

In the name of Allah the most compassionate the most merciful

Law on Elimination of Violence Against Women (EVAW)

Chapter One

General Provisions

Basis:

Article 1

This law has been enacted in accordance with Articles 24 and 54 of Constitution of Afghanistan.

Objectives:

Article 2

This law has the following objectives:

1. Maintaining *Sharia* and legal rights and protecting the human dignity of women.
2. Protecting families and fighting against customs, traditions and practices causing violence against women and which are against Islamic Sharia.
3. Protecting and supporting women who are victims of, or at risk of violence.
4. Prevention of violence against women.
5. Maintain public awareness and training on violence against women.
6. Prosecuting perpetrators of violence against women.

Terms:

Article 3

The following terms in this law have the following meanings:

1. Woman: An adult or underage female person.
2. Violence: committing those acts mentioned in Article 5 of this law which lead to the damage to the personality, the body, property, and heart or soul of a woman.
3. Rape: Perpetrating adultery and pederasty act on adult women with force or perpetrating that with underage even if the victim gives consent, or attack to the chastity and honor of a woman.
4. *Baad*: Marrying a woman to someone as blood price or in relation to achieve peace and harmony between families after a case of murder, rape or other circumstances following wrong customs and traditions.
5. Degradation: Using words or committing acts which results in degrading the personality of a woman.
6. Intimidation: performance of acts or use of words which results or lead to fear in women.
7. Persecution: Using words or committing acts by any means which causes damage to the personality, body and soul of a woman.

8. Forced isolation: Deterring a woman from visiting her close relatives (legal maharams).
9. Preventive measures: Practical measures that are put in place for elimination of factors of violence and preventing them from happening.
10. Supportive measures: Practical measures that are put in place for the purpose of support of the victim of violence. .

Prevention of violence:

Article 4

Violence is crime; none shall be entitled to commit violence at residential area, government or non-government institution, organizations, public places, transport or any other places. If committed he shall be punished in accordance to the provision of this law.

Instances of violence:

Article 5

The commission of the following acts shall be deemed as violence against women:

1. Rape
2. Forcing into compulsory prostitution
3. Recording the identity of the victim and publicizing the identity of the victim
4. Setting into flames, spraying chemicals or other dangerous substances
5. Forcing into self-immolation or suicide or using poison or other dangerous substances
6. Causing injury or disability
7. Battery and laceration
8. Selling of women for the purpose of marriage
9. *Baad* (retribution of a woman for a murder, to restore peace etc...)
10. Forcing into compulsory marriage
11. Prohibiting from the right of marriage
12. Marriage before the legal age
13. Abusing, humiliating, intimidating
14. Harassment/ persecution
15. Forced isolation
16. Not feeding
17. Dispossessing from inheritance
18. Refusing to pay the dowry.
19. Prohibiting to access personal property
20. Deterring from education and work
21. Forced labor
22. Marrying more than one wife without the observance of Article 86 of Civil Code.
23. Denial of relationship:

The Rights of Victim:

Article 6

The victim of violence has the following rights:

1. Prosecuting the offenders of violence based on provisions of the law.
2. To be provided with shelter or other safe place (s) with the consent of the victim.
3. To provide emergency free health services.
4. Having advocate or legal aid provider.
5. Compensation resulted from the act of violence.
6. Confidentiality related to the matter.
7. Other rights which have been stipulated in the legislative documents for the victim.

Referring to the Institutions:

Article 7

1. A woman victim of violence, she by herself or her relatives may complain to police, *Huqooq* (rights) Departments of the MoJ, courts and any other relevant offices.
2. The institutions included in paragraph (1) of this Article shall register the obtained complaint and act based upon provisions of the law and shall inform the Ministry of Women Affairs in writing.
3. The MoWA upon receiving written acknowledgment or direct complaint by victim or her relatives, in order to contact the victim shall take and implement necessary measures.
4. Prosecutor's office and court shall place the case of violence as a priority and act on it as expeditiously as possible.
5. Upon investigation of the obtained complaint, the officials of the offices included in paragraph (1) of this Article shall observe the standard operating procedures as developed by the EAW commission

Chapter Two

Protective and Supportive Measures

Obligation of the Ministry of Women Affairs:

Article 8

In order to prevent the violence, the Ministry of Women Affairs in cooperation with other Ministries, governmental and non governmental agencies and relevant organizations shall adopt the following protective and supportive measures:

1. Coordinating the activities of the governmental and non governmental agencies and organizations which are providing services in regard to the EAW.
2. To improve the public awareness to both men and women related to their legal and religious rights / obligations to eliminate violence against women.
3. To pave the ground for protecting and keeping victims of violence in shelter care, or in case of no shelter is available, to keep victims in other save places, monitoring and evaluating them.

