

Schnellrecherche der SFH-Länderanalyse vom 22. Januar 2016 zu Afghanistan: Situation einer ledigen Mutter der Hazara-Ethnie in Kabul

Fragen an die SFH-Länderanalyse:

- Wie ist die Situation für eine nicht verheiratete, der Hazara-Ethnie angehörende Frau in Kabul, ohne Familienangehörige in Kabul, welche ledige Mutter mit einem Baby ist?

Die Informationen beruhen auf einer zeitlich begrenzten Recherche (Schnellrecherche) in öffentlich zugänglichen Dokumenten, die uns derzeit zur Verfügung stehen.

1 Ausserehelicher Geschlechtsverkehr

Andauernde Kriminalisierung von ausserehelichem Geschlechtsverkehr («zina») in Gesetz und Rechtsprechung. Laut einem Bericht von *Human Rights Watch* (28. März 2012) ist der aussereheliche Geschlechtsverkehr («zina») unter dem afghanischen Strafgesetz und gemäss islamischer Rechtsprechung ein krimineller Akt. Dies widerspricht internationalem Recht, das einvernehmlichen Geschlechtsverkehr zwischen Erwachsenen erlaubt. Laut *Human Rights Watch* (23. Juni 2014) empfahlen Mitgliedsstaaten der Vereinten Nationen der afghanischen Regierung im Rahmen des *Universal Periodic Review* des UN-Menschenrechtsrats, diese Praxis zu ändern und die strafrechtliche Verfolgung von so genannten «moralischen Verbrechen» («moral crimes») einschliesslich ausserehelichem Geschlechtsverkehr zu beenden. Diese Empfehlungen wies die afghanische Regierung aber zurück und widersprach damit ihrer eigenen Aussage, dass sie Frauenrechte und Geschlechtergleichheit weiterhin als sehr wichtige Prioritäten betrachte.

Lange Haftstrafen für «moralische Verbrechen» und «Ehrverlust»: bis zu 15 Jahre für zina, bis zu sieben Jahre für andere «moralische Verbrechen». Unter dem afghanischen Strafgesetz wird *zina* laut *Human Rights Watch* (21. Mai 2013) mit Gefängnisstrafen von bis zu 15 Jahren geahndet. 95 Prozent aller inhaftierten Mädchen und 50 Prozent aller inhaftierten Frauen in Afghanistan waren laut derselben Quelle für «moralische Verbrechen» («moral crimes») wie *zina* (aussereheliche sexuelle Beziehungen) oder auch nur «versuchter *zina*» («attempted *zina*») angeklagt oder verurteilt. In vielen dieser Fälle war der einzige «Beweis» das Weglaufen («*running away*») der Frauen oder Mädchen, oft um häuslicher Gewalt oder Zwangsheirat zu entkommen. Da Weglaufen keine Straftat ist, wurden sie «versuchter *zina*» beschuldigt. Das *Ireland Refugee Documentation Centre* verwies im Oktober 2014 auf einen Bericht der *Associated Press*, gemäss dem Frauen, welche ihre Männer verlassen haben oder sich weigerten, eine arrangierte Ehe einzugehen oder das Elternhaus für einen Mann ihrer Wahl verliessen – alles sogenannte «moralische Verbrechen» – in Kabuls Frauengefängnis Badam Bagh Haftstrafen von bis zu sieben Jahren verbüessen. Auch die Sonderberichterstatterin des UN-Menschenrechtsrates zeigte sich im Mai 2015 besorgt über die hohe Anzahl (428) für «moralische Verbrechen» («moral crimes») verhaftete, verurteilte und inhaftierte Frauen und Mädchen. In ihrem Bericht

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hielt sie fest, dass solche Verurteilungen oft aufgrund von wenigen Beweisen ausgesprochen und Untersuchungen nicht angemessen durchgeführt wurden (*UN Human Rights Council*, 12. Mai 2015).

«Bestrafung» von ausserehelichem Geschlechtsverkehr in der Hazara-Gemeinschaft durch Tötung. Laut der Email-Auskunft einer Kontaktperson in Kabul vom 19. Januar 2016 müsste eine Frau der Hazara-Ethnie für ausserehelichen Geschlechtsverkehr damit rechnen, von Mitgliedern ihrer Gemeinschaft getötet zu werden.

Human Rights Watch, 28. März 2012:

«Zina

The criminal offense of zina concerns sexual intercourse by two individuals who are not married to each other. The word zina itself is Arabic and appears in the Quran as a prohibited act. Zina is widely outlawed in Islamic jurisprudence. Zina is a crime under article 426-7 of the 1976 Afghan Penal Code, which does not define it or its elements. These articles are the only provisions of Afghan law that prohibit zina. Zina is specifically mentioned as follows:

If in the crime of zina the conditions of “Hadd” are not fulfilled or the charge of “Hadd” is dropped because of doubt or other reasons, the offender shall be punished in accordance with the provisions of this Chapter.... A person who commits zina or pederasty shall be sentenced to long imprisonment. (...)

The crime of zina violates international law by criminalizing consensual sexual relations between adults.» Quelle: Human Rights Watch, “I Had To Run Away”: The Imprisonment of Women and Girls for “Moral Crimes” in Afghanistan, 28. März 2012, S. 36-37:

www.hrw.org/report/2012/03/28/i-had-run-away/imprisonment-women-and-girls-moral-crimes-afghanistan.

Human Rights Watch, 23. Juni 2014:

«The government of Afghanistan should adopt recommendations from United Nations member countries to abolish prosecution of women for so-called “moral crimes.” Afghanistan rejected the recommendations in its Universal Periodic Review (UPR) Outcome Report issued on June 16, 2014 at the UN Human Rights Council. (...)

The government’s rejection of the recommendations to end prosecutions for “moral crimes” undercuts its acceptance of recommendations supporting women’s rights and its explicit avowal that “women’s rights and gender equality remained a top priority,” Human Rights Watch said. The action also runs counter to directives from Afghanistan’s attorney general and Justice Ministry to decriminalize “running away” and “attempted zina,” or sex outside marriage.

“The Afghan government’s rejection of recommendations to protect women from ‘moral crimes’ prosecutions underlines the glaring gap between its women’s rights rhetoric and its frequent failure to actually protect women from serious abuses,” said Phelim

Kine, deputy Asia director at Human Rights Watch. "Afghanistan's failure to protect women adds insult to the injury endured by the hundreds of women and girls victimized by the 'moral crimes' prosecutions."» Quelle: Human Rights Watch, Afghanistan: End 'Moral Crimes' Prosecutions, 23. Juni 2014:
www.hrw.org/news/2014/06/23/afghanistan-end-moral-crimes-prosecutions.

