much of their work focuses on economic revitalization efforts that involve women. These women are advocating not only for their rights as women but for the betterment of their communities as a whole — better jobs, healthcare, infrastructure, and education. Koofi and Jafari, approached the revitalization of their communities with a holistic approach starting with building roads to connect their communities to the rest of Afghanistan, Kabul especially (Koofi 2012; Motevalli 2013). Sarobi has implemented policies for environmental revitalization in Bamyan by protecting water and other natural resources that have been destroyed by years of war (Baker 2008).

Despite their holistic community oriented approaches to revitalizing their communities and fighting for a democracy that serves all Afghans, these politicians report varying responses from their peers and communities. Jafari gives the anecdote about a mullah telling her that he cannot accept her as mayor when she stepped into office, but only a few months later praising her for the amount of revitalization work she began (Motevalli 2013). Koofi also describes that women politicians are held to different standards, that they are expected to be the voices for all of women's issues within Parliament (Koofi 2015). Women are expected to advocate for all issues regarding gender equality without any expectation from the rest of parliament or the government to acknowledge, support, or advocate for women and their policies (Koofi 2015).

Joya's experience as a parliamentarian sheds light on the nuances of how patriarchal

powers work to disenfranchise women politicians. Joya gained support from men within her province of Farah who agreed with her harsh criticisms of warlords in government and even her advocacy for women's rights (Joya 2011). However, during her time in parliament, Joya spoke freely and openly denouncing the warlords she sat among. Joya's candid speech always garnered a strong response. However, the response among parliamentarians was not divided along gender lines — Joya describes that her supporters within both the Constitutional Loya Jirga and the Wolesi Jirga were a small number of men and women. She goes on to describe that women were often just as fierce opponents as some of the warlords she criticized, whether because they felt she was stepping out of the line of proper conduct as a woman, as Noorzia Atmar claimed, or because these women were being backed by warlords or political parties that did not agree with Joya (Joya 2011). Joya posits, as Koofi and others have all suggested, that perhaps these women are being exploited through the quota system and being bought by warlords to run for and hold women's seats in the Wolesi Jirga to increase their influence (Joya 2011). Joya and Koofi both describe having their microphones turned off while they are speaking in parliament (Joya 2011; Koofi 2015). Joya describes the many death threats made against her both inside and outside of the parliamentary chambers. The most striking story is one of a fellow woman parliamentarian trying desperately to lure her into a remote, empty corner of the building under the pretense that the woman wanted to speak to her privately (Joya 2011). Joya, who refuses to align herself with any political party, also has criticism for the women parliamentarians she deems to be too pro-government, suggesting that they support the government too blindly and are not willing enough to criticize corruption. (Joya 2011). Among these women she criticizes are Fawzia Koofi, Noorzia Atmar, and Sima Samar (Joya 2011). Only two years into her term in the first Wolesi Jirga, Joya was suspended for insulting fellow members of parliament, an offense vaguely

enshrined in the code of parliamentary procedure (Joya 2011). This was after numerous death threats and threats of violence were made against her during parliamentary sessions (Joya 2011). In a final attempt to point out her government's hypocrisy, she pointed out this irony in her last statement to Parliament. Despite the unwavering support of many men both in parliament and within her community, ultimately the warlords won over both Joya and democratic process.

4.2c Opinions and Policy Recommendations

All of the women who have spoken out openly about Islam agree that Islam and culture are not the causes of pervasive practices of violence against women. Koofi and Joya describe how their Islam is a religion of love, something the Taliban and other mullahs have perverted (Koofi 2012; Joya 2011). They have different opinions on the burqa — where Joya believes that the concept is inherently misogynistic, while Koofi does not mind wearing the burqa herself as long as she is not forced to wear it (Joya 2011; Koofi 2012). This narrative is important for rethinking debates within international discourse, particularly U.S. political discourse, about the role of Islam in women's oppression. Ironic to the point of women's liberation and empowerment, discourses try to speak for Muslim women rather than understanding their interactions with their faith and how it factors into the gendered oppression they face. Further, these are alternative interpretations of Islam that need to be brought into domestic political discourse to challenge the arbitrary religious interpretations that are used to push misogynist agendas.

