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**THE FORM AND SUBSTANCE OF WOMEN'S POLITICAL  
PARTICIPATION: A STUDY OF FEMALE PARLIAMENTARIANS IN POST-  
2001AFGHANISTAN**

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## ABSTRACT

This study provides socio-political perspectives for deeper insight into the understanding the symbolic and substantive representation of women in Afghan Parliament. It aims to determine the relationship between ‘the form’ and ‘the substance’ of women’s parliamentary representation in Afghanistan since 2001. The main argument of this research is that the ‘form’ does not necessarily results the ‘substance’ and there is a blurred line between ‘mass’ and ‘effectiveness’ of the women MPs in the Parliament. Main premise of “Critical Mass Theory” is criticized, which states that the quantity of women MPs in Parliament leads to the substantive representation.

This research has studied four important informal institutions that influenced the formal mandates, which have played a significant role in demonstrating women’s symbolic representation in Afghan Parliament: 1. religious conservatives; 2. tribal values; 3. *Pashtunwali* code of conduct; and 4. informal justice system. By concluding with a statement that the *informal institutions* in Afghanistan impede women’s status in society but also women MPs’ substantive representation of gender interests, this study raises critical questions for further research.

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## GLOSSARY

Fiqh	Jurisprudence
Namus	Law, custom and honor
Hadiths	Words, habits and actions of the Prophet Muhammad that serve as an important source to the <i>Sunnah</i> , and to <i>fiqh</i>
Sharia	Islamic Law
Wolesi Jirga	Lower House - House of People
Meshrano Jirga	Upper House – House of Elders
Loya Jirga	Grand Council
Shura	Consultation
Jirgas	Councils
Ulama	Religious Scholars
Mui-Safeed	Village Elders
Jahadi	Holy Warrior

## INTRODUCTION AND RESEARCH DESIGN

After the collapse of the Taliban regime in 2001, a new horizon of hope for justice emerged in Afghanistan. This hope was in the form of a democratic government, which was established on the basis of respect for human rights, equality and democratic values. This was a huge milestone for war driven Afghans, who were long suffering from the injustices caused by race, gender, religion and ideology. Thus, unlike former regimes, there were two most important elements that the emerging government had: first, a democratic national Constitution, which represented all minorities, poor and rich, people of different race and ethnicity alike. Second, Afghanistan transformed from a government based on *Sharia* rule of law to a democratic social system that provided equal opportunity for participation and contestation.

According to the new Constitution of Afghanistan, women and men were to enjoy equal rights; therefore schools for girls were reopened (that was closed during Taliban era)<sup>1</sup> and women's presence and emerging contribution to different spheres of life became more noticeable. Moreover, the Ministry of Women's Affairs was established and rising voice of women enabled them to make a difference and consequently led the women to the contribution of their socio-political ideals. Women as equal citizens entered the National Assembly to be part of the decision-making body within Afghan politics. The international committee at Bonn Conference and Afghan leaders agreed to preserve women's rights and guaranteed them political rights in 2005 elections.<sup>2</sup> In 2005, from a total of 2,753 candidates,

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<sup>1</sup>"The Taliban War Against Women" U.S. Department of State, Bureau of Democracy, Human Rights and Labor, November 2001, Accessed April 2, 2015.<http://www.state.gov/j/drl/rls/6185.htm>

<sup>2</sup>"Women and Conflict in Afghanistan." *International Crisis Group*. 14. 10. 2013. accessed March 20, 2015, [http://www.crisisgroup.org/~media/Files/asia/south-asia/afghanistan/252-women-and-conflict-in-afghanistan](http://www.crisisgroup.org/~/media/Files/asia/south-asia/afghanistan/252-women-and-conflict-in-afghanistan)

12 percent were women<sup>3</sup> who competed at the national level of elections to enter the Parliament and exercise their political rights. As a result of the agreement between Afghan officials and international committee at Bonn Conference in 2001, the Afghan Parliament was established to give equal opportunities for political contestation and fair participation among the Afghan public.

Therefore, to reduce women's historical exclusion and gender discrimination from decision-making processes, a quota of 27.7 percent (sixty-nine) women members of Parliament (MPs) in the composition of Afghan Parliament was approved in the Constitution.<sup>4</sup> However, such representation is criticized for being more 'symbolic than a substantive representation' where women's influence and representation of gender interests were minimal, and reducing them to the passive followers of their active peer male MPs in the National Assembly.<sup>5</sup>

In order to provide a deeper insight into understanding the symbolic and substantive representation of Afghan women MPs, it is crucial to study the role of informal institutions towards the relationship between the 'form' and the 'substance'. Therefore, this research with a socio-political lens has studied four important informal institutions that play a significant role in demonstrating women's rights and symbolic representation of women in the Afghan Parliament: 1. religious conservatives; 2. tribal values; 3. *Pashtunwali* code of conduct; and 4. informal justice system.

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<sup>3</sup>. "Afghanistan Wolesi Jirga (House of Representatives)", *Inter-Parliamentary Union*, accessed April 20, 2015, [http://ipu.org/english/parline/reports/arc/2381\\_05.html](http://ipu.org/english/parline/reports/arc/2381_05.html).

<sup>4</sup>. Arif Rahmani & Jumakhan Mohammadi, (Negahi Strategic ba Khane e Millat: Barasi Maheyat wa Kar Kardhaye Shurai Milli dar Afghanistan), "A Strategic Perspective on General Assembly: Studying the Nature and Functions of Parliament in Afghanistan" 2001,pg 70.

<sup>5</sup>. Anna Wordsworth, "A matter of Interests: Gender and the Politics of Presence in Afghanistan's Wolesi Jirga" *Afghanistan Research and Evaluation Unit*, 2007, Pg.9, Accessed 14.10.2014, <http://www.areu.org.af/Uploads/EditionPdfs/711E-A%20Matter%20of%20Interests%20IP.pdf>

Moreover, keeping in mind the influence and power of the informal institutions over the formal institutions the “Critical Mass Theory” is considered to determine if the quantity of women MPs in Parliament leads to the substantive or qualitative representation of women in Afghan Parliament.

Based on Critical Mass theory, this research study will explore the interrelation between the form and substance of women’s political participation and representation in the Afghan Parliament since 2001. It will examine if 'form' results in to 'effectiveness'. Particularly, it attempts to answer the following questions:

**Research Questions:**

What is the relationship between ‘the form’ (the presence of women, mostly by a quota system) and ‘the substance’ (the level of effective voice and influence of women deputies in parliamentary and national politics) of women’s parliamentary representation in Afghanistan since 2001?

**Sub-Questions:**

How has the gender quota system met the intended effect on the women’s voice in Afghan politics? And, in what ways do religious and security barriers, tribal values, and informal institutions impact the fulfillment of women’s substantive representation in the Afghan Parliament?

**Hypothesis:**

It is argued that the Critical Mass theory is not compatible explaining societies as in Afghanistan, whereas informal institutions have more influencing power than formal institutions.



## **Scope and Objectives of the Study:**

This research aims to analyze the relationship between the 'form' and 'substance' of women's political participation in Afghanistan since 2001. It considers the role and influence of informal institutions hampering the women MPs substantive representation. With a special focus on the role of informal institutions, this study also explores the impact of the electoral gender quotas on the substantive representation of women in Afghan Parliament. In addition, barriers and obstacles such as culture, religion, security and women's limited resources will be further explored and discussed in relation to their impeding nature in the context of Afghan women's active role in Parliament.