Human Rights Watch, 21. Mai 2013:

«In a March 2012 report, "I Had to Run Away": The Imprisonment of Women and Girls for 'Moral Crimes' in Afghanistan," **Human Rights Watch documented that some 95 percent of girls and 50 percent of women imprisoned in Afghanistan were accused of the "moral crimes" of "running away" from home or zina (sex outside of marriage).** These "moral crimes" usually involve **flight from unlawful forced marriages or domestic violence.** Women and girls imprisoned on "moral crimes" charges who were interviewed by Human Rights Watch described abuses including forced and underage marriage below age 16, beatings, stabbings, burnings, rapes, forced prostitution, kidnapping, and threats of "honor killing." Virtually none of the cases had led even to an investigation of the abuse, let alone prosecution or punishment.

"Running away," or fleeing home without permission, is not a crime under the Afghan criminal code, but the Afghan Supreme Court has instructed its judges to treat women and girls who flee as criminals. Zina is a crime under Afghan law, punishable by up to 15 years in prison. Some women and girls have been convicted of zina after being raped or forced into prostitution. Prosecution of women who are survivors of gender-based violence has continued, and many abusers of women have continued to go free in spite of Afghanistan's 2009 Law on the Elimination of Violence Against Women (EVAW Law), which created new criminal penalties for abuse of women.

While several high-level Afghan government officials, including from the police and Justice Ministry, have in the past year publicly confirmed that **"running away" is not a crime under Afghan law,** such statements have yet to translate into policy, Human Rights Watch said. Some legal experts have suggested that **a growing view that women and girls should not be charged with "running away" has merely resulted in a shift toward charging them with attempted zina. A charge of attempted zina unjustifiably assumes that women outside of the supervision of their male relatives must have attempted to have sex.**» Quelle: Human Rights Watch, Afghanistan: Surge in Women Jailed for 'Moral Crimes', 21. Mai 2013:
www.hrw.org/news/2013/05/21/afghanistan-surge-women-jailed-moral-crimes.

Human Rights Watch, 28. März 2012:

«While accurate statistics do not appear to be publicly available, **Human Rights Watch estimates based on prior studies and our work in three prisons in late 2011, that in January 2012 there were approximately 400 women and girls imprisoned in Afghanistan for "moral crimes."** These consist of **about half of all women (non-juveniles) in Afghanistan's prisons and virtually all teenage girls in its juvenile detention facilities.** Abuses against women and girls accused of "moral crimes" affect not only the hundreds of women and girls arrested each year, but also

every woman and girl in Afghanistan who faces forced or underage marriage, domestic violence, or other abuse. **Imprisoning women and girls for trying to escape abuse sends a clear message to others: do not flee a dangerous home life or look for help outside the home, because when you seek protection or justice you may well face punishment instead. (...) When women and girls decide to leave because of abusive relationships or unhappiness, enraged parents, brothers, fiancés, and husbands frequently track them down and accuse them of running away or of zina. Male family members, comfortable in the knowledge that their own criminal behavior will not be subject to scrutiny, can easily use such accusations as a weapon. Aided by authorities too willing to accept their allegations at face value, they can accuse a woman of zina, knowing that she is likely to be arrested. When this happens, women often suffer an invasive medical examination and severe damage to their credibility and reputation, even if charges are never proven. Even the threat of an accusation can be used to control women and cover up or justify crimes, including forced and underage marriage, rape, assault, and forced prostitution.**» Quelle: Human Rights Watch, "I Had To Run Away" The Imprisonment of Women and Girls for "Moral Crimes" in Afghanistan, 28. März 2012, S. 3-4: www.refworld.org/docid/4f787d142.html.

Ireland Refugee Documentation Centre, Oktober 2014:

«An Associated Press report on women imprisoned in Badam Bagh, Afghanistan's central women's prison, states:

"The majority of the women packed are serving sentences of up to seven years for leaving their husbands, refusing to accept a marriage arranged by their parents, or choosing to leave their parent's home with a man of their choice – all so-called 'moral' crimes."» Quelle: Ireland: Refugee Documentation Centre, The Researcher, Oktober 2014, Oktober 2014, Volume 9 Issue 2, S. 17: www.refworld.org/docid/544a6db84.html.

UN Human Rights Council, 12. Mai 2015:

«C. Violence against women perpetrated and/or condoned by the State

23. **During her visits to the Badam Bagh women's prison in Kabul and the juvenile rehabilitation centre in Herat, the Special Rapporteur expressed serious concern at the high number of women and girls arrested, prosecuted and imprisoned for so-called "moral crimes", including adultery and premarital sex. Interlocutors stated that such convictions were often made on the basis of minimal evidence of wrongful behaviour and that investigations were often not properly carried out. Of the 744 female prisoners across the country, 428 — or 58 per cent — were charged with so-called "moral crimes".**» Quelle: HRC - UN Human Rights Council, Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo; Addendum; Mission to Afghanistan [A/HRC/29/27/Add.3], 12. Mai 2015, S. 7: www.ecoi.net/file_upload/1930_1433945982_a-hrc-29-27-add-3-eng.doc.

2 Situation einer ledigen Mutter mit Kind

Situation von Frauen ohne männlichen Begleiter oder Beschützer extrem schwierig. Dies gilt laut den *UNHCR*-Auswahlrichtlinien vom 6. August 2013 besonders für Frauen, die in der öffentlichen Wahrnehmung als den sozialen Sitten zuwiderhandelnd angesehen werden. Frauen sind weiterhin mit einer allgegenwärtigen sozialen, politischen und wirtschaftlichen Diskriminierung durch hartnäckige Stereotypen und gewohnheitsmässige Gepflogenheiten konfrontiert, die sie an den Rand drängen. Frauen, die als soziale Normen überschreitend wahrgenommen werden, werden weiterhin sozial stigmatisiert, allgemein diskriminiert und sind mit Risiken für ihre Sicherheit konfrontiert. Solche sozialen Normen schliessen Regeln ein, die die Bewegungsfreiheit von Frauen begrenzen, wie zum Beispiel die Notwendigkeit, in der Öffentlichkeit von einer männlichen verwandten Person begleitet zu werden. Frauen, die keine Unterstützung oder Schutz durch einen Mann haben, einschliesslich Witwen, sind mit einem besonderen Risiko konfrontiert. Generell fehlen ihnen die Mittel zum Überleben, und dies wegen sozialer Normen, die allein lebenden Frauen Beschränkungen auferlegen, einschliesslich Einschränkungen ihrer Bewegungsfreiheit. Zu denselben Schlüssen kommt eine SFH-Auskunft vom 15. Dezember 2011, gemäss der die Situation von alleinstehenden Frauen in Afghanistan extrem schwierig ist, da sie während ihres ganzen Lebens von männlichen Familienmitgliedern (Ehemann, Bruder oder Vater) abhängen. Alleinstehende Frauen werden gesellschaftlich nicht akzeptiert und können daher nur mit Mühe für sich und ihre Kinder ein Auskommen finden. Frauen ohne männliche Begleitung haben keinen Zugang zu Arbeit, Bildung oder medizinischer Versorgung. Laut derselben Quelle sind alleinstehende Frauen vermehrt dem Risiko eines sexuellen Missbrauchs ausgesetzt.