Beyond the role of Islam in society, most of these women agree that women should have a large role in reconstructing Afghanistan. However, they disagree quite strongly on the best method of reconstruction. Joya firmly believes in starting with the prosecution of the Taliban and other warlords as an initial measure towards justice and reconciliation for communities affected

by their violence (Joya 2011). She critiques a number of women parliamentarians for their ties with warlords or other members of the government and their willingness to compromise with them (Joya 2011). Samar also believes that compromising with warlords is harmful to reconstruction efforts as it further harms the victims who have been directly terrorized by their violence (Samar 2010). Koofi sees things differently. As a woman studying in medical school in Kabul during the rise of the Taliban, and later a personal victim of the Taliban because of her family's political history, Koofi sees the Taliban differently from other warlords (Koofi 2012). Koofi moved back to her home northern province of Badakhshan, which was guarded from the Taliban by Burhanuddin Rabbani and Ahmad Shah Massoud, members of other Mujahedeen factions (Koofi 2012). Koofi sees these men as heroes who saved her province from the Taliban, while Joya and others see them for the violence they inflicted upon the rest of Afghanistan during previous periods of war and instability. These different views of warlords affect how these women are able to work with them and other fellow parliamentarians.

Another topic of contention among women politicians is the role of international intervention. Koofi believes that U.S. intervention was necessary and a help in the advancement of women's rights, though she is critical of working within the quota system and ran instead for a general seat rather than a woman's seat in the Wolesi Jirga (Koofi 2015). Koofi and Joya disagree heavily on the role of Laura Bush in women's empowerment efforts. Koofi, who has worked with the former first lady, believes she was genuine in her desire to uplift Afghan woman (Koofi 2012). Joya believes that Laura Bush's efforts were empty and all for show (Joya 2011). This is indicative of a larger disagreement among many women about the role of international intervention in Afghanistan's reconstruction. Joya believes that U.S. intervention was only another political move in perpetuating the War on Terror to maintain political influence in the

region (Joya 2011). In an address at the Oslo Freedom Forum, Samar details her recommendations for more ethical and effective international intervention (Samar 2010). Samar firmly believes that the years of war ravaged in Afghanistan were caused by international meddling and that the international community has repeatedly abandoned Afghanistan to deal with the conflicts it created (Samar 2010). Samar makes the point that the international community intervenes to fight against violently perverted strains of Islam and regressive tribal culture that was brought back into the social fabric of the nation by the proxy war and other international meddling (Samar 2010). Samar suggests that the international community needs to focus on more than just security, that building a stable nation requires building trust and accountability on the foundation of basic human rights (Samar 2010). She explains that people need to be able to have confidence in public institutions for them to be democratic and suggests that the lack of sustainable peace is because ordinary Afghans, who have been victims of political instability for years cannot trust a government that focuses on passing legislation for impunity and amnesty for warlords instead of accountability to the people (Samar 2010). Samar underlines that women's participation as honest democrats and as a step towards gender equality and human rights for all is a requirement for reconciliation efforts (Samar 2010). Reconstruction cannot happen when it undermines human rights, especially women's rights (Samar 2010). Samar suggests that the international community is once again attempting to leave Afghanistan in its time of need, where they want an "exit strategy before finishing the job" (Samar 2010). She reiterates her point about Islam and Afghan culture by describing her own experience in co-educational schools, suggesting that religion and culture are not the barriers for reconciliation as the international community likes to suggest (Samar 2010). She calls out the U.S. and other actors for not addressing women's rights as a matter of cultural relativism as being a poor excuse

for leaving this integral issue unaddressed (Samar 2010). This debate is representative of a larger debate among the Afghan people on the role of international intervention. As politicians, these women do not necessarily have the power to control the role actors like the U.S. will play, but it is important for them to represent the voices of their constituents in larger domestic and international discussions.

4.3 Conclusion

These women's stories and differing opinions highlight how Afghan women are not a monolith, nor are these women helpless and in need of saving. Given the trends between these women, education and the ability to engage in their communities is what makes them strong politicians, not the quota system established by the U.S.-led democratization effort. The different experiences, opinions, and approaches these women bring to their positions as politicians in Afghanistan is indicative of the fact that women politicians do not represent just being a woman. They represent their experiences and the needs of their communities, as any politicians in a representative democracy should. The rhetoric of U.S. intervention belittles the strength and power of Afghan women to fight for their own rights and the revitalization of their communities. The real challenge that these women are faced with is the threat of violence they face when entering the public sphere by the same system the U.S. helped to institutionalize.