This thesis consists of three chapters. Chapter one presents literature review and a theoretical framework of the research. Two theories have been used to lay the foundation for the purpose of this research. Firstly, 'Critical Mass theory' from the works of Sandra is explained and argued that increase in women politicians will not necessarily result in their effectiveness.<sup>6</sup> Secondly, by considering Institutional Theory one can better understand the role and functions of formal and informal institutions and their competitive and cooperative nature in post-2001 Afghanistan. The second chapter mainly discusses the formative structure of the formal institutions such as Parliament, electoral laws, quota system, and party system. By formative structure, this study sheds light on the constitutionally created spaces for women in politics and Parliament, in particular, and how effective these allotted spaces have been for women MPs to have equal voices to their male counterparts in decision-making. In addition, this chapter explores the functions of the formal institutions and to what extent the 'form' has helped the 'substantive' representations of female parliamentarians by having a visible

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<sup>6</sup>. Gery Sandra, "Does Size Matter? Critical Mass and Women MPs in the New Zealand House of Representatives" 2001, page 3.

number (critical mass) of women in Parliament through reserved seats system or quota system. The third chapter is the essence of this research, which provides a clear picture of women's status in the context of Afghan society under informal institutions. It analyzes how the informal institutions impede women's status, in general, and women MPs' active roles, in particular. It will show that women in Afghanistan have commonly been considered the 'second sex'<sup>7</sup> and have been perceived as men's property. They have rarely been treated as human beings but rather as objects owned by men. This objectification of women unfolds in many "invisible traumas"<sup>8</sup> that women experience during their entire lives under supremacy in Afghanistan. This chapter will analyze these invisible traumas with recent examples that happened in capital city, Kabul. Besides, interviews were analyzed to provide concrete arguments that women MPs in National Assembly of Afghanistan have symbolic representation more than substantive one due to influence of informal institutions over the formal mandates. This chapter concludes that no matter how many seats are reserved for women in Afghan Parliament the situation will not change unless the mentality of Afghan society is changed or until the informal institutions are main actors acting for or deciding the destiny of women.

### **Research Methodology:**

In order to analyze the substantive representation of women MPs in the socio-political platform of Afghanistan, a qualitative research using key informant interviews needed to be conducted. Therefore, fourteen interviews in total including eleven direct interviews in Kabul

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<sup>7</sup>. Simone de Beauvoir, "Sex and Gender in Simone de Beauvoir's *Second Sex*" *Jstor.org*, April 8, 2015, <http://www.jstor.org/discover/10.2307/2930225?uid=2129&uid=2&uid=70&uid=4&sid=21106034115611>

<sup>8</sup>. Ehsan Shayegaan, "The Invisible Trauma in Afghanistan", *Global Journal of Arts Humanities and Social Science*, 2014. <http://www.eajournals.org/wp-content/uploads/The-Invisible-Trauma-in-Afghanistan-sent-001.pdf>.

(conducted in January 2015) and three interviews were conducted through Skype with the Afghan experts. The interviewees consisted of five females and nine males selected from different ethnicities and backgrounds such as Pashtuns, Hazaras, and Tajiks ranging between the ages of twenty six (26) to sixty (60). The interviewees had different academic backgrounds starting from bachelor, to PhD.

Most of the interviews were conducted in the interviewee's respective offices such as Independent Human Rights Commission Office, Parliament, Ministry of Women's Affairs, and MPs personal offices for the constituents and public visits. One female MP preferred the interview be conducted at her house. The experts and civil activists' interviews took place in a well-known restaurant named "Barbeque Tonight" which had a special place for intellectuals to come and exchange their thoughts. The interviews with MPs lasted from twenty to sixty minutes using the Simi Structured questions. The interview with the experts, however, was unstructured and, if needed, follow up questions were asked for further clarifications.

To obtain concrete data that would reflect different opinion, the interviewees were purposively selected considering their languages (Dari and Pashto) ethnicity and education. All the participants had the experience of living abroad as refugees during the Mujahidin and the Taliban regimes such as Pakistan, Iran, the United States of America, The United Kingdom of Britain and Northern Ireland, Canada, and Kyrgyzstan. They were returnees from these countries. Most of the interviewees earned their academic degrees from the above mentioned countries.

Furthermore, the interview questions were developed and e-mailed beforehand to most of the interviewees, and a hard copy of the questions was also provided to interviewees during the interview. The interview was audio-recorded which was later transcribed and translated into English, and coded according to the common themes related to the study. Three

interviews which were conducted through Skype were also very helpful. The data analysis processes were based on the thematic coding. Two themes were identified during this phase: 1. symbolic representation and symbolic parliament; 2. cultural and tribal barriers. Based on these thematic categorizations the present study explored the extended effect of Critical Mass theory on relationship between the form and substance of women MPs' representation since 2001. Overall, content analysis has been used for analyzing the secondary sources throughout this research.

### **Research Limitations:**

This research relies heavily on the content and discourse analysis, however some limitations were unavoidable. Due to of shortage of time, interviews were limited to fourteen participants, only two of whom represented the Afghan women MPs', a very small percentage of the overall 69 (sixty nine) women MPs' population. There was also a cultural barrier which prevented women MP's from voluntarily participating in this research.

# CHAPTER 1: LITERATURE REVIEW AND THEORETICAL FRAMEWORK

## 1. Literature Review:

There is a vast amount of literature present on Afghan women's rights, status, marginalization, and miseries published by academic journals and mass media. But there are limited in-depth studies conducted by scholars to understand the essence of women's political roles and why Afghan women MPs, despite having a critical mass and occupying a significant number of seats in Parliament, have minimal influence in politics overall.<sup>9</sup> Few scholars have focused on the substantive representation of women MPs. Scholars, such as Thomas Barfield, highlight the power of informal institutions that obstruct reforms<sup>10</sup> regarding women's rights and status. Other existing studies have addressed the status, presence and access of Afghan women in political and social life rather than their effective role in decision-making processes. Such literature draws general conclusions regarding the betterment of Afghan women as a whole, which is not realistic. Therefore, one cannot deny the changes that women achieved in post-Taliban era but such changes may not have taken root in Afghan society.<sup>11</sup> Such positive changes have not turned into a life-style and these changes are generally limited only to big cities where majority of women reside in rural parts of Afghanistan.

Facing the lack of scholarly articles written on Afghan women's substantive political representation beyond the barriers of 'access or presence' to political leadership positions reflects a major gap in the literature.<sup>12</sup> The current academic discourse has hardly addressed the women MPs'

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<sup>9</sup>.Anna Wordsworth, "A matter of Interests: Gender and the Politics of Presence in Afghanistan's Wolesi Jirga" *Afghanistan Research and Evaluation Unit*, 2007, Pg.9, Accessed 14.10,2014, <http://www.areu.org.af/Uploads/EditionPdfs/711E-A%20Matter%20of%20Interests%20IP.pdf>

<sup>10</sup>.Thomas Barfield, "Afghanistan A Culture and Political History", Princeton Press.