UNHCR, 6. August 2013:

«c) Women Perceived as Contravening Social Mores

Despite Government efforts to promote gender equality, women continue to face pervasive social, political and economic discrimination due to persistent stereotypes and customary practices that marginalize them. Women who are perceived as transgressing social norms continue to face social stigma, general discrimination and risks to their safety. Such norms include requirements that restrict women's freedom of movement, such as the requirement to be accompanied by a male relative chaperone when appearing in public. Women without male support and protection, including widows, are at particular risk. They generally lack the means of survival, given existing social norms imposing restrictions on women living alone, including limitations on their freedom of movement. In areas under the effective control of the Taliban, women accused of immoral behaviour risk being tried by the Taliban's parallel justice structures and being given harsh sentences, including lashings and death.

Detention for breaches of customary or Sharia law disproportionately affects women and girls, including detention on the ground of perceived "moral crimes" such as being improperly unaccompanied, refusing marriage, or "running away from home" (including in situations of domestic violence). The number of girls and women detained for "moral crimes" was reported to have risen by 50 per

cent between October 2011 and May 2013. As noted above, women and girls who flee their homes as a result of domestic violence or the threat of forced marriage are often themselves charged with running away from home or adultery. Since accusations of adultery and other “moral crimes” may elicit honour killings, in some instances the authorities have sought to justify the detention of women accused of such acts as a protective measure.

(...)

d) Summary

Depending on the individual circumstances of the case, UNHCR considers that women falling under the following categories are likely to be in need of international refugee protection:

a) *Victims and those at risk of sexual and gender-based violence;*

b) *Victims and those at risk of harmful traditional practices; and*

c) ***Women perceived as contravening social mores.***» Quelle: UNHCR, UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan, 6 August 2013, S. 48-57:

www.refworld.org/docid/51ffdca34.html.

SFH, 15. Dezember 2011:

«2 Wie ist die Situation einer alleinstehenden Frau mit zwei Kindern, deren Mann im Ausland lebt?

Afghanische Frauen hängen ihr Leben lang von ihren Ehemännern, Brüdern oder Vätern ab. Frauen, deren Ehemänner im Ausland leben, sind von männlichen Verwandten abhängig, sie sind gefährdet, geschlagen und sexuelle missbraucht zu werden. Alleinstehenden Frauen werden von der Gesellschaft nicht akzeptiert, und wenn sie nicht wieder von ihrer Herkunftsfamilie aufgenommen werden, haben sie kaum einen Ort, wohin sie gehen können. (...) Alleinstehende Frauen können nur schwer überleben und für sich und ihre Kinder sorgen.

Religiöse Autoritäten haben im letzten Jahr vermehrt darauf gepocht, dass es sozial inakzeptabel sei, wenn Frauen ohne männlichen Begleiter (Mahram) das Haus verlassen. Ohne männliche Unterstützung haben Frauen aufgrund der sozialen Restriktionen und der eingeschränkten Bewegungsfreiheit keine Lebensgrundlage. Ohne männliche Begleitung ist ihnen der Zugang zur Arbeit, aber auch zur Bildung und zur Gesundheitsversorgung verwehrt.

Sexuelle Gewalt. Unbegleitete Frauen und auch Frauen, deren Ehemänner im Ausland leben, sind besonders gefährdet, sexuell missbraucht zu werden. Gemäss einer Studie von Global Rights Afghanistan aus dem Jahr 2008 wurden 87,2 Prozent der afghanischen Frauen und Mädchen Opfer von sexueller, physischer und psychischer Gewalt. Die Gewalt gegen Frauen hat im 2010 gemäss der Afghanistan Independent Human Rights Commission (AIHRC) zugenommen. Der Kommission wurden

im 2010 2765 Fälle von Gewalt gegen Frauen gemeldet. 45 Frauen wurden ermordet, und 75 nahmen sich das Leben. Die Dunkelziffer dürfte jedoch einiges höher liegen, da Frauen aufgrund der sozialen Tabus Gewalttaten oft nicht anzuzeigen wagen.»
Quelle: SFH, Afghanistan: Alleinstehende Frau mit Kindern, 15. Dezember 2011, S. 3:
www.fluechtlingshilfe.ch/assets/herkunftslaender/mittlerer-osten-zentralasien/afghanistan/afghanistan-alleinstehende-frau-mit-kindern.pdf.

3 Unzureichender Schutz von Frauen durch den afghanischen Staat

Unzureichender Schutz durch Frauenhäuser; Inhaftierung als «Schutzmassnahme». Gemäss dem *US Department of State* (25. Juni 2015) wurden schutzbedürftige Frauen, für die es zu unsicher gewesen wäre, nach Hause zu gehen, inhaftiert, da keine geschützten Unterkünfte verfügbar waren. Laut einem Bericht des *Institute for War and Peace Reporting* vom 11. März 2015 existieren in ganz Afghanistan nur rund zwölf Schutzhäuser für Frauen, wobei diese keine rechtlichen Möglichkeiten haben, die Frauen zu schützen. Auch das *Committee on the Elimination of Discrimination against Women* (CEDAW) kritisierte im Juli 2013 die mangelnde Nachhaltigkeit der Frauenhäuser und ihre geringe Zahl. Laut *Human Rights Watch* (28. März 2012) sind die wenigen existierenden privaten Frauenhäuser bei weitem nicht ausreichend. Viele Frauen und Mädchen wissen nicht, dass diese Frauenhäuser existieren. Problematisch ist laut derselben Quelle auch, dass Frauen auf allen Ebenen des Rechtssystems gegenüber Vätern oder Ehemännern wegen ungeschriebener sozialer Regeln benachteiligt werden. Gemäss *UN Human Rights Council* (12. Mai 2015) müssen Organisationen, die direkt mit Opfern geschlechtsspezifischer Gewalt arbeiten, dies im Geheimen tun, da sie auf viel Feindseligkeit stossen und die Opfer als Kriminelle betrachtet werden. Frauenhäuser würden oft als Institutionen angesehen, die Frauen dazu ermutigen, davonzulaufen und sich unmoralisch zu verhalten, oder auch als Bordelle. Weiter kritisiert der *UN Human Rights Council* die kleine Anzahl und die Fähigkeit dieser Häuser, den Frauen Schutz zu gewähren, sowie die mangelnden Kompetenzen des Personals und das Fehlen von Perspektiven zur langfristigen Reintegration und Unterstützung für die Opfer. Gemäss dem *US Department of State* (25. Juni 2015) sollen das *Ministry of Women's Affairs*, welches alle von NGOs betriebenen Frauenhäuser unter seiner Kontrolle hat, sowie auch nichtstaatliche Institutionen versucht haben, Ehen für Frauen zu arrangieren, die nicht zur ihren Familien zurückkehren konnten.