4. To conduct seminars, workshops, conferences and other training programs for the staff of governmental and nongovernmental institutions and in villages and localities in order to recognize the instances of violence and the consequences arising out of them and find solutions in this respect.
5. To explain the ingredients of violence and the consequences arising out of them based on provisions of Sharia and Law via related publication.
6. To increase level of confidence in combating violence against women through the implementation of the education programs and capacity building of the non governmental institutions and relevant institutions.

Obligation of Ministry of Hajj and Pilgrimage:

Article 9

In order to prevent the violence, the Ministry of Hajj and Pilgrimage shall adopt the following protective measures:

1. Developing regular programmes for Preachers, orators and Mullahs of Mosques to preach about the legal and religious rights and obligations of men and women based on a regular program and getting confidence of its implementation.
2. To conduct seminars, workshops and conferences for the Mullahs, Preachers and orators of Mosques.
3. To explain and describe the factors causing violence and their unpleasant consequences based on the provisions of the Islamic Sharia and law through the related publications.

Obligation of the Ministries of Education and Higher Education:

Article 10

In order to prevent the violence, the Ministries of Education and Higher Education shall adopt the following protective measures:

1. To include issues pertaining to violence and its unpleasant consequences in the related educational curriculum.
2. To conduct seminars, workshops and conferences for the related students and staff.
3. Take appropriate measures for the purpose of prohibiting occurrence of violence in the relevant education areas.
4. To explain and describe the factors causing violence and their unpleasant consequences based on the provisions of the Islamic Sharia and law through the related publications.

Obligation of Ministry of Information and Culture:

Article 11

In order to prevent violence, the Ministry of Information and Culture shall adopt the following protective measures:

1. To prepare and broadcast radio and television programs about factors causing violence and the unpleasant consequences of violence and to publish the relevant matters in newspapers, gazettes and magazines.

2. To pave the way for other ministries and governmental agencies, real and legal individuals in order to publish and broadcast matters related to prohibition of violence through the mass media.
3. Prohibiting broadcast of programmes through public media which causes violence.

Obligation of Ministry of Justice:

Article 12

In order to prevent violence, the Ministry of Justice shall adopt the following protective measures:

1. To improve the awareness level of men and women of their legal and religious rights and obligations.
2. To pave the ground for the explanation and description of matters pertaining to the factors causing violence and its unpleasant consequences for the women and men under detention and custody or imprisoned by the relevant authorities and other related social organizations.
3. To conduct seminars and workshops for the purpose of upgrading the awareness level of the Hoquq departments and the legal aid providers about the provision of this law and its better implementation.
4. Assign a legal aid provider if requested by the victim of violence.

Obligation of the Ministry of Interior Affairs:

Article 13

In order to prevent the violence, the Ministry of Interior Affairs shall adopt and exercise special protective and supportive measures in all public locations and places.

Obligation of the Ministry of Public Health

Article 14

The Ministry of Public Health shall promptly provide free and urgent treatment services to the victims of violence in the health centers.

Elimination of violence against women (EVAW) Commission:

Article 15

For the purpose of effectively combating violence and establishing coordination among the governmental, non governmental institutions and organizations, the EVAW commission shall be established under the presidency of the MoWA as following:

1. Deputy of the Attorney General Office.
2. Deputy of the Ministry of Interior.
3. Deputy of the Ministry of Justice.
4. Deputy of the Ministry of Public Health.
5. Deputy of the Ministry of Information and Culture
6. Deputy of the Ministry of Education.
7. Deputy of the Ministry of Higher Education.
8. Deputy of the Ministry of Labor, Social Affairs, Martyrs and Disabled.

9. Deputy of the Ministry of Hajj and Religious Affairs.
10. Member of the AIHRC.
11. Head of the Kabul Family Court.
12. Head of Afghanistan Independent Bar of Association.