<sup>11</sup>. Tanya Goudsouzian, Fatima Rabbani, "Imported values' fail Afghan women", *Aljazeera*, 2015. <http://www.aljazeera.com/focus/2009/09/2009915134359787866.html>

<sup>12</sup>. Maria. Nzomo, "Women in Political Leadership in Kenya: Access, Agenda Setting &Accountability", *Institute of Diplomacy & International Studies, University of Nairobi*, pg, 3,

role in agenda setting and accountability.<sup>13</sup> The predominant discourse typically led scholars to address social marginalization of women under every political regime throughout Afghan history. Other literature which is used for the purpose of this study includes Afghan Constitution, electoral laws, and reports by United Nations Assistance Missions in Afghanistan, Afghanistan Research and Evaluation Unit, International Crisis Group, and media contents. For supporting arguments, relevant quotes have been used throughout the research. For obtaining primary data, it was necessary to conduct in-depth interviews to draw more realistic conclusions.

The focus of this thesis is the post-2001 era where women's political participation and representation became more prevalent and visible in Afghanistan. However, to better understand the role of institutions and status of women in Afghan society, historical records have been used. Thomas Barfield's book, *Afghanistan: A Cultural and Political History* provide a clear understanding of the impact of the institutions (formal and informal) on women's political rights and gender issues under different political regimes. This book explains the history of Afghan politics showing how the local tribal leaders opposed the central government on democratic reforms about women and gender. Nonetheless, Barfield offers with a broader explanation of informal institutions<sup>14</sup> and their impacts on substantive representation of women. Moreover, the work of Barfield and Kakar discuss a strong informal institution that is against women's rights and political participation, the *Pashtunwali* code of conduct ('the way of the Pashtuns', and is a tribal honor code that has governed the Pashtuns for many generations).<sup>15</sup> Such informal and tribal values hinder the substantial representation of women in parliament because their aim is to subjugate women and not to empower them.

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[http://ke.boell.org/sites/default/files/uploads/2014/01/women\\_in\\_political\\_leadership\\_in\\_kenya\\_access\\_influence.pdf](http://ke.boell.org/sites/default/files/uploads/2014/01/women_in_political_leadership_in_kenya_access_influence.pdf)

<sup>13</sup>. Ibid

<sup>14</sup>. Thomas Barfield, "Afghanistan A Culture and Political History", Princeton Press.

<sup>15</sup>. Palwasha, Kakar. "The Tribal Law of Pashtunwali and Women's Legislative Authority", pg 3, Accessed April 15, 2015, [http://www.rolc.sc.edu/sites/rolc.sc.edu/files/attachments/Tribal%20Law%20of%20Pashtunwali%20Women's%20Legislative%20Authority\\_0.pdf](http://www.rolc.sc.edu/sites/rolc.sc.edu/files/attachments/Tribal%20Law%20of%20Pashtunwali%20Women's%20Legislative%20Authority_0.pdf)

Many post-war countries like Uganda and Rwanda have adopted quota system to create gender balance and gender equity in Parliament.<sup>16</sup> Afghanistan is one of the post-conflict countries that abolished the historical exclusion of women from social and political spheres by granting them equal rights to run for provincial, parliamentary, and presidential elections. To explain the nature of Afghan women MPs' political participation, the quota system was studied. Li-Ju Chen defines quotas for women as "a form of affirmative action to help them overcome the obstacles that prevent women from entering politics in the same way as their male colleagues."<sup>17</sup> Similarly, Afghanistan, a post-conflict country, has also adopted the quota system as a reverse discrimination to grant women's presence in the Afghan Parliament. Wordsworth exerts that despite women's sizeable presence in parliament their influence and representation has remained negligible on women's issues<sup>18</sup> which refutes the notion of critical mass.

The Critical Mass theory is not so relevant in Afghanistan, but in some cases it has met the intended effects. Critical Mass theory literature argues that women are unlikely to have impact until they grow to a 'critical mass', in Parliament.<sup>19</sup> The most successful cases of critical mass and gender quotas are traced in Rwandan and Ugandan parliaments. Rwanda is the first country in the world with 63.8 percent of women MPs in Parliament.<sup>20</sup> Uganda also has 35 percent women MPs in Parliament.<sup>21</sup> Rwanda, Uganda and Afghanistan are all post-conflict countries and, most importantly, they have strong patriarchal societies which subordinate women. Despite the male

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<sup>16</sup>. Aili Mari Tripp, "Women and Politics in Africa Today" *Democracy in Africa*, December 2013, Accessed April 20, 2015, <http://democracyinafrica.org/women-politics-africa-today/>

<sup>17</sup>. Li-Ju. Chen, "Do Gender Quotas Influence Women's Representation and Policies?", *The European Journal of Comparative Economics*, Vol. 7, n. 1, pp. 3, accessed, 10.10.2014 <http://eaces.liuc.it/18242979201001/182429792010070102.pdf>.

<sup>18</sup>. Anna Wordsworth, "A matter of Interests: Gender and the Politics of Presence in Afghanistan's Wolesi Jirga" *Afghanistan Research and Evaluation Unit*, 2007, Pg.9, Accessed 14.10.2014, <http://www.areu.org.af/Uploads/EditionPdfs/711E-A%20Matter%20of%20Interests%20IP.pdf>

<sup>19</sup>. Sarah Childs and Mona Lena Krook. "Analyzing Women's , Substantive Representation: From Critical Mass to Critical Actors", *Government and Opposition*, 9 MAR 2009, Pg. 2, DOI: 10.1111/j.1477-7053.2009.01279.x

<sup>20</sup>"Women in National Parliaments", Inter-Parliamentary Union, Accessed April 21, 2015, <http://www.ipu.org/wmn-e/classif.htm>

<sup>21</sup> Ibid

dominated social structures<sup>22</sup>, women MPs in Rwanda and Uganda have best represented their gender interests in the parliament. One of the major factors that draw distinction between these countries is that Afghanistan is an “Islamic Republic” where Rwanda and Uganda are not. Therefore, reforms in Afghanistan that contradicts with the Islamic law will severely limit women MPs’ influence, which will be further discussed in next chapter. Thus, this indicates women MPs’ incapability in *Wolesi Jirga* (the Lower House) to change policies that are most beneficial for gender issues.

## **2. Theoretical Framework:**

### **2.1 Critical Mass Theory:**

This study requires a coherent conceptual framework to model substantive representation of women MPs in Afghan Parliament. Meanwhile, an extensive body of theoretical work is needed. Therefore, the Critical Mass Theory (CMT) was applied to this study along with the literature related to informal institutions that impedes women MPs’ active roles in decision-making. Many scholars and feminists use CMT to study the substantive and effective representation of women in political arena. The substantive representation or, ‘acting for representation’, of women aims to improve women’s living conditions and strive for gender equality.<sup>23</sup> In political science literature, the core assumption of CMT is that women’s descriptive representation in parliaments will lead into an increase in substantive representation.<sup>24</sup> This theory claims that “women will only impact upon the political agenda, political culture, and public policy after they reach critical mass in the political

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<sup>22</sup>Susan Franceschet & Mona Lena Krook. "Measuring the Impact of Quotas on Women’s Substantive Representation: Towards a Conceptual Framework", August 2008, Accessed April 11, 2015.  
[http://mlkrook.org/pdf/Franceschet\\_Krook\\_APSA\\_2008.pdf](http://mlkrook.org/pdf/Franceschet_Krook_APSA_2008.pdf)