Allgemeine Verschlechterung des Schutzes von Frauenrechten und unzureichende Umsetzung von nationalen Gesetzen zum Schutz vor Gewalt gegen Frauen im Kontext eines Erstarkens konservativer Kräfte. Ein Bericht von *Amnesty International* (7. April 2015) beobachtet eine allgemeine Verschlechterung des Schutzes von Frauenrechten in Afghanistan in den letzten Jahren. Konservative Kräfte und Positionen hätten ihren Einfluss in den afghanischen Institutionen vergrössern können, was es ihnen ermöglicht habe, ihre Angriffe auf Frauenrechte zu verstärken. Zwar garantiert die Verfassung von 2004 Frauen und Männern gleiche Rechte, sieht den Zugang zu Bildung für alle sowie eine Mindestquote für Frauen im Parlament vor. Ausserdem wurde ein nationaler Aktionsplan zur Verbesserung des Status von Frauen bis 2018 sowie im Jahr 2009 ein Gesetz zur Beseitigung von Gewalt gegen Frauen

verabschiedet. Diese Fortschritte auf rechtlicher und politischer Ebene haben aber in der Realität nicht zu nachhaltigen Veränderungen geführt. Wegen tief verwurzelter sozialer und kultureller Schranken existieren viele der gesetzlich garantierten Frauenrechte nur auf dem Papier. Die UNHCR-Auswahlrichtlinien vom 6. August 2013 machen dieselbe Beobachtung und führen aus, dass die Situation von Frauen und Mädchen in vieler Hinsicht sehr bedenklich bleibt. Die Verschlechterung der Sicherheitsituation in einigen Landesteilen hat manchen Fortschritt in der Menschenrechtssituation für Frauen wieder rückgängig gemacht. Tief verwurzelte Diskriminierung bleibt allgegenwärtig. Gewalt gegen Frauen und Mädchen bleibt weit verbreitet und hat laut Berichten sogar zugenommen, wobei Straffreiheit in diesem Bereich ebenfalls sehr üblich ist. Es wird berichtet, dass Frauen weiterhin mit ernststen Hindernissen konfrontiert sind, wenn es um die Ausübung ihrer wirtschaftlichen, sozialen und kulturellen Rechte geht. Trotz Fortschritten bleiben sie überdurchschnittlich von Armut, Analphabetismus und unzureichender Gesundheitsversorgung betroffen. Die UNHCR-Auswahlrichtlinien verweisen ferner auf Berichte, laut denen das Bekenntnis der Regierung zur Förderung und zum Schutz von Frauenrechten in Zweifel steht. So werden die grosse Mehrheit von Fällen, einschliesslich gravierende Verbrechen an Frauen, an traditionelle Streitschlichtungsmechanismen verwiesen, statt kriminalrechtlich verfolgt zu werden, wie es das Gesetz eigentlich verlangt. So zitieren die UNHCR-Auswahlrichtlinien die United Nations Assistance Mission in Afghanistan, laut der sowohl die Polizei (ANP) als auch Staatsanwaltschaften weiterhin zahlreiche Fälle einschliesslich gravierender Verbrechen an *jirgas* und *shuras* zur Beratung oder Lösung, was die Umsetzung des Gesetzes zur Beseitigung von Gewalt gegen Frauen unterminiert und schädliche traditionelle Praktiken verstärkt. Entscheidungen dieser Mechanismen verstärken das Risiko für Frauen und Mädchen, ein zweites Mal zu Opfern zu werden.

Das schiitische *Personal Status Law* regelt laut den UNHCR-Auswahlrichtlinien Familienangelegenheiten wie Heirat, Scheidung und Erbrechte für Mitglieder der schiitischen Gemeinschaft in Afghanistan, zu der gemäss BBC (11. November 2015) die meisten Mitglieder der ethnischen Minderheit der Hazara gehören. Es schliesst verschiedene Regelungen ein, die gegen Frauen diskriminieren, besonders im Bereich Vormundschaft, Erbrecht, Heirat von Minderjährigen und Einschränkungen der Bewegungsfreiheit ausserhalb der eigenen Wohnung.

Die UNHCR-Auswahlrichtlinien verweisen ferner auf Berichte, laut denen der Abzug der internationalen Truppen negative Auswirkungen auf die Situation von Frauen in Afghanistan habe, sowie mögliche Zugeständnisse der Regierung im Bereich Frauenrechte im Kontext der Friedensverhandlungen mit den Taliban und anderen bewaffneten Oppositionsgruppen. Diese Entwicklungen verdienen daher laut UNHCR bei allen Bewerbungen um internationalen Schutz, die von afghanischen Frauen vorgebracht werden, besonders eingehende Beobachtung.

Sexuelle und geschlechtsspezifische Gewalt bleibt laut UNHCR-Auswahlrichtlinien in Afghanistan weit verbreitet. Dies schliesst so genannte «Ehrenmorde», Entführungen, Vergewaltigungen, Zwangsabtreibungen und häusliche Gewalt ein. Da ausserehelicher Geschlechtsverkehr in weiten Kreisen der afghanischen Gesellschaft als die Familie entehrend angesehen wird, riskieren Vergewaltigungsoffer Ächtung, Zwangsabtreibung, Gefängnishaft oder sogar Tötung. Gesellschaftliche Tabus und Furcht vor

Stigmatisierung und Vergeltung, einschliesslich durch die eigene Gemeinschaft oder Familienmitglieder, halten Opfer oft davon ab, sexuelle und geschlechtsspezifische Gewalt anzuzeigen. Gleichzeitig ist laut derselben Quelle die Zahl von Selbstopferungen («self-immolation») als Folge von häuslicher Gewalt zugenommen. Der Zugang zum Rechtssystem für Frauen, die Fälle von Gewalt melden möchten, wird zusätzlich dadurch behindert, dass nur knapp über ein Prozent aller Polizeikräfte im Land Frauen sind. Polizistinnen sind selbst von sexueller Belästigung und Angriffen am Arbeitsplatz betroffen, einschliesslich Vergewaltigung durch männliche Kollegen.