Duties and Responsibilities of the EVAW Commission:

Article 16

- (1) The EVAW commission shall have the following duties and responsibilities;
 1. Study and evaluate causes of violence in the country and under taking appropriate supportive measures in this regard.
 2. Drafting preach and public awareness programmes for the purpose of prohibiting commission of violence.
 3. Coordinating the activities of the relevant governmental and non governmental agencies on combating violence.
 4. Collecting statistics and figures of violence related crimes.
 5. Providing suggestions regarding amendments to be made to this law.
 6. Suggesting regulations and adopting relevant rules/ procedures for the purpose of better implementation of this law.
 7. Requiring information on violence cases from the Police, Attorney and the Court.
 8. Preparing annual report of their activity and submitting it to the Council of Ministers.
 9. Other duties given by the government.
- (2) The activity of the commission will be regularized by a separate procedure which will be approved by the commission.

Chapter three Criminal Provisions

Rape:

Article 17

- (1) If a person commits rape with an adult woman, the offender shall be sentenced to continued imprisonment in accordance with the provision of Article (426) of the Penal Code, and if it result the death of victim, the perpetrator shall be sentenced to death penalty.
- (2) If a person commits rape with an underage woman even with her consent, the offender shall be sentenced to the maximum continued imprisonment according to the provision of Article (426) of Penal Code, and if it result the death of victim, the perpetrator shall be sentenced to death penalty.
- (3) In the two above mentioned paragraphs (1, 2) of this Article the perpetrator shall be convicted to pay the amount of dowry (*Mahre Mesl*) to the victim.
- (4) If a person commits to violate chastity of a woman, but his violation does not result to adultery or pederasty (committees touching etc...), considering the circumstances he will be sentences to long term imprisonment not more than 7 years.

- (5) If the victim of paragraph 4 of this Article has not reached the age of 18 or the perpetrator of the crime is close relative up to degree 3, or the perpetrator is teacher, cleaner, doctor of the victim or somehow the perpetrator has influence and authority over the victim, in such situations, the perpetrator shall be sentenced to long term imprisonment not more than 10 years considering the circumstances.

Forcing into compulsory prostitution

Article 18

1. If a person who forces an adult woman for the purpose of prostitution, considering the circumstances he will be sentenced to long term imprisonment not less than 7 years.
2. If the victim of paragraph one of this Article is not an adult woman, the perpetrator considering the circumstances shall be sentenced to long term imprisonment not less than 10 years.

Recording the identity of the victim and publicizing the identity of the victim

Article 19

A person who records the identity of the victim of rape, or the victim of compulsory prostitution or without the provision of the law publicizes or broadcasts their pictures, considering the circumstances he/ she will be sentenced to medium imprisonment not less than 3 years.

Burning or Spraying Chemical Substances:

Article 20

1. If a person burns a woman or spray chemical or other poisonous substances on her body causing injury, or makes her eat a poisonous substance or injects it into her body, the offender in view of circumstances shall be sentenced to long term imprisonment not exceeding ten years.
2. If the commission of acts included in paragraph (1) of this Article is for the purpose of establishing fear in society in order to prohibit women from exercising their civil rights or results in the death of victim, considering the circumstances the offender shall be sentenced long term imprisonment or to death penalty.

Self Torture

Article 21

If the violent behavior of another person forces a woman to commit self-emolition, suicide or spray chemical or other poisonous substances on herself, the offender shall be sentenced to medium imprisonment in case of injury or infirmity, and in case of death of victim the offender shall be sentenced to continues imprisonment not exceeding 10.

Causing injury or disability

Article 22

1. If a person beats a woman considering the mitigating and aggravating circumstances, the offender in view of the circumstances shall be sentenced in accordance to Article 407 – 410 of the Penal Code.
2. If the acts included in paragraph (1) of this Article cause to the death of the victim, the offender in view of circumstances shall be sentenced in accordance to Article 395 – 399 of the Penal Code.

Battery and laceration:

Article 23

If a person beats a woman which does not resulted damages and injury, the offender in view of the circumstances shall be sentenced to the short term imprisonment not more than one month.

Selling of women for the purpose of marriage

Article 24

A person who sells a woman for the purpose of marriage, or purchases a woman or facilitates the process, the perpetrators including buyers and sellers and the facilitator considering the circumstances shall be sentenced to long term imprisonment not more than ten years.