<sup>23</sup>.Karen Celis, Sarah Childs, Johanna Kantola and Mona Lena Krook, “Rethinking Women’s Substantive Representation” *Routledge*, 01 July 2008, pg.9, accessed April 15, 2015,  
<http://www.tandfonline.com/toc/rrep20/44/2#.VTfpjSGqqk>

<sup>24</sup>Ibid 2



arena.”<sup>25</sup> Thus, the dominant feminists discourse also says that women represent women’s interests.<sup>26</sup>

However, not all female MPs are advocates of women’s rights issues and this was true in Afghan Parliament when Shiite Personal Status Law was being passed. There were some women MPs who supported this anti-women law and, conversely, some male MPs who opposed this law.<sup>27</sup> Subsequently, women’s substantive representation is not only representing women. It can be about women or about gender or exploring men’s and women’s positions in society but not specifically that women represents women.<sup>28</sup> Based on the concept of critical mass, Dahlerup states that women can only make a difference once they reach thirty percent among all legislators in Parliament.<sup>29</sup> He believes that by having thirty percent women legislators, “a minority is shaped and this minority makes a difference in decision-making.”<sup>30</sup> However, Afghanistan has 27.7 percent<sup>31</sup> of women legislators, which is close to the percentage suggested by Dahlerup failed to achieve substantial representation in past ten years.

The CMT is not compatible in Afghanistan because the informal institutions have strong capacities to manipulate the functions and duties of formal institutions. Therefore, this theory has been criticized that a critical mass of women in parliament does not lead to substantive representation. Many scholars, however, argue that instead of ‘critical mass’, ‘critical actors’ should

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<sup>25</sup>.Gery, Sandra. “Does Size Matter? Critical Mass and Women MPs in the New Zealand House of Representatives” 2001, Pg 3.

<sup>26</sup>.Karen Celis, Sarah Childs, Johanna Kantola and Mona Lena Krook, “Rethinking Women’s Substantive Representation” *Routledge*, 01 July 2008, pg 3, accessed April 15, 2015, <http://www.tandfonline.com/toc/rrep20/44/2#.VTfpjSGqqkp>

<sup>27</sup>. Zahra Tokhi Zabuli, MP, January 2015, Kabul Afghanistan.

<sup>28</sup>. Ibid

<sup>29</sup>. Lissa Lamkin Broome, John M. Conley, and Kimberly D. Krawiec, “Does Critical Mass Matter? Views From Boardroom”, *Social Science Research Network*, August 30, 2010, Pg.4, accessed April 21, 2015, [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1781064](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1781064)

<sup>30</sup>. Ibid

<sup>31</sup>Arif Rahmani & Jumakhan Mohammadi, (Negahi Strategic ba Khane e Millat: Barasi Maheyat wa Kar Kardhaye Shurai Milli dar Afghanistan), “A Strategic Perspective on General Assembly: Studying the Nature and Functions of Parliament in Afghanistan” 2001,pg 70.

be in Parliament to obtain substantive representation.<sup>32</sup> For example, based on critical mass assumption the presence of female parliamentarians could influence the policies that are most beneficial to their gender interests,<sup>33</sup> but it was not the case in Afghanistan. Therefore, there is a need for ‘critical actors’ who are active in political debates in Parliament (lobby the interests of all) and who can ‘represent the represented’.<sup>34</sup> Women MPs are responsible to represent all their constituents regardless of their gender. They are not only responsible to represent women’s gender interests.

However, Critical Mass theory has had its successful application in Sub-Saharan African countries. Women in Uganda and Rwanda have achieved substantive representation by adopting the electoral gender quota system.<sup>35</sup> Rwanda is ranking first in the world for having 63.8 percent<sup>36</sup> of women in Parliament. Similarly, Uganda has 35 percent<sup>37</sup> of women MPs which has more or less established a ground for the substantive representation of women. The common ground between these two countries and Afghanistan is that the social structures are dominated by men<sup>38</sup> and have subjugated women. A significant distinction between these states is that Afghanistan is an "Islamic Republic" which undermines reforms on gender issues.

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<sup>32</sup>. Lissa Lamkin Broome, John M. Conley, and Kimberly D. Krawiec, “Does Critical Mass Matter? Views From Boardroom”, *Social Science Research Network*, August 30, 2010, Pg.7, accessed April 21, 2015, [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1781064](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1781064)

<sup>33</sup>. Ibid

<sup>34</sup>. Karen Celis, Sarah Childs, Johanna Kantola and Mona Lena Krook, “Rethinking Women’s Substantive Representation” *Routledge*, 01 July 2008, accessed April 15, 2015, Pg 3, <http://www.tandfonline.com/toc/rrep20/44/2#.VTfpjSGqqkp>

<sup>35</sup>. “Mapping Substantive Representation of Women in Ugandan Parliament” accessed December, 10, 2014, <http://womeninpublicservice.wilsoncenter.org/wp-content/uploads/2014/08/Mapping-the-Substantive-Representation-of-Women-in-the-Ugandan-Parliament.pdf>

<sup>36</sup>. “Women in National Parliaments”, World Classification, *Inter-Parliamentary Union*, February 2015, Accessed April 19, 2015, <http://www.ipu.org/wmn-e/classif.htm>

<sup>37</sup>. Ibid

<sup>38</sup>. Helle Schwartz, "Women’s Representation in the Rwandan Parliament an Analysis of Variations in the Representation of Women’s Interests Caused by Gender and Quota" January 2005, pg 12, accessed April 22, 2015, [http://www.quotaproject.org/other/Schwartz\\_2005.pdf](http://www.quotaproject.org/other/Schwartz_2005.pdf)

On the other hand, alongside the Critical Mass theory the scholars have also discussed the concept of gender quota system that has facilitated the entry of women as Parliament members.<sup>39</sup> During the past two decades, more than one hundred countries, including Afghanistan, have introduced electoral gender quotas.<sup>40</sup> But quota system has been misinterpreted in Afghanistan. Women MPs are being discriminated by male MPs because their positions in Parliament were allotted by reserved seats system instead of by competing in elections as male MPs did.<sup>41</sup> The women are considered to be token representatives rather than being influential in decision-making and law formation. The sixty-nine women MPs in Afghan Parliament, almost a critical mass, have neither made any noticeable difference in politics nor have they defended their gender interests.<sup>42</sup> Their voice is mostly dominated by male MPs. Since Critical Mass cannot explain the facts in Afghanistan, Institutional theory seems to be more appropriate explanation.