Infragestellung des Gesetzes zur Beseitigung von Gewalt gegen Frauen durch das afghanische Parlament. Laut *Amnesty International* (7. April 2015) und *US Department of State* (25. Juni 2015) wurde das Gesetz zur Beseitigung von Gewalt gegen Frauen 2009 durch einen Erlass des Präsidenten verabschiedet. Im Mai 2013 wurde es laut *US Department of State* (25. Juni 2015) dem Parlament zur Debatte vorgelegt, obwohl eine Verabschiedung durch das Parlament rein technisch nicht nötig gewesen wäre, da ein präsidentieller Erlass zum Inkrafttreten ausreiche. In der Debatte wurde es laut *Amnesty International* (7. April 2015) als «unislamisch» bezeichnet und seine Bestimmungen zum Mindestheiratsalter für Mädchen, zum Verbot von Zwangsheirat und zur Existenz von Frauenhäusern – als «unmoralisch» bezeichnet – wurden kritisiert. Das Gesetz selbst wurde laut derselben Quelle bisher nur sehr unzureichend umgesetzt, hauptsächlich wegen mangelnden politischen Willens. Soziale Normen und Werte, die gegen Frauen diskriminieren, würden weiter verstärkt und nur wenige männliche Urheber von Gewalt gegen Frauen würden festgenommen und von der Justiz verfolgt. Tief verwurzelte kulturelle, religiöse und soziale Normen seien die Hauptursache geschlechtsspezifischer Gewalt in Afghanistan. Gewalt gegen Frauen und Mädchen sei auch im Rechtssystem ein akzeptierter Bestandteil des täglichen Lebens. Ausserdem habe das Gesetz zur Beseitigung von Gewalt gegen Frauen Lücken: «Ehrverbrechen» werden nicht kriminalisiert, und Vergewaltigung wird nicht klar definiert. Ferner müssen für eine Verfolgung der Täter die Opfer geschlechtsspezifischer Gewalt Klage erheben.

Beispiel aus jüngerer Zeit: Ermordung einer Frau durch einen Lynchmob in Kabul, mangelnder Schutz der Frau durch die Polizei und unzureichende rechtliche Verfolgung der Täter. Am 19. Mai 2015 wurde laut *New York Times* (26. Dezember 2015) eine Frau namens Farkhunda in Kabul durch einen Lynchmob getötet. Sie wollte abergläubische Praktiken an einem Schrein entlarven. Ein Wahrsager dieses Schreins, der für diese Praktiken verantwortlich war, verbreitete daraufhin das Gerücht, sie habe eine Ausgabe des Koran verbrannt, und löste damit die Gewalt und schliesslich den Mord an Farkhunda durch einen Lynchmob aus. Dieser Fall verdeutlicht, wie schwierig es für Frauen und ihre Familien in Afghanistan ist, durch den Staat Schutz zu erhalten sowie Zugang zu einem fairen Gerichtsverfahren zu bekommen. Die Polizei von Kabul zeigte sich während der Tat weder fähig noch willens, die vom Lynchmob angegriffene, verletzte und schliesslich getötete Frau zu schützen. So seien unter den untätig Zuschauenden auch Polizisten gewesen. Der Polizeichef von Kabul, General Abdul Rahman Rahimi, sagte Farkhundas Eltern nach der Tat, es sei bewiesen, dass sie den Koran verbrannt habe. Ausserdem sagte er ihrem Vater, dass die Polizei sie nicht habe schützen können, und riet ihm, Kabul zu seiner eigenen Sicherheit zu verlassen. Ein hochrangiger Polizeiermittler gab zu, dass die Polizei es nicht geschafft habe, alle für die Tat Verantwortlichen festzunehmen. Er schätzte,

dass drei bis vier Hauptverdächtige Kabul verlassen hätten, wobei unklar war, ob sie politische Verbindungen hatten oder nach ihrer Festnahme freigelassen wurden. Die Polizei in den Provinzen sei nicht willens, sie festzunehmen. Laut derselben Quelle wurden andererseits Personen festgenommen, die zur Tatzeit überhaupt nicht am Tatort anwesend waren. Auch die Rechte der Angeklagten, einschliesslich das Recht auf einen Rechtsbeistand, wurden nicht gewahrt. Afghanische Anwältinnen, die den Fall verfolgten, beobachteten ferner eine Voreingenommenheit der Verantwortlichen und Diskriminierung gegen Frauen. Gemäss der Vertreterin von Farkhundas Familie vor dem afghanischen Bundesgericht seien einige Regierungsvertreter nicht willens, 49 Männer für den Tod einer Frau zu bestrafen.

US Department of State, 25. Juni 2015:

«In some cases authorities imprisoned women who had left home because it was unsafe for them to return home and there was no shelter available elsewhere. (...) Women in need of shelter but who could not find it often ended up in prison, either due to a lack of shelter alternatives, for their own protection, or based on local interpretation of “running away” as a moral crime. Adultery, fornication, and kidnapping are crimes under the law. Women often were convicted of those crimes in situations of abuse, rape, or forced marriage, or on the basis of invalid evidence, including flawed virginity tests. Running away is not a crime under the law. As of July 31, approximately 58 percent of female prisoners were incarcerated for moral crimes, according to GDPDC records, a decrease from 80.5 percent in 2013. The decrease was likely a result of a March presidential decree releasing women convicted of moral crimes. (...) The Ministry of Women’s Affairs regulates all shelters operated by NGOs. There were reports the Ministry of Women’s Affairs, as well as nongovernmental entities, sought to arrange marriages for women who could not return to their families. (...) Police, prosecutors, and judges discriminated against women in criminal and civil legal proceedings stemming from violence and forced marriages.» Quelle: US Department of State, Country Report on Human Rights Practices 2014, Afghanistan, 25. Juni 2015, S. 9, 42-45:
www.state.gov/documents/organization/236844.pdf.

Institute for War and Peace Reporting, 11. März 2015:

«There are only a dozen or so shelters across Afghanistan, including one in Kapisa province in the northeast. Saifora, who heads the provincial department for women's affairs, says that while such refuges do not have legal powers to protect those who come there, the fact that they exist and that their doors are open offers hope to the victims of sexual and domestic violence.

Maulavi Abdullah Abid, the provincial government's head of religious affairs, agreed that shelters were **an essential resource for women who could not access the justice system.** The argued that compassion was highly valued in Islam. **These safe houses provided a resource for those women who were otherwise unable to access justice, and the principle of humanity behind them was an Islamic value.»**

Quelle: Institute for War and Peace Reporting, Safe Houses for Afghan Women, 11. März 2015:
www.refworld.org/docid/5502b36e213.html.