On a whole, these women's experiences suggest that having a seat at the table is not enough to effect change in this patriarchal system. Having a voice that is heard within this political sphere requires respect, which many women, especially those non-aligned with warlords or other political parties, do not have. Joya experienced her microphone being silenced every time she tried to speak. She faced physical and verbal harassment while physically working inside parliament. Attempts to silence her were made obvious. A basic right of a parliamentarian

should be to be able to speak without threat of physical violence. Joya currently lives in hiding and has required body guards since announcing her run for representative of the Constitutional Loya Jirga. This is a clear example of how the system of violence against women as a tool of maintaining hegemony by silencing dissent seeps into the political sphere. This suggests that even when women are given access to the public sphere, their lives are controlled by patriarchal violence in a way that limits their freedom and autonomy to assert and fight for their own rights.

At the level of policy and discourse, the inability of women politicians to come together as a united front poses a threat to their potential for collective power. While debate and constructive criticism are healthy and productive for political discourse, this level of disagreement between one another is indicative of a larger inability for these few women to unite in a way that would allow them to collectively assert their rights. This schism is a space where patriarchal political powers can interfere and cloud these discussions, preventing women from collectively having their own political discourse. These women have the potential to be even better than the warlords and other men in the current government, they are educated and know their communities and understand how to create policies and projects to revitalize their communities. Even when women are given access to the public sphere, they cannot have the same impact because of the institutional barriers that work to stifle their work and threaten their lives. The knowledge and commitment of these woman is necessary for the revitalization of their communities. Their understanding of the depth and intersectionality of women's rights issues is necessary for crafting policy that address violence against women as well as gender equality more broadly.

The patriarchal order functions to keep male hegemony and its interests in power, the mere presence of women in power does not necessarily disrupt this system when women are

working towards their interests. It is when women assert themselves in a way that threatens this hegemony that women in politics are a threat to the patriarchal order. Similarly, there are men both in local and national politics who support women and women's rights efforts. The lethal patriarchal order does not operate strictly on the lines of the gender binary. Rather, the lethal patriarchal system works to uphold male hegemony through institutions and policies that silence dissent. This is further evidenced by the role of women who support warlords or fundamentalist political parties.

The threat of violence against women who dare to be involved in the public sphere, especially in politics, should not be taken as any less grave than acts of violence themselves. As under the Mujahedeen and Taliban regimes, the threat of violence keeps women in the home. The threat of death is an integral tool used by the lethal patriarchal structure that forces women to choose between their life and disrupting this system of oppression.

Chapter 5

Conclusions and Implications

5.1 Summary & Conclusions

The purpose of this thesis is to argue that the U.S.-led effort to overthrow the Taliban and establish a democratic system in Afghanistan, which was predicated on a humanitarian mission to save Afghan women, ultimately led to the institutionalization of violence against women. In laying the foundation of the violent patriarchal system within Afghanistan that historically functioned to assert tribal power and authority, I suggest that the foundation for lethal patriarchy existed at the point of U.S. intervention. By demonstrating the failure of the U.S. in addressing this system of violence and instead focus gender-related reforms on economic and political empowerment, I argue that the U.S. was complicit in the institutionalization of a lethal patriarchal system. In presenting the dissonance in law between the 2004 Constitution and statutory laws passed since then, I argue that the lethal patriarchal system functions at the national level to assert power over Afghan women. I have used the voices of Afghan women politicians to argue two main points: to debunk the myth of a monolithic Afghan woman who needs saving and to argue that the institutional mechanisms that were meant to uplift women have not done enough to disrupt and uproot the lethal patriarchal system. Afghan women politicians continue to debate the best way to establish women's rights and community reconstruction, all while facing violent threats to their lives for asserting themselves and their rights in the public sphere. The irony of the trope of Afghan women needing saving is that this representation ultimately led to their disenfranchisement and the institutionalization of the violent practices that the U.S. claimed to want to stop. Finally, in discussing the patriarchal perversion of Islamic law and the opinions of Afghan women on the supposed inherent misogyny

of Islam, I have argued that Islam is not the root of women's oppression, but rather another tool used by the lethal patriarchal system.