## **1.2. Institutional Theory:**

In order to understand the functions and roles of institutions in Afghan politics this study has applied Institutional Theory. This theory best explains the competition and cooperation between the formal and informal institutions. Institutions play a very vital role in any society and they are defined as a “set of established rules that structure the social interactions.”<sup>43</sup> These rules can be either written or unwritten to control the social interactions in any society. Institutions are best

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<sup>39</sup>. Karen Celis, Sarah Childs, Johanna Kantola and Mona Lena Krook, “Rethinking Women’s Substantive Representation” *Routledge*, 01 July 2008, accessed April 15, 2015, Pg 3, <http://www.tandfonline.com/toc/rrep20/44/2#.VTfpjSGqqk>

<sup>40</sup>. Susan Franceschet & Mona Lena Krook. “Measuring the Impact of Quotas on Women’s Substantive Representation: Towards a Conceptual Framework”, Pg 2, August 2008, Accessed April 11, 2015. [http://mlkrook.org/pdf/Franceschet\\_Krook\\_APSA\\_2008.pdf](http://mlkrook.org/pdf/Franceschet_Krook_APSA_2008.pdf)

<sup>41</sup>. Anna Wordsworth, “A matter of Interests: Gender and the Politics of Presence in Afghanistan's Wolesi Jirga” *Afghanistan Research and Evaluation Unit*, 2007, Pg.9, Accessed 14.10.2014, <http://www.areu.org.af/Uploads/EditionPdfs/711E-A%20Matter%20of%20Interests%20IP.pdf>

<sup>42</sup>. Anna Wordsworth, “A matter of Interests: Gender and the Politics of Presence in Afghanistan's Wolesi Jirga” *Afghanistan Research and Evaluation Unit*, 2007, Pg.9, Accessed 14.10.2014, <http://www.areu.org.af/Uploads/EditionPdfs/711E-A%20Matter%20of%20Interests%20IP.pdf>

<sup>43</sup> Hodgson, Geoffrey M. “What Are Institutions?”, *Journal of Economic*. Pg 2, 2006. Accessed April 20, 2015, <http://www.geoffreyhodgsoninfo/user/image/whatareinstitution.pdf>.

explained “as the formal and informal procedures, and practices that are above the individual level.”<sup>44</sup> This hierarchy of institutions is to maintain and constraint social interaction and behavior.

Historically, Afghanistan has been a weak state and law enforcement process has been a challenging process for Afghan officials due to the influence of informal institutions. Two scholarships exist to explain informal institution as “functional or problem-solving” or “dysfunctional or problem-creating.”<sup>45</sup> According to Amensy and Amenta, informal institutions have the function of limiting one action in order to support others because of it has problem creating nature.<sup>46</sup> In Afghan politics the formal rulers have limited their actions to facilitate the actions of informal institutions and there has been a level of give and take between them.<sup>47</sup> The formal and informal institutions in Afghanistan oppose each other on many bases such as power sharing and reforms on gender issues. The substantive representation of women in Afghan Parliament is contradicting the norms and values (unwritten rules) of informal institutions. For this purpose informal institutions through their informal networks of 'clans' and 'patronage ties' manipulate the formal rules to decrease women’s role in decision-making.

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<sup>44</sup> Edwin Amenta and Kelly M. Ramsey, “Institutional Thoery”, *Springer*, pg 2, accessed April 21, 2015 [www.springer.com/.../9780387689296](http://www.springer.com/.../9780387689296).

<sup>45</sup> Gretchen Helmke and Steven Levitsky, “Informal Institutions and Comparative Politics: A Research Agenda”, *Kellogg Institute*, 2003, accessed April 5, 2015 pg 11, <https://www3.nd.edu/~kellogg/publications/workingpapers/WPS/307.pdf>

<sup>46</sup> Edwin Amenta and Kelly M. Ramsey. “Institutional Theory”, *Springer*, pg 2, accessed April 21, 2014 [www.springer.com/.../9780387689296](http://www.springer.com/.../9780387689296)

<sup>47</sup> Thomas ,Barfield. “Informal Dispute Resolution and the Formal Legal System in Contemporary Northern Afghanistan”, *The Rule of Law Program The United States Institute of Peace Washington, DC*, 2006. Pg. 2, [http://www.usip.org/sites/default/files/file/barfield\\_report.pdf](http://www.usip.org/sites/default/files/file/barfield_report.pdf).

## CHAPTER 2. AFGHAN WOMEN IN THE POLITICS AFGHANISTAN

The first chapter provided the theoretical framework to better understand relation between the form and the substance of women's representation in Parliament. In that chapter, it was claimed that Critical Mass Theory cannot explain the fact of women MPs effectiveness due to the influence of informal institutions. Thus, Institutional Theory best demonstrates how formal and informal institutions obstruct women MPs' active roles in politics. This chapter provides a background on the women's participation in the Afghan Politics, specifically the Parliament as a formal institution and mentions how Afghan political dynamism excluded women from politics and decision-making.

### 1. Women's Political Representation before 2001:

Afghan women had their presence in politics prior to 2001 as mentioned by Anna Wordsworth in her article "*A Matter of Interests: Gender and the Politics of Presence in Afghanistan's Wolesi Jirga*." She states that in 1964 King Zahir Shah for the very first time in drafting Afghanistan's third constitution made some reforms and granted rights to women to vote and be elected as members of Parliament.<sup>48</sup> As a result of granting women political rights, three women were elected to *Wolesi Jirga* (the Lower House) and two were appointed by King Zahir Shah to *Mishrano Jirga* (the Upper House) as senators.<sup>49</sup> Subsequently, women's participation and representation continued under the Soviet Union backed regime, where they enjoyed their political rights until the arrival of regimes of Mujahedin and the Taliban. In 2001, the collapse of the Taliban regime was marked as a new chapter in the course of Afghan women's history. The U.S. led invasion ousted the Taliban regime and the international committee at Bonn Conference agreed to allocate spaces for women in Parliament and stipulated that they should participate in upcoming

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<sup>48</sup>. Thomas Barfield. "Informal Dispute Resolution and the Formal Legal System in Contemporary Northern Afghanistan", *The Rule of Law Program The United States Institute of Peace Washington, DC*, 2006. Pg. 17, [http://www.usip.org/sites/default/files/file/barfield\\_report.pdf](http://www.usip.org/sites/default/files/file/barfield_report.pdf).

<sup>49</sup>. Ibid

elections.<sup>50</sup> The U.S. aided in liberation of women from the oppressive Taliban regime which limited them to walls of their houses.<sup>51</sup> Before the U.S. invasion, Afghan women suffered from injustice and agony during the Taliban regime and still suffer in most parts of country where the central government is weak. In 2004, the interim-government of Hamid Karzai approved the constitution that secured women's presence in Parliament by introducing 'quota system' for the minimal representation of women in National Assembly.<sup>52</sup>

## **2. Women's Representation in Post-2001:**

Modern democracies are characterized by the division of power and the shared system of decision-making by executive and legislative bodies.<sup>53</sup> In any democratic state, Parliament or legislative body is the core institution where laws impacts citizen's lives are initiated and approved. Such states based on liberal values, give equal chance for women to take part in political participation and contestation. After the total exclusion of women from public and political spheres during the Taliban era in Afghanistan, the quota system was adopted to have representation of women in Parliament to promote gender equality. Since the U.S. invasion, Afghanistan has had two parliamentary elections. The last parliamentary election before the U.S. invasion was held in 1988.<sup>54</sup>

Afghanistan's bicameral Parliament consists of two chambers *Wolesi Jirga* (the Lower House) and *Meshrano Jirga* (the Upper House). The first parliamentary election was held on 18 September 2005 in the presence of Afghanistan's strategic international partners. As a result, a total

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<sup>50</sup>. International Crisis Group. "Women and Conflict in Afghanistan." *International Crisis Group*. 14. 10.2013. accessed 10. 20. 2014. [http://www.crisisgroup.org/~media/Files/asia/south-asia/afghanistan/252-women-and-conflict-in-afghanistan](http://www.crisisgroup.org/~/media/Files/asia/south-asia/afghanistan/252-women-and-conflict-in-afghanistan).