CEDAW, 30. Juli 2013:

«*The Committee is **concerned about the sustainability of the shelters for women victims of violence and about the need to increase their number.***» Quelle: Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Committee on the Elimination of Discrimination against Women, Concluding observations on the combined initial and second periodic reports of Afghanistan, 30. Juli 2013: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fAFG%2fCO%2f1-2&Lang=en.

UN Human Rights Council, 12. Mai 2015:

«*The **organizations working directly with victims of gender-based violence have to operate in secrecy, as they are viewed with hostility and victims are often perceived as criminals. For example, shelters are viewed by many as institutions that encourage women to leave home; to behave immorally and outside of what is traditionally considered “acceptable” in a conservative and religious society; or as prostitution houses; or establishments that are causing the break-up of families. Thus both the service providers and those seeking protection are stigmatized and shunned by society. (...) There are also concerns regarding the ability of shelters to provide protection, the management abilities of staff and the long-term reintegration and support that is provided to women. Unfortunately, some shelters have also been used in the past for pretrial detention, owing to the lack of female pretrial facilities. (...) As regards protection mechanisms, the main challenges include the insufficient number of shelters and safe houses for women who are victims of violence and the lack of opportunities for women to be reintegrated back into their families and society.***» Quelle: UN Human Rights Council, Report of the Special Rapporteur on violence against women, its causes and consequences, Addendum : Mission to Afghanistan, 12. Mai 2015, S. 13-18: www.refworld.org/docid/5583f8224.html.

UNHCR, 6. August 2013:

« 7. Women

Since 2001, the Government has taken important steps to improve the situation of women in the country, including the incorporation of international standards for the protection of women’s rights into national legislation, notably through the adoption of the Law on Elimination of Violence against Women (EVAW law); the adoption of measures to increase women’s political participation; and the establishment of a Ministry for Women’s Affairs.

However, the situation of women and girls remains of serious concern on a number of fronts. The deterioration of the security situation in some parts of the country has undone some of the earlier progress in women’s human rights situation. Deep-rooted discrimination against women remains pervasive. Violence against women and girls remains widespread and is reported to be on the rise; impunity in relation to such violence is reportedly common. Women are said to continue to face serious challenges to the full enjoyment of their economic, social and cultural rights. Despite advances, poverty, illiteracy, and poor health

care continue to affect women disproportionately. Observers have noted that the government's commitment to the promotion and protection of women's rights has at times been in doubt. The implementation of legislation to protect women's rights remains slow. This includes in particular the implementation of the EAW law. The law, promulgated in August 2009, criminalizes child marriage, forced marriage and 17 other acts of violence against women, including rape and domestic violence; it also specifies punishments for perpetrators. While some progress has been noted in the application of the EAW law by prosecutors and primary courts, the vast majority of cases, including instances of serious crimes against women, are still being mediated by traditional dispute resolution mechanisms rather than prosecuted as required by the law. UNAMA reports that both the ANP and prosecutors' offices continue to refer numerous cases, including serious crimes, to jirgas and shuras for advice or resolution, thereby undermining the implementation of the EAW law and reinforcing harmful traditional practices. Decisions of these mechanisms place women and girls at risk of further victimization.

The Shiite Personal Status Law, which regulates family law matters such as marriage, divorce and inheritance rights for members of the Shia community, includes a number of provisions that discriminate against women, notably in relation to guardianship, inheritance, under-age marriages, and limitations on movements outside the home. (...)

UNHCR notes that concerns have been expressed about the impact of the ongoing withdrawal of international troops on the situation of women in Afghanistan, and reported possible concessions on women's rights in the context of peace negotiations with the Taliban and other AGEs. UNHCR considers that the evolving political and security situation in Afghanistan and the impact of such developments on the human rights situation of women merit close scrutiny in relation to all applications for international protection by Afghan women.

a) Sexual and Gender-Based Violence

The UN Secretary-General has noted that sexual and gender-based violence against women in Afghanistan remains endemic. Such violence includes "honour killings", abduction, rape, forced abortion and domestic violence. As sexual acts committed outside marriage are widely seen in Afghan society to dishonour families, victims of rape are at risk of ostracism, forced abortions, imprisonment, or even death. Societal taboos and fear of stigmatization and reprisals, including at the hands of their own community and family members, often deter victims from reporting sexual and gender-based violence. At the same time, incidents of self-immolation as a result of domestic violence have continued to increase.

In many areas where the criminal justice system's presence is weak, Government authorities continue to refer most complaints of domestic violence to traditional dispute-resolution mechanisms. Women and girls who flee their homes due to abuse or threats of forced marriage are often themselves accused of vaguely defined or even undefined "moral crimes", including adultery (zina), or "running away from home". While many

women in these circumstances are convicted and imprisoned, men responsible for the domestic violence or forced marriages almost always enjoy impunity.

Access to justice for women seeking to report violence is further hampered by the fact that women police officers constitute only just over one per cent of all police officers in the country. Women police officers are reportedly themselves at risk of sexual harassment and assault in the workplace, including rape by male colleagues.

Impunity for acts of sexual violence is further reported to persist due to the fact that in some areas of the country, alleged rapists are powerful commanders or members of armed groups or criminal gangs, or have links to such groups or influential individuals who protect them from arrest and prosecution.

(...)

d) Summary

Depending on the individual circumstances of the case, UNHCR considers that women falling under the following categories are likely to be in need of international refugee protection:

- a) **Victims and those at risk of sexual and gender-based violence;**
- b) *Victims and those at risk of harmful traditional practices; and*
- c) *Women perceived as contravening social mores.*

Depending on the individual circumstances of the case, they may be in need of international refugee protection on the grounds of their membership of the particular social group defined as women in Afghanistan, their religion, and/or their (imputed) political opinion.» Quelle: UNHCR, UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan, 6 August 2013, S. 48-57:

www.refworld.org/docid/51ffdca34.html.

BBC, 11. November 2015:

«Who are the Hazaras?

- *Of Mongolian and Central Asian descent*
- **Mainly practise Shia Islam, in predominantly Sunni Afghanistan and Pakistan**
- *Thought to be the third largest ethnic group in Afghanistan*
- **Estimates suggest they make up 15-20% of Afghanistan's population, which is thought to be about 30 million**
- *At least 600,000 Hazaras live in Pakistan, most of them in Quetta*

- Legend has it they are descendants of Genghis Khan and his soldiers, who invaded Afghanistan in the 13th Century» Quelle: BBC, Afghan Hazara killings spur thousands to march in Kabul, 11. November 2015:
www.bbc.com/news/world-asia-34783511.

