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TESTIMONY BEFORE THE
SENATE JUDICIARY SUBCOMMITTEE ON
HUMAN RIGHTS AND THE LAW
HEARING ON WOMEN'S RIGHTS ARE HUMAN
RIGHTS: U.S. RATIFICATION OF THE CONVENTION
ON THE ELIMINATION OF ALL FORMS OF
DISCRIMINATION AGAINST WOMEN (CEDAW)

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Chairman Durbin, Ranking Member Coburn, and Members of the Committee,

Thank you for inviting me to testify before you today on CEDAW and to describe Afghan women's experiences using the Convention to enhance women's rights.

I would first like to share with you my own experience of growing up as a girl in Afghanistan. I started realizing the gender differences and injustices in my own paternal family when I was around 10 years old. My grandmother used to advise my mother that the only way to keep the family honor is to keep the girls restricted and under control. For example, my grandmother believed that eating meat would make girls strong and they would start questioning and disobeying the family's men, so young girls were not allowed to eat meat. Girls were also not allowed to play in the family's garden but only to clean it. I broke that rule and used to play there with my male cousins. Then my grandfather broke my toys into pieces as an illustration of my own fate if I should break any family rules again. But I continued.

I am sure you can understand the impact of such cruelty on the personality of a 9- or 10-year-old girl. I wasn't entirely immune to fears of the penalties for disobeying, but continued to challenge injustice. These experiences made me determined to improve the situation for girls and women in my country.

The story of the Afghan woman is the story of survival. During the Taliban period, women were not allowed to work and could not even go out of their homes unless accompanied by a male family member. The Taliban burned down girls' schools and carried out horrible abuses, such as acid burnings or even cutting a woman's face with impunity.

Yet we survived the Taliban era, most of us vanishing into our homes, leaving our jobs and education; others living in poverty as refugees in neighboring countries. Emerging from those dark days, we have fought hard to win back our basic rights.

These rights would be taken for granted by most women and girls in the United States, and here CEDAW might seem to be an abstract thing. But for the women of Afghanistan, it has been a banner, a torch we've held high, as we've made our journey toward restoring and acquiring our basic rights.

Still, today, this is not an easy journey. We have faced threats, intimidations, and even assassinations along the way. And today, after nine years of valiant struggle by Afghan women, civil society, and American soldiers and civilians, the future is still far from clear. In some parts of the country, the strength of misogynist warlords is growing and the return of the Taliban is a very real prospect. While the warlords and the Taliban may have the power of fear and violence on their side, Afghan women will not shrink from defending their rights, not only for themselves and their daughters, but for the sake of all Afghans.

Afghan women have mobilized under the umbrella of the Afghan Women's Network (AWN), the organization that I represent here today. This is a network of 65 women's organizations with 3,000 members. We use international human rights conventions, particularly CEDAW, to integrate women's voices in Afghanistan's reconstruction processes and to deliver real change for women every day. Some have asked whether CEDAW really makes a difference in countries that have very poor human rights records. We have proof that it does. This treaty has led to dramatic progress for women, which just a few years ago we did not believe was possible.

Using CEDAW, we have achieved the following successes:

- The Afghan Constitution, approved in 2004, laid the foundation for women's rights in Afghanistan. Women's groups and activists used CEDAW's framework to lobby for the inclusion and enactment of Article 22, which states that Afghan women and men are equal before the law. Since the country had no significant history for such an argument to be accepted by the Grand Assembly of elders and conservative elements, CEDAW was the main basis for advocacy.
- No matter how challenging it might seem, we have the experience of working with religious scholars using CEDAW as a driving force for promoting women's rights. I developed and led a campaign called "Media and Mullah" in which we worked through 300 mosques in five provinces to create public education forums through Friday prayers. Those public education campaigns were mainly developed under CEDAW's framework for women's human rights. We compared those rights with Islamic rights, trying to prove that nothing goes against religion if we address women's human rights in Afghanistan. Just as the terrorists have twisted the religion of Islam to justify heinous acts, we have fought back to reclaim the true spirit of compassion and humanity in Islam. Though it may be surprising to some, religious leaders and scholars around Afghanistan have been our allies and partners in promoting women's rights."
- Using CEDAW and the new Afghan Constitution, we adopted the first-ever violence against women law in 2009. Previously, the idea that family violence (husbands against wives) would be illegal was almost unthinkable. Yet, AWN worked with its national and international partners for almost five years to

develop and lobby for the Elimination of Violence Against Women Law (EVAW). In a country where violence and discrimination against women are the everyday reality, EVAW enactment was not an easy task. The struggle started right at the doorstep of the Afghan government, the Ministry of Justice. Once again, we used CEDAW's framework, this time coupled with constitutional guarantees, and lobbied for the government's compliance with its legal commitments.