<sup>51</sup>. Ibid

<sup>52</sup>.Ibid

<sup>53</sup>. John K. Johnsons. "The Role of Parliament in Government", *World Bank Institute Washington, DC*, 2005, pg 7, accessed March 22, 2015, <http://www.agora-parl.org/sites/default/files/WBI%20Role%20of%20Parliament%20in%20Government.pdf>

<sup>54</sup>. "Afghanistan Wolesi Jirga (House of Representatives)", *Inter-Parliamentary Union*, accessed April 20, 2015, [http://ipu.org/english/parline/reports/arc/2381\\_05.htm](http://ipu.org/english/parline/reports/arc/2381_05.htm)

of 249 MPs (68 seats reserved for women in Wolesi Jirga) were elected into Parliament.<sup>55</sup> The *Meshrano Jirga* (the Upper House) consists of 102 seats and 18 seats were occupied by women.<sup>56</sup> There was criticism that many former warlords were elected to both chambers of Parliament and few qualified women were elected to Parliament.<sup>57</sup> The reason behind that is that warlords have the strength of informal institutions that lobby their interests whereas women lack this support. Many women MPs have not been appointed in high ranking governmental or leadership positions.<sup>58</sup> In two parliamentary terms only one woman, Fawzia Koofi, has served as the first female Second Deputy Speaker in Parliament.<sup>59</sup>

Theoretically, Parliament is considered to be a democratic body, which has legitimate authority to approve or reject laws. Afghan Parliament has been manipulated by the president and the informal institutions.<sup>60</sup> According to Ashna, women's symbolic representation was noticeable during the election campaigns.<sup>61</sup> The presidential candidates brought women MPs during their election campaigns to attract the general public to the ballot boxes on the Election Day.<sup>62</sup> For instance, high-profile women MPs (Shukria Barekzai, Farkhunda Zahra Naderi and Shagul Rezaye) along many other women were actively campaigning during the presidential campaigns.<sup>63</sup> These MPs were promised high positions in new government and they were optimistic about their future in

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<sup>55</sup>. "Afghanistan Wolesi Jirga (House of Representatives)", *Inter-Parliamentary Union*, accessed April 20, 2015, [http://ipu.org/english/parline/reports/arc/2381\\_05.htm](http://ipu.org/english/parline/reports/arc/2381_05.htm)

<sup>56</sup>. Ibid

<sup>57</sup>. Declan Walsh, "Warlords and Women Take Seats in Afghan Parliament", *The Guardian*, December 2005, Accessed April 20, 2015, <http://www.theguardian.com/world/2005/dec/19/afghanistan.declanwalsh>

<sup>58</sup>. Interview with Arif Rahmani, MP, January 2015, Kabul Afghanistan.

<sup>59</sup>. Peter Horsfield, "Fawzia Koofi" *The Extra-ordinary Organization*, February 2014, Accessed April 25, 2015, <http://www.theextraordinary.org/fawzia-koofi#.UvoShEOB-U8.facebook>

<sup>60</sup>. Interview with Asif Ashna, January 2015, Kabul Afghanistan.

<sup>61</sup>. Ibid

<sup>62</sup>. Women's Rights in Afghanistan: Make Some Noise about Attacks on Women" *Amnesty International Group Campaign Update*, August 2014, accessed April 14, 2015, [http://www.amnesty.org.uk/sites/default/files/womens\\_rights\\_in\\_afghanistan\\_sep\\_2014\\_0.pdf](http://www.amnesty.org.uk/sites/default/files/womens_rights_in_afghanistan_sep_2014_0.pdf)

<sup>63</sup>. Sune Engel Rasmussen, "Afghan Women Protest at Absence of Female Ministers in New Cabinet", *The Guardian*, 3 February 2015, Accessed April 21, 2015, <http://www.theguardian.com/global-development/2015/feb/03/afghan-women-protest-absence-female-ministers-new-cabinet>

politics of Afghanistan.<sup>64</sup> Despite the fact that the new president, Ashraf Ghani Ahmadzai, is a technocrat who has lived most of his life in United States was expected to be more pro-women but in practice the opposite has happened.<sup>65</sup> It is obvious that the informal institutions lobby their own interests to minimize women's presence and roles in governmental offices. After the election results, Ghani announced that "women who have served in Afghan government for past thirteen years cannot become ministers in his cabinet."<sup>66</sup> Some competent and qualified women who have the experience of Afghan politics are denied from this specific opportunity. Now, in the new cabinet only four women received vote of confidence<sup>67</sup>, after protests by women's activist that President is not keeping his promise of election campaigns. This four women ministers, is very little compared to the percentage of women who voted on Election Day.

Afghanistan has proportional representation system; however, there is a strong need for party system to enhance the substantive representation of women. Asif Ashna, spokesperson for Abdullah Abudullah the CEO's office, says that only "9 percent of women MPs have active roles in decision-making"<sup>68</sup> which is minimal percentage of total 27.7 percent<sup>69</sup> of women MPs. Opportunities have been created for women in the political realm and women MPs need to fight against every barrier to become the cause of change. Women can only have a substantive representation when Afghanistan introduces a strong political party system and these parties elect qualified and competent women to Parliament. Afghan government continues with symbolic representation of women with their

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<sup>64</sup>. Bakhtar Safi, "Women Remind President, CEO of Campaign Pledges", *Pajhwak Afghan News*, March 2015, Accessed April 20, 2015, <http://elections.pajhwok.com/en/2015/03/15/women-remind-president-ceo-campaign-pledges>

<sup>65</sup>. Ibid

<sup>66</sup>. Interview with Asif Ashna, January 2015, Kabul Afghanistan.

<sup>67</sup>. Wolesi Jirga Approves all 16 minister-nominees, *Afghanistan Times*, Pub; April 18, 2015, Accessed April 21, 2015, <http://afghanistantimes.af/wj-approves-all-16-ministers-designate/>

<sup>68</sup>. Interview with Asif Ashna, January 2015, Kabul Afghanistan.

<sup>69</sup>. Arif Rahmani & Jumakhan Mohammadi, (Negahi Strategic ba Khane e Millat: Barasi Maheyat wa Kar Kardhaye Shurai Milli dar Afghansitan), "A Strategic Perspective on General Assembly: Studying the Nature and Functions of Parliament in Afghanistan" 2001,pg 70.



strategic partners. There is hope among people that new generation of Afghans with specialization in politics and law will have power to change the situation in Afghanistan.