US Department of State, 25. Juni 2015:

«In some cases authorities imprisoned women who had left home because it was unsafe for them to return home and there was no shelter available elsewhere. (...) Women in need of shelter but who could not find it often ended up in prison, either due to a lack of shelter alternatives, for their own protection, or based on local interpretation of “running away” as a moral crime. Adultery, fornication, and kidnapping are crimes under the law. Women often were convicted of those crimes in situations of abuse, rape, or forced marriage, or on the basis of invalid evidence, including flawed virginity tests. Running away is not a crime under the law. As of July 31, approximately 58 percent of female prisoners were incarcerated for moral crimes, according to GDPDC records, a decrease from 80.5 percent in 2013. The decrease was likely a result of a March presidential decree releasing women convicted of moral crimes. (...) The Ministry of Women’s Affairs regulates all shelters operated by NGOs. There were reports the Ministry of Women’s Affairs, as well as nongovernmental entities, sought to arrange marriages for women who could not return to their families. (...) Police, prosecutors, and judges discriminated against women in criminal and civil legal proceedings stemming from violence and forced marriages.» Quelle: US Department of State, Country Report on Human Rights Practices 2014, Afghanistan, 25. Juni 2015, S. 9, 42-45:
www.state.gov/documents/organization/236844.pdf.

Ireland Refugee Documentation Centre (RDC), Oktober 2014:

«While “running away” is not a crime under Afghan law, law enforcement authorities often arrest, jail and even prosecute girls for running away, usually qualifying the charge as “intention” to commit zina (sexual intercourse outside of marriage). An Associated Press report on women imprisoned in Badam Bagh, Afghanistan’s central women’s prison, states: “The majority of the women packed are serving sentences of up to seven years for leaving their husbands, refusing to accept a marriage arranged by their parents, or choosing to leave their parent’s home with a man of their choice – all so-called ‘moral’ crimes.”» Quelle: Ireland Refugee Documentation Centre, The Researcher, October 2014, Volume 9 Issue 2, Oktober 2014, S. 17:
www.refworld.org/docid/544a6db84.html.

UN Human Rights Council, 12. Mai 2015:

«23. During her visits to the Badam Bagh women’s prison in Kabul and the juvenile rehabilitation centre in Herat, the Special Rapporteur expressed serious concern at the high number of women and girls arrested, prosecuted and imprisoned for so-called “moral crimes”, including adultery and premarital sex. Interlocutors stated that such convictions were often made on the basis of minimal evidence of wrongful behaviour and that investigations were often not properly carried out.

*Of the 744 female prisoners across the country, 428 — or **58 per cent** — were charged with so-called “moral crimes”.»* Quelle: UN Human Rights Council, Report of the Special Rapporteur on violence against women, its causes and consequences, Addendum: Mission to Afghanistan, 12. Mai 2015, S. 7:
www.refworld.org/docid/5583f8224.html.

Amnesty International, 7. April 2015:

*«The end of 2014 marked the departure of international military forces from the country followed by a reduction of economic and political support from the international community. At the same time, **conservative forces and ideas have slowly been increasing their positions and leverage within Afghan institutions, enabling them to intensify their attacks on women’s rights.***

*The year also brought a change in government. Although the present national unity government has promised greater accountability and a curtailment of the abuses of the previous one, **concerns remain that human rights will be deprioritized as economic and security problems increase and international interest and foreign aid decline. Even more worrying are the recent overtures made to the Taliban to bring them into government. As one women’s rights activist commented: “It will be very easy for them to ignore our rights after we worked so hard to get them.”***

*These developments stand in marked contrast to the early days of Afghanistan’s statebuilding exercise following the 11 September 2001 attacks in the USA, when there was a major drive to quash the excesses of the former Taliban regime, particularly regarding women’s rights and gender equality. **Frequently cited successes include: the 2004 Constitution, which guaranteed the equal rights of women and men, education for all and a minimum quota for women in the Afghan parliament; the adoption of a National Action Plan for the Women of Afghanistan (NAPWA), the government’s main vehicle for implementing policies to advance the status of women through 2018; and the adoption in 2009 of the Elimination of Violence Against Women Law (EVAW Law). Integral to this was a significant increase in women’s engagement in public life.***

*However, these legal and policy advances have not translated into sustained change on the ground. Entrenched social and cultural barriers have meant that **many of the rights accorded to women on paper have yet to be established in practice, despite the mechanisms put in place to facilitate them.** As such, Afghanistan remains near the bottom of the UN Development Programme Gender Inequality Index.*

*For several years now, there has been a growing backlash against women’s rights amid a renewed conservatism within the country. This is reflected in the 2013 election law, which rolled back the quota for women’s representation in provincial councils from 25% to 20%, and removed it altogether for district councils. **It can also be seen in the response to the EVAW Law, deferred by parliament when it was debated in 2013 (after being signed into law by Presidential Decree). In a heated debate in parliament, the law was called “un-Islamic” and questions were raised***

about the minimum age of marriage for girls, the prohibition against forced marriage and the existence of shelters for abused women and girls, which were called “immoral.” Amnesty International, Their lives on the line: Women human rights defenders under attack in Afghanistan, 7. April 2015, S. 19-20:
www.amnesty.org/en/documents/asa11/1279/2015/en/.

US Department of State, 25. Juni 2015:

«In May 2013 a female parliamentarian presented the EAW law to parliament seeking additional reaffirmation of women's rights even though this was not technically necessary, since a presidential decree has the same legal power as a law passed through parliament. This inadvertently led to the conservative male majority arguing against the law by saying the protections for women were un-Islamic. The speaker prevented the law from being overturned or amended and weakened by promptly ending debate and proposing it be reviewed by a parliamentary committee, where it remained as of October 15. (...)

In May 2013 parliamentary debate over the EAW law reignited a public debate over women's shelters, which some public figures compared to brothels. The Ministry of Women's Affairs, civil society, and the international community criticized the antishelter rhetoric. The existence of shelters continued to be culturally controversial throughout most of the country.» Quelle: US Department of State, 2014 Country Reports on Human Rights Practices - Afghanistan, 25 June 2015, www.refworld.org/docid/559bd58728.html.

Amnesty International, 7. April 2015:

«Most experts with whom Amnesty International spoke determined that the current legal framework offers adequate protection for women human rights defenders as outlined in Section III. The problem they noted is the lack of effective interpretation and implementation of relevant laws by the authorities. They point to the EAW [Elimination of Violence Against Women] Law in particular – the main legal protection for women human rights defenders in the country – as a clear example of the systematic failure of the state to implement its own laws.