5.2 Implications for Afghan Women

The struggle for Afghan women's rights remains compounded by the rural-urban, private-public, and socio-economic divides and the ways in which patriarchal power structures are able to express themselves in these different spheres. Education is an essential tool for the broad-scale empowerment of women, but this requires the public sphere to be safe for girls to attend school and for men to allow their daughters to pursue an education. The inclusion of women in government is only one of the necessary steps towards uprooting the lethal patriarchal system that threatens women's lives in both the public and private spheres. Afghan women politicians take a holistic, community-based approach to community reconstruction that includes women's rights. Women's rights rhetoric needs to be understood through this framework to better convey its necessity.

This movement requires a united front from all actors involved in uprooting the lethal patriarchal system and uplifting women. While the scope of this thesis does not cover the work of Afghan women as teachers, activists, journalists, and humanitarian workers, their work is integral to the fight for women's empowerment in Afghanistan. Despite death threats, violence inflicted on their families, and being branded as infidels, these women continue to challenge the patriarchal order by inserting themselves into the public sphere and unapologetically fighting for women's rights, the rule of law, and a stronger democracy. Finally, there is a responsibility of men who believe in women's equality to aid in disrupting the system in every way from educating their daughters to supporting women politicians to being the men in government that pass legislation that uplifts women. Men who believe in women's empowerment have the

privilege to participate freely in the public sphere and they have a responsibility to use that privilege to uplift and empower women without belittling, tokenizing, or downing out their voices.

5.3 Implications for International Intervention

Political stability and an end to wartime conflict in Afghanistan is required for women's empowerment. This case study serves to show that international humanitarian intervention conducted with force is inherently non-humanitarian. Further, the incomprehensive approach to women's empowerment, what scholars have called "feminism in a box" does not work for uplifting and empowering all women (Mor 2015). The case of Afghan women is indicative of a larger flaw within the international intervention system that extends to both political and humanitarian intervention. Effective humanitarian intervention requires understanding complicated historical and political histories and engagement with the communities aimed at being helped.

As scholars and as U.S. citizens, we can no longer call the use of violent force a humanitarian intervention. This case study serves to show that the War on Terror is not just about Islamic "fundamentalism" or a perverted understanding of *jihad*. As scholars we have a moral responsibility to understand the U.S.'s role in creating a battlefield out of a nation. Afghanistan is the battle ground upon which the U.S. shifted their imperial rhetoric from needing to defeat communism as a threat to democracy to needing to defeat "terrorism" as a threat to democracy. The fundamental irony is that in none of these cases has the U.S. actually advocated or fought for solely for inclusive democratic institutions, nor for a democratic geo-political order. The case of Afghanistan is only one example of many that prove the U.S.'s international efforts to be the antithesis of a humanitarian mission, especially the one presented in the rhetoric it

espouses. The case of Afghan women is a particularly egregious example of how U.S. international intervention efforts are not for the victims they claim to want to save. U.S. meddling in foreign nations is to further their own political influence which inherently has always been patriarchal. The U.S. has only strengthened a cycle of violent political control that kills women to sustain itself. As the U.S. continues to bomb Afghanistan as part of the War on Terror, it should remember the humanitarian promises it made to “save” Afghan women. The unethical violence by the U.S. continues to reinforce the lethal patriarchal system that, as it is threatened by external forces, will continue to tighten its grip on its political authority through lethal oppression.