### **3. Absence of Strong Political Parties:**

A fundamental change in electoral laws, electoral system and emergence of strong political parties in political system of Afghanistan can lead women MPs to have effective roles in Parliament. Also women can have a significant role in decision-making when the political and electoral system respects the votes of people.<sup>70</sup> “Votes are people's voices” and unless their voices are respected, women cannot have substantive representation. Informal actors can manipulate the formal rules for their interests. Every MP in Parliament, regardless of his/her gender, has legal right to vote. This right to vote is influential to achieve substantive representation. Women MPs can use this “right as weapon to strive for their substantive representation.”<sup>71</sup>

Wordsworth exerts that institutionalized political parties do not officially exist in Afghanistan.<sup>72</sup> In Afghanistan the ethnic-based and former Mujahidin factions are referred to as parties who can influence shifting of the coalitions.<sup>73</sup> Political parties in post-2001 Afghanistan have remained weak and fragile. The central government has not provided enough resources to strengthen the political party which is one of the major deficiencies in Afghan politics. Therefore, political parties are formed on the bases of clan, kinship, geography, and ethnicity which lack structure and strategy.<sup>74</sup> Combined with this deficiency of strong political parties there is also deficiency of strong political ideologies. Therefore, in Afghanistan's legislation there is politics of presence but there is

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<sup>70</sup>.Interview with Asif Ashna, January 2015, Kabul Afghanistan

<sup>71</sup>. Ibid

<sup>72</sup>. Anna Wordsworth, “A matter of Interests: Gender and the Politics of Presence in Afghanistan's Wolesi Jirga *Afghanistan Research and Evaluation Unit*, 2007. pg30, Accessed 14.10,2014, <http://www.areu.org.af/Uploads/EditionPdfs/711E-A%20Matter%20of%20Interests%20IP.pdf>

<sup>73</sup>. Ibid

<sup>74</sup>. Anna Wordsworth, “A matter of Interests: Gender and the Politics of Presence in Afghanistan's Wolesi Jirga *Afghanistan Research and Evaluation Unit*, 2007. pg30, Accessed 14.10,2014, <http://www.areu.org.af/Uploads/EditionPdfs/711E-A%20Matter%20of%20Interests%20IP.pdf>

lack of politics of ideas.<sup>75</sup> Women MPs are elected just for sake of being present rather being active and influential in politics. Women MPs are being criticized that they are not making any difference in state politics nor do they collectively represent their gender interests.<sup>76</sup> One of the main reasons can be lack of party system in Afghan politics. This deficiency has also allowed the informal institutions to manipulate the formal procedures.<sup>77</sup> There are not two parties, which have their own concrete ideologies, “instead there are sixty-nine women MPs who represent sixty-nine ideas or ideologies.”<sup>78</sup> As such any changes from the women MPs’ side that might have huge impact on the national level for all citizens should not be expected because they are not followers of certain ideologies. Wordsworth exerts that factors such as political networks or clans, constituencies, affiliations, ethnicity and language have never allowed women to unite and act collectively to represent their gender interests.<sup>79</sup> Afghan politics have always suffered from these boundaries of language and ethnicity. So, for a substantive representation of women MPs there is a need to move beyond these boundaries of language, ethnicity and patronage networks. Otherwise no substantial change will occur and women MPs’ passive roles might limit their future presence in Parliament.

#### **4. The Impacts of Quota System on Women’s Voice in Afghan Politics:**

In a male dominant country, electoral gender quotas are the only potential way to increase number of women in Parliament. Alongside the literature of Critical Mass theory, many scholars have discussed the intended impacts of quota system on women’s substantive representation. Therefore, feminist scholars argue that the gender electoral quotas translate into women’s gender interests because universally women have more tendencies to represent their interests.<sup>80</sup> But Weldon

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<sup>75</sup>. Ibid

<sup>76</sup>.Ibid

<sup>77</sup>. AsifAshna, January 2015, Kabul Afghanistan.

<sup>78</sup>. Ibid

<sup>79</sup>. Anna Wordsworth, “A matter of Interests: Gender and the Politics of Presence in Afghanistan's Wolesi Jirga” *Afghanistan Research and Evaluation Unit*, 2007.pg 19, Accessed 14.10.2014, <http://www.areu.org.af/Uploads/EditionPdfs/711E-A%20Matter%20of%20Interests%20IP.pdf>

<sup>80</sup>. Susan Franceschet& Mona Lena Krook."Measuring the Impact of Quotas on Women’s Substantive Representation:Towards a Conceptual Framework",Pg 5, August 2008, Accessed April 11, 2015,

asserts that such general assumptions exclude the heterogeneity of women and their gender identities including class or race.<sup>81</sup> In Afghanistan, gender quota system provided an opportunity for women's presence in Parliament. Women MPs may utilize this opportunity to prove their substantive representation.

Sharan and Wimpelmann in their work criticized the quota system in Afghanistan stating that "the quota system finds that the general public perceives the quota as a ceiling rather than a floor for women's elected seats."<sup>82</sup> The reserved seat system has not resulted in positive changes to women's rights and gender issues as a whole. This means that quota system has lost its effectiveness since women do not have equal voice in decision-making as their male counterparts.<sup>83</sup> Therefore, women MPs as a result of not having equal voice, have failed to successfully represented their gender interests in Afghan Parliament.<sup>84</sup>

However, many scholars argue that quota system has been effective in women's representation Tinker states that "giving a special preference to certain groups in a society is not a particularly 'equal' approach."<sup>85</sup> Throughout Afghan history, women have been marginalized and subjugated and now giving them seats in Parliament does not actually mean gender equity is achieved. Because women have not been empowered in Afghanistan and granting seats in Parliament do not translate into gender equity. If male MPs want to support women's active role in politics then there is a need to respect their voices. Thus, quota system has not decreased their

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[http://mlkrook.org/pdf/Franceschet\\_Krook\\_APSA\\_2008.pdf](http://mlkrook.org/pdf/Franceschet_Krook_APSA_2008.pdf)

<sup>81</sup>. Ibid

<sup>82</sup>. Timor Sharan,&Torrin Wimpelmann, "Women's Rights and Political Representation: Past Achievements and Future Challenges", *Peace Research Institute Oslo*, 2014, pg 3, Accessed 24.11.2014,<http://www.afghanwomenslososymposium.org/pop.cfm?FuseAction=Doc&pAction=View&pDoc>

<sup>83</sup>. Ibid

<sup>84</sup>. Anna Wordsworth, "A matter of Interests: Gender and the Politics of Presence in Afghanistan's Wolesi Jirga" *Afghanistan Research and Evaluation Unit*, 2007.Pg 19, Accessed 14.10.2014, <http://www.areu.org.af/Uploads/EditionPdfs/711E-A%20Matter%20of%20Interests%20IP.pdf>

<sup>85</sup>. I. Tinker, "Quotas for women in elected legislatures: Do they really empower women?" In *Women's Studies International Forum*, 2004. 27:531-546.

problems or solution to their problems because gender quota system does not guarantee efficiency and equity.

## **5: Security and Resource Barriers Hindering Female Parliamentarians Roles in Decision-Making:**

In Afghanistan every single citizen is concerned about the insecurity and instability of the country. In general, women are more concerned about it because women compare to men are vulnerable to "social insecurity" as well. They are not only targeted by the anti-government elements but also they are vulnerable to be targeted by the religious conservatives and tribe elders. When women feel secure they can freely move and become part of the work force for society. The 'critical mass' of female parliamentarians do not feel secure in Afghanistan. A female MP from Zabul province stated that "I cannot travel very often to my province and meet my constituents because there is no guarantee for my security and I might be assassinated by extremists."<sup>86</sup> Male MPs however, "can easily go to their provinces and their constituents are happy that male MPs are more effective because male MPs travel to meet and please them."<sup>87</sup> Women MPs due to social insecurity and tribal norms are less able to travel around and sit with community. Also there is less life-threat for male MPs.<sup>88</sup>

Nevertheless, obstacles like resources limitations also hamper women MPs' substantive representation.<sup>89</sup> In patrimonial society of Afghanistan, economy and resources are concentrated in the hands of men. Most women in Afghanistan do not have financial security or own businesses.<sup>90</sup> This lack of resources and financial security obstructs women's representation. During the election

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<sup>86</sup>.Shukria Barekzai, January 2015, Kabul Afghanistan

<sup>87</sup>. Zahra TokhiZabuli, January 2015, Kabul Afghanistan.