***Baad* (retribution of a woman for a murder or etc):**

Article 25

1. If a person marries a woman in retribution for a murder as blood money or for making peace, considering the circumstances the offender shall be sentenced to a long term imprisonment, not exceeding ten years.
2. In the circumstance indicated in paragraph (1) of this Article, the persons involved (the witnesses, the attorney, *Aqid* “one who weds the couple” and others) each, in view of circumstances, shall be sentenced to a medium imprisonment, and the marriage contract of the woman given in *Baad* shall be considered invalid in accordance with the provisions of the law based on the request of the woman.

Forced Marriage:

Article 26

If a person, engage a woman who has reached her legal age or marries her without her consent, in accordance to the law the engagement shall be cancelled and nullified, and considering the circumstances the offender shall be sentenced to medium term imprisonment not less than 2 years.

Prohibiting from the right of marriage

Article 27

If a person prohibits a woman marrying, the offender considering the circumstances shall be convicted to short term imprisonment.

Underage Marriage:

Article 28

If a woman who has not reached her legal age of marriage, and is married without considering Article 71 of Civil code, the offender considering the circumstances shall be sentenced to mid term imprisonment not less than 2 years and the marriage contract shall be cancelled based on the request of the woman in accordance to the law.

Abusing, humiliating, intimidating

Article 29

If a person curses, intimidates or degrades a woman, the offender considering the circumstances shall be sentenced to short term imprisonment not less than 3 months.

Harassment/ persecution

Article 30

1. If a person commits harassment/ persecution to a woman, considering the circumstances he will be convicted to short term imprisonment not less than 3 months.
2. If the crime of paragraph 1 of this Article is based on abuse of authority and position, the offender considering the circumstances shall be imprisoned to medium imprisonment not less than 6 months.

Forced isolation (segregation)

Article 31

If a person force a women to isolation, considering the circumstance the offender shall be convicted to short term imprisonment not more than 3 months.

Not feeding

Article 32

If a person refrains to provide food / support as provided in the Civil Law, the offender beside being ordered to provide food/support will be sentenced to a short term imprisonment not more than a month.

Prevention from acquisition of inheritance:

Article 33

A person, who prevents a woman from her inheritance, in addition to having to restore her legal share, he shall be sentenced to short term imprisonment not more than a month.

Refusing to pay the dowry.

Article 34

A person who intentionally refrains from paying the dowry of his wife (both *Mahre Mosama* and *Mahre Mesl*), in addition to the payment of dowry and taking circumstances into consideration, he shall be sentenced to an imprisonment of not more than a month.

Prevention from acquisition of property:

Article 35

A person, who takes over the property of a woman without her consent or prevents her from acquiring it, based on the circumstances he shall be sentenced to short term imprisonment not more than 3 months and the property shall be vested into her authority.

Prohibiting from education and work

Article 36

If a person who prohibits a woman from the right of education, work and exercising her other rights as provided by law, considering the circumstance the offender shall be convicted to short term imprisonment not more than 6 months.

Forced labor

Article 37

A person who forces a woman to work, the offender beside paying the compensation, considering the circumstances he shall be convicted to short term imprisonment not more than 6 months.

Marriage with more than one woman:

Article 38

A person who marries with more than one woman without the observation of the provisions of Articles 86 and 89 of the Civil Code, he shall be sentenced to short term imprisonment that is not less 3 months.

Denial of relationship:

Article 39

A person, who denies the relationship of one of his /her relatives, but the verdict of the court proves otherwise, shall be convicted to short term imprisonment not more than 6 months.

Judicial prosecution:

Article 40

1. Relevant cases and judicial proceedings of the perpetrators of crimes enshrined in Articles 22 - 39 of this law shall be prosecuted based on the complaint filed by the victim or a relative.
2. In circumstances mentioned in paragraph 1 the victim may withdraw her case at any stage of judicial prosecution (detection, investigation, trial or conviction). In this case pursuing the case and implementing the punishment shall be stopped.

Instigation to offend

Article 41

If a person instigates another to commit the crimes stated in this law, considering the circumstances shall be sentenced in accordant to Article 39, 41 and 48 of the Penal Code.

Compensation

Article 42

Perpetrators of crimes of this law beside punishments prescribed, considering the circumstances shall be convicted to compensation.

Chapter Four Final Provisions

Lack of pardon and reduction of crimes:

Article 43

The punishments of the convicts of crimes of violence shall not be postponed, pardoned or mitigated.

Prevalence:

Article 44

The provisions of this law, if contradicted with a provision or provisions of other laws, shall prevail.

Enactment:

Article 45:

This law shall be enacted after endorsement and shall be publication in the official gazette.