References

- Agreement on Provisional Arrangements in Afghanistan Pending the Re-Establishment of Permanent Government Institutions ("Bonn Agreement") [Afghanistan], S/2001/1154, 5 December 2001.
- Adams, J., & Orloff, A. S. (2005). Defending Modernity? High Politics, Feminist Anti-Modernism, and the Place of Gender. *Politics and Gender*.
- Ahmadi, S. (2015). Theory vs. practice: Women's rights and gender equity in Afghanistan. *Transnational Law & Contemporary Problems*, 24(2), 313-331.
- Ahmed-Ghosh, H. (2006). Voices of Afghan women: Human rights and economic development. *International Feminist Journal of Politics*, 8(1), 110–128.
<https://doi.org/10.1080/14616740500415508>
- Bahri, J. (2014). Western Gender Policies in Afghanistan Failing Women and Provoking Men. *Gender, Technology and Development*, 18(2), 163–185.
<https://doi.org/10.1177/0971852414529480>
- Beer, C. (2009). Democracy and Gender Equality. *Studies in Comparative International Development*, 44(3), 212. <https://doi.org/10.1007/s12116-009-9043-2>
- Chappell, L. (2006). Just Advocacy? Women's Human Rights, Transnational Feminisms, and the Politics of Representation -. *Politics and Gender*.
- Daley, S. (2013). Closing the Gap between Law and Reality: Women's Constitutional Rights in Afghanistan Note. *Connecticut Journal of International Law*, 29, 329–352.
- Drumbl, M. A. (2003). Rights, Culture, and Crime: The Role of Rule of Law for the Women of Afghanistan. *Columbia Journal of Transnational Law*, 42, 349–390.
- Galtung, J. (1969). Violence, Peace, and Peace Research. *Journal of Peace Research*, 6(3).

- Goldstein, C. S. (2012). The Afghanistan Experience: Democratization by Force. *Parameters*, 42(3), 18–31.
- Graham-Harrison, E. (2014, January 14). The Afghan female politician in hiding: “No one respects women in our country.” *The Guardian*.
- Griffith, L. (2002). Women Not Warlords. *The World Today*, 58(5), 24–25.
- Grina, E. M. (2010). Mainstreaming Gender in Rule of Law Initiatives in Post-Conflict Settings Note. *William & Mary Journal of Women and the Law*, 17, 435–474.
- Human Rights Watch. (2009a). *Afghanistan: Law Curbing Women’s Rights Takes Effect*.
- Human Rights Watch. (2009b). *Afghanistan: New Law Threatens Women’s Freedom*.
- Human Rights Watch. (2009c). “*We Have the Promises of the World*.”
- Islamic Republic of Afghanistan. (2004). Constitution of the Islamic Republic of Afghanistan.
- Islamic Republic of Afghanistan Ministry of Justice (2009). Law on Elimination of Violence against Women (EVAW). *Official Gazette*.
- Johnson, T. H., Guttieri, K., & Piombo, J. (2007). Afghanistan’s Post-Taliban transition: state building after war. *Interim Governments: Institutional Bridges to Peace and Democracy?*
- Jones-Pauly, C., & Nojumi, N. (2004). Balancing Relations between Society and State: Legal Steps toward National Reconciliation and Reconstruction of Afghanistan. *The American Journal of Comparative Law*, 52(4), 825–857. <https://doi.org/10.2307/4144467>
- Joya, M., & O’Keefe, D. (2011). *A woman among warlords: the extraordinary story of an Afghan who dared to raise her voice*. New York: Scribner.
- JUPP, J. (2013). Legal Transplants as Solutions for Post-Intervention Criminal Law Reform: Afghanistan’s Interim Criminal Procedure Code 2004. *The American Journal of Comparative Law*, 61(1), 51–91.

- Kamali, M. H. (2008). References to Islam and Women in the Afghan Constitution. *Arab Law Quarterly*, 22(3), 270–306.
- Kandiyoti, D. (2007). Old Dilemmas or New Challenges? The Politics of Gender and Reconstruction in Afghanistan. *Development and Change*, 38(2), 169–199.
<https://doi.org/10.1111/j.1467-7660.2007.00408.x>
- Katzman, K. (2016). Afghanistan: Post-Taliban Governance, Security, and U.S. Policy. *Afghanistan: Post-Taliban Governance, Security, and U.S. Policy*, [i].
- Kolhatkar, S. (2002). The Impact of U.S. Intervention on Afghan Women’s Rights Commentary. *Berkeley Women’s Law Journal*, 17, 12–30.
- Koofi, F., & Ghouri, N. (2012). *The favored daughter: one woman’s fight to lead Afghanistan into the future*.
- Krüger, H. (1987). [Review of *Review of Law in Afghanistan. A Study of the Constitutions, Matrimonial Law and the Judiciary*, by M. H. Kamali]. *Die Welt Des Islams*, 27(1/3), 182–184. <https://doi.org/10.2307/1570553>
- Lafraie, N. (2011). Insurgency and Democratisation: Taliban Real Winners of Elections in Afghanistan. *Global Society*, 25(4), 469–489.
- Law, D. S., & Versteeg, M. (2013). Sham Constitutions. *California Law Review*, 101(4), 863–952.
- Margesson, R., & Kronenfeld, D. (2006). *U.S. Assistance to Women in Afghanistan and Iraq: Challenges and Issues for Congress*. Congressional Research Services.
- Marten, K. (2006). Warlordism in Comparative Perspective. *International Security*, 31(3), 41–73.
- Mic. (2013, August 12). Why Women’s Rights Activist Noor Zia Atmar is Fleeing Afghanistan.