Although EAW Commissions have now been established in 28 provinces, only 16 of them are currently functioning. In one example, a woman human rights defender from Faryab told Amnesty International that, although the Commission in her province had been set up four years ago, its members hadn't met for over two years. The UNDP had provided initial financial support but once the funding ended the Commission stopped functioning. While the registration of reported incidents of violence against women and girls increased in 2013 by almost 30% over the previous year, prosecutions using the EAW Law increased just 2% during the same period. As UNAMA noted in their report on EAW, “Increases in reporting and registration of incidents of violence against women by police and prosecutors [has] not lead to a similar increase in the use of the EAW Law.”

While this is partly due to insufficient allocation of resources, the lack of political will to tackle the issue of violence against women and girls remains the main impediment. As a lawyer familiar with EAW explained to Amnesty International: “The

EVAW Law requires ministries to allocate money for [its implementation]. But security bypasses this requirement. [They are] always making excuses not to prioritize violence against women. [There is simply] no political will or commitment. When the government does allocate the necessary resources and commits to its duties outlined in EVAW, the impact is clear. According to UNAMA, in those provinces where specialized EVAW units exist within the prosecutors' office, there were more registrations of gender-based violations as well as prosecutions using EVAW, compared to those provinces where there was no specialized EVAW unit.

Still, EVAW continues to be plagued by a lack of effective implementation stemming from gender biases. There is a "selective application of the administration of justice which focuses on reinforcing social norms and values that discriminate against women and a lack of emphasis on arresting and prosecuting male perpetrators of violence." Women continue to be jailed for "moral crimes" at an alarming rate, despite EVAW. Statistics from the MOI in 2013 showed that the number of women and girls jailed for moral crimes had doubled from 2011.

These findings are not surprising. Entrenched cultural, religious and social norms remain at the root of gender-based violence in Afghanistan. Added to this is a legal system that normalizes violence against women and girls as an accepted part of life. (...)

Furthermore, while the EVAW Law is a major step forward in the legal protection of women's human rights there are several weaknesses within it. This includes the failure to criminalize "honour" crimes, the lack of a clear definition of rape or the element of coercion that is required to distinguish rape from consensual zina, and the requirement that a victim of gender-based violence must initiate judicial action.» Amnesty International, Their lives on the line: Women human rights defenders under attack in Afghanistan, 7. April 2015, S. 56-57:
www.amnesty.org/en/documents/asa11/1279/2015/en/.

New York Times, 26. Dezember 2015:

«Farkhunda had one chance to escape the mob that wanted to kill her. Two Afghan police officers pulled her onto the roof of a low shed, above the angry crowd. But then the enraged men below her picked up poles and planks of wood, and hit at her until she lost her grip and tumbled down. Her face bloodied, she struggled to stand. Holding her hands to her hair, she looked horrified to find that her attackers had yanked off her black hijab as she fell. The mob closed in, kicking and jumping on her slight frame.

The tormented final hours of Farkhunda Malikzada, a 27-year-old aspiring student of Islam who was accused of burning a Quran in a Muslim shrine, shocked Afghans across the country. That is because many of her killers filmed one another beating her and posted clips of her broken body on social media. Hundreds of other men watched, holding their phones aloft to try to get a glimpse of the violence, but never making a move to intervene. Those standing by included several police officers.

*Unlike so many abuses against Afghan women that unfold in private, this killing in March prompted a national outcry. **For Farkhunda had not burned a Quran. Instead, an investigation found, she had confronted men who were themselves dishonoring the shrine by trafficking in amulets and, more clandestinely, Viagra and condoms.** (...)» Quelle: New York Times, Flawed Justice After a Mob Killed an Afghan Woman, 26. Dezember 2015:*

www.nytimes.com/2015/12/27/world/asia/flawed-justice-after-a-mob-killed-an-afghan-woman.html?_r=0.

New York Times, 26. Dezember 2015:

*«Hundreds of other men watched, holding their phones aloft to try to get a glimpse of the violence, but never making a move to intervene. **Those standing by included several police officers.** (...) At first, the trial and convictions that followed seemed a victory in the long struggle to give Afghan women their due in a court of law. But a deeper look suggests otherwise. **The fortuneteller who several investigators believe set the events in motion was found not guilty on appeal. The shrine's custodian, who concocted the false charge of Quran burning and incited the mob, had his death sentence commuted. Police officers who failed to send help and others who stood by received slaps on the wrist, at most. Some attackers identifiable in the videos avoided capture altogether. Afghan lawyers and human rights advocates agree that most of the accused did not receive fair trials. Farkhunda's family, fearing reprisals and worried that the killers would not be held accountable, fled the country.** (...)*

***This remains a country where ties of kinship and clan trump justice,** and where the money brought by the West has made corruption into a way of life. (...) Yet **Afghan women most need the legal system to defend them: They are largely powerless without the support of male family members,** and it is usually family members who abuse them. (...) As a last resort, Farkhunda's family has appealed to the Afghan Supreme Court, which has wide power to impose new sentences or order a new trial. The decision is pending. (...)*

*In the middle of the mayhem, someone found Farkhunda's phone and called her father. He, his wife and Farkhunda's brother Mujibullah drove to the police station. They had no word of her fate **until Gen. Abdul Rahman Rahimi, Kabul's chief of police, broke the news. "It is proved that she burned the Quran," he told Farkhunda's stunned parents, who knew she was deeply religious and planned to study theology at Kabul University. General Rahimi also informed them that he had told an Afghan television station that Farkhunda was mentally ill, in an attempt to calm an angry public. General Rahimi told Farkhunda's father that the police had failed to protect her and advised him to leave Kabul for his own safety.** (...)*

***A senior police investigator in Kabul acknowledged that the police had failed to capture all of those responsible. He estimated that three or four key suspects had fled Kabul; it was unclear if they had political connections and therefore had been tipped off, or if some had been detained and then released. None of the provincial police forces had the will or the clout to arrest them,** said the investigator, who asked not to be identified because the appeals process is still underway.*

The case became politicized, he added, with intense pressure to make arrests to show that the government was taking a stand. (...)

*If some of the guilty were spared, **the legal system also appeared to entrap some of the innocent. Some of those arrested were later shown not to have even been physically present during the killing. And Afghan defense lawyers described multiple failures in protecting the rights of the accused, including their right to counsel.*** (...)

Female lawyers who followed the case said the verdict showed Afghanistan's cultural bias against women. "There was some discrimination against women," said Najla Raheel, a young lawyer who takes cases on behalf of women, even when they cannot pay, and who was appointed by Mr. Ghani to lead the team representing Farkhunda's family in the appeal to the Supreme Court. "Some government officials didn't want 49 men punished for the death of one woman."»

Quelle: New York Times, Flawed Justice After a Mob Killed an Afghan Woman, 26. Dezember 2015:

www.nytimes.com/2015/12/27/world/asia/flawed-justice-after-a-mob-killed-an-afghan-woman.html?_r=0.