<sup>88</sup>. Anna Wordsworth, "A matter of Interests: Gender and the Politics of Presence in Afghanistan's Woles Jirga" *Afghanistan Research and Evaluation Unit*, 2007, Pg 31, Accessed 14.10,2014, <http://www.areu.org.af/Uploads/EditionPdfs/711E-A%20Matter%20of%20Interests%20IP.pdf>

<sup>89</sup>.Muzhgan Mustafawi, January 2015, Kabul Afghanistan.

<sup>90</sup>. Ibid

campaigns women candidates mainly rely on outside parties to finance their election campaigns.<sup>91</sup> By financing the election campaigns, the outside parties want to strengthen the reserved seats system for their own personal interests.<sup>92</sup> As a result, the influence of outside-party, informal institutions, patronage networks are highly noticeable in Parliament. Most of the female MPs cannot act independently to reflect or lobby the external actors' interests. Thus insecurity especially the social insecurity and resources barriers hinder the women to play an active role in the socio-political dynamism of the Afghan politics.

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<sup>91</sup>. Anna Wordsworth, "A matter of Interests: Gender and the Politics of Presence in Afghanistan's Wolesi Jirga" *Afghanistan Research and Evaluation Unit*, 2007, Pg 31, Accessed 14.10,2014, <http://www.areu.org.af/Uploads/EditionPdfs/711E-A%20Matter%20of%20Interests%20IP.pdf>

<sup>92</sup> .Ibid

### CHAPTER 3. INFORMAL INSTITUTIONS INFLUENCING FORMAL MANDATES

In order to explore the role and place of Afghan women MPs, it is necessary to understand the cultural context under whose influence the informal institutions function, form and perpetuate themselves, even in the context of '*Loya Jirga*' (grand council) or (Khane-e-Millat) the Afghan Parliament. Historically, Afghan state has been weak, and has been in a constant struggle between "formal and informal institutions."<sup>93</sup> According to Barfield, all Afghan governments must rely on a level of give and take with a system of political patronage in order to safeguard the ethnic interests and voice of the strong.<sup>94</sup> All governments must consider the popularity of informal institutions as an important phenomenon for their stability or public support. This is a deeply intertwined and engrafted practice, which demonstrates the role of informal institutions such as '*jirgas*' (councils) and '*shuras*' (consultations) that have long been the sources of solidarity and national unity on Afghan soil.<sup>95</sup> Barfield says that *Loya Jirga* (the Grand Council) serves as institution and it is an "invented tradition" by Pashtuns who for the first time chose Ahmad Shah Abdali as a ruler.<sup>96</sup> Even in present, government officials cannot ignore these informal institutions. In 2002, Karzai and the international committee "called for *Loya Jirga* to confirm the decisions that were made at Bonn Accord."<sup>97</sup> Therefore, it is assumed that no Afghan state has ever been able to rely on self-centered ambitious values without regarding the influence and power of the informal institutions.<sup>98</sup>

After the rule of the Taliban regime, new presidential system was established based on democratic Constitution but this new political system could not eliminate the 'patrimonial' rule from the 'patriarchal' society that has existed for centuries in Afghanistan history. As such,

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<sup>93</sup>Thomas Barfield, "Informal Dispute Resolution and the Formal Legal System in Contemporary Northern Afghanistan", *The Rule of Law Program The United States Institute of Peace Washington, DC*, 2006. Pg. 2, accessed April 21, 2015 [http://www.usip.org/sites/default/files/file/barfield\\_report.pdf](http://www.usip.org/sites/default/files/file/barfield_report.pdf).

<sup>94</sup>.Ibid

<sup>95</sup>. Ibid

<sup>96</sup>. Thomas Barfield, "Afghanistan: A Cultural and Political History", Princeton Press, pg 294.

<sup>97</sup>. Ibid

<sup>98</sup>. "Tribalism, Governance and Development", *USAID*, 2010.Pg 5, accessed March 23, 2015, <http://www.msiworldwide.com/wp-content/uploads/Tribalism-Governance-and-Conflict-Report.pdf>

‘patrimonialism’ has the features of informal institutions with high influence over the formal mandates. For instance, the informal institution in present day Afghanistan has limited the executive power.<sup>99</sup> President’s denial of the power and influence of informal institutions will lead to the end of his presidency. Therefore, the former president Hamid Karzai shared his power with former warlords and tribal leaders by assigning to key governmental positions.<sup>100</sup> By appointing tribal leaders to key positions, President Karzai delegitimized the role and influence of formal institutions over the informal ones. Helmke and Levitsky have defined “formal institutions as rules that are openly codified, in the sense that they are established and communicated through channels that are widely accepted as official.”<sup>101</sup> Whereas informal institutions follow rules that are not openly codified and are established and communicated through unofficial social channel.<sup>102</sup>

In present day Afghanistan, the socially shared unwritten laws have more binding force than the formal and codified laws. Thus, in the presence of informal institutions the constitutionally given political rights to women MPs have no or minimal binding force. This undermines their active participation and substantive representation in Parliament too.

According to Helmke and Levitsky, informal institutions are “self-enforcing institutions” where everything is decided on the community’s mutual response to one another.<sup>103</sup> The unwritten rules of informal institutions have strong binding force and there is no need for intervention or other factors. Besides, the formal rules can only be enforced with the intervention of the state.<sup>104</sup> Core

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<sup>99</sup>. Gretchen Helmke and Steven Levitsky, “Informal Institutions and Comparative Politics: A Research Agenda”, *Kellogg Institute*, 2003, pg 5, accessed April 12, 2015, <https://www3.nd.edu/~kellogg/publications/workingpapers/WPS/307.pdf>

<sup>100</sup>. Elizabeth Rubin, “Karzai in His Labyrinth”, *The New York Times*, August 2009, Accessed April 20, , 2015, <http://www.nytimes.com/2009/08/09/magazine/09Karzai-t.html?pagewanted=all&r=0>

<sup>101</sup>. Ibid

<sup>102</sup>. Gretchen Helmke and Steven Levitsky, “Informal Institutions and Comparative Politics: A Research Agenda”, *Kellogg Institute*, 2003, pg 5, accessed April 12, 2015, <https://www3.nd.edu/~kellogg/publications/workingpapers/WPS/307.pdf>

<sup>103</sup>. Gretchen Helmke and Steven Levitsky, “Informal Institutions and Comparative Politics: A Research Agenda”, *Kellogg Institute*, 2003, pg 5, April 12, 2015, <https://www3.nd.edu/~kellogg/publications/workingpapers/WPS/307.pdf>

<sup>104</sup>. Ibid 9.

argument of this chapter is that in presence of strong informal institutions in the traditional, conservative and patriarchal society of Afghanistan the effectiveness of Women MPs' roles in decision-making drops to the bottom lines. Reform on gender issues, proposed by the female MPs directly contradicts with *Sharia* Law. For example, informal institutions like religious conservatives, *Pashtunwali* code of conduct, and informal justice system will help to demonstrate the weakness of law enforcement mechanism in Afghanistan, which will be further discussed.

### **1. Religiosity and Culture Impeding Women MPs Roles in Decision-Making:**

Population of Afghanistan is categorized into two opposing forces the intellectuals