The changes are dramatic. The law made rape a crime in Afghanistan for the first time. While forced marriages and early marriages are common practice in Afghanistan, the new law nullifies for the first time any under-age marriage or marriages without consent of the girl. Previously, this was commonplace and there were no repercussions. Today, because of CEDAW and this new law, men are actually being brought to court and to jail on a daily basis for violating women's rights. This new law implements CEDAW Article 16, which calls on governments to eliminate discrimination around issues of marriage.

- Women in Afghanistan are deprived of the right to ownership, particularly of land and assets. We are struggling to change this reality for women using the new EVAW law. Let me share Hamida's story, a recent example.

Hamida's husband was killed in a 2004 suicide attack, and right afterward, Hamida's in-laws threw her out of the family home, along with her eight children, including six girls. Hamida came to the Afghan Women's Network seeking assistance, referred to us by the Ministry of Women's Affairs. While Hamida was provided a temporary shelter with her children in a local women's organization, we found out that she owned her husband's house as part of her informal marriage contract. (In Afghanistan, we don't have formal marriage contracts.) Our defense lawyers helped Hamida, using the new EVAW law, to successfully go to court to get back the right to own and live in her house with her children. Hamida now lives with her children in her own house, and she works as a cook for one of the women's organizations. Ten years ago, I could not even imagine that we could use the law in Afghanistan to help women.

- By using the international obligations that Afghanistan has agreed to undertake, particularly CEDAW, we were able to make history in Afghanistan in mid-2009 with our struggle against the discriminatory articles of the Shia Personal Status Law. This law had many discriminatory articles, including denying a woman's custody rights and requiring her to seek permission from her husband to leave her house. In a country where people are killed in the name of religion, Afghan women were able to come into the streets to protest this law. We used the government's national and international commitments to put pressure on the government to change the Shia Personal Status Law. Our opponents were the most conservative elements of our society. They stood against us using religious arguments, but we stayed firm in our argument based on the universal international human rights conventions, including CEDAW. We were able to make the government change the most discriminatory articles in this important legislation.

These are only a few of our many achievements using CEDAW and its framework for improving women's rights in Afghanistan, mainly between 2001-2005. Unfortunately, this progress has been threatened by the increased instability and the resilient insurgency that have recently dominated the international media.

While some may try to minimize our successes as only temporary, we believe they have created a foundation and a base for women's rights that we have never had before in Afghanistan. We have the Elimination of Violence Against Women Law, which might take generations to come into complete effect but is still an important domestic measure, and we can build many other initiatives to benefit women on its foundation.

We could not have secured these significant achievements without mobilizing around and using international human rights conventions, particularly CEDAW. More than 48 other countries are involved in Afghanistan's politics, with obvious and hidden political motives, so only an international instrument with a universal and common agenda for women's rights could work, and that was CEDAW for us.

The most important aspect of CEDAW is that it is not a rigid law in itself but rather a framework and a guideline for any state to contextualize its domestic measures and legislation to address existing gender inequalities. I know it will work differently in the United States than in Afghanistan.

What we have proven in Afghanistan is that the women's rights enshrined in CEDAW are universal, and should be defended for all women around the world. The United States of America, as a bastion of freedom and a global leader on women's rights, was expected to ratify CEDAW as a further demonstration of its commitment to empower women worldwide.

While the U.S. government has many significant domestic measures to address gender inequality, its failure to ratify CEDAW is of huge international significance. Even in Afghanistan, thousands of miles away, conservative elements try to use America's failure to ratify CEDAW to attack women's rights defenders. In all of our efforts, they constantly ask us "Why hasn't the United States ratified CEDAW?" They say that if United States believes in women's rights as a universal right, why haven't they signed on to CEDAW? Today, we don't have an answer. Perhaps tomorrow, with your help, we can answer back.