- Ministry of Women's Affairs. (n.d.). Ministry of Women's Affairs History. Retrieved from mowa.gov.af/en
- Mor, T. (2015). Feminist Rule of Law Reform and Health Impact of Legal Systems Premised on Women as Communal Gauges of Honor. *University of Baltimore Law Review*, 44, 237.
- Motevalli, G. (2013, February 24). Afghanistan's first female mayor proves critics wrong. *The Guardian*.
- Norton, E. H. Violence Against Afghan Women (2001).
- Rahman, F. N. (2016). Is Democracy Compatible with Islam? *Government: Research Journal of Political Science*, 5(5), 63–73.
- Riphenburg, C. J. (2003). Gender relations and development in a weak state: the rebuilding of Afghanistan. *Central Asian Survey*, 22(2-3), 187–207.
<https://doi.org/10.1080/0263493032000157726>
- Rubin, B. R. (2004). Crafting a Constitution for Afghanistan. *Journal of Democracy*, 15(3), 5–19. <https://doi.org/10.1353/jod.2004.0051>
- Samar, Sima. *Rebuilding Afghanistan*. (2010).
- Sirat, A. S. (1968). The Modern Legal System of Afghanistan. *The American Journal of Comparative Law*, 16(4), 563. <https://doi.org/10.2307/838769>
- Stabile, C. A., & Kumar, D. (2005). Unveiling imperialism: media, gender and the war on Afghanistan. *Media, Culture & Society*, 27(5), 765–782.
<https://doi.org/10.1177/0163443705055734>
- Suhrke, A. (2007). Reconstruction as Modernisation: The “Post-Conflict” Project in Afghanistan. *Third World Quarterly*, 28(7), 1291–1308.

- Tadjdini, A. (2011). Constitutionalisation of Islam in Afghanistan, Iran and Iraq. *Nordic Journal of Human Rights*, 29, 353.
- TEDxPlaceDesNations, & Koofi, F. (2015). *When women are at the table*.
- Toor, S. (2011). The Political Economy of Moral Regulation in Pakistan. In *The state of Islam: Culture and Cold War politics in Pakistan* (pp. 129–142). London : New York: Pluto Press ; Distributed by Palgrave Macmillan.
- UNICEF. (2016). *State of the World's Children*. Retrieved from <http://data.unicef.org/resources/state-worlds-children-2016-statistical-tables/>
- United Nations Assistance Mission in Afghanistan, & United Nations Office of the High Commissioner for Human Rights. (2013). *A Way to Go: An Update on Implementation of the Law on Elimination of Violence against Women in Afghanistan*.
- UN Women Afghanistan Country Office. (2017). Retrieved April 15, 2017, from <http://asiapacific.unwomen.org/en/countries/afghanistan>
- U.S. Congress. Afghan Women and Children Relief Act, Pub. L. No. 107-81 (2001).
- Williams, S. H. (2011). Democracy, Gender Equality, and Customary Law: Constitutionalizing Internal Cultural Disruption. *Indiana Journal of Global Legal Studies*, 18(1), 65–85.
- U.S. Congress. Afghan Women and Children Relief Act, Pub. L. No. 107-81 (2001).
- U.S. State Department. (2001). *The Taliban's War Against Women*.
- U.S. State Department. (2002). *U.S. Support for Afghan Women, Children, and Refugees*.
- U.S. State Department. (2003a). *U.S. Support for Afghan Women, Children, and Refugees*.
- U.S. State Department. (2003b). *U.S. Support for Afghan Women, Children, and Refugees*.
- U.S. State Department. (2008). U.S.-Afghan Women's Council. Retrieved from <https://2002-2009-usawc.state.gov/index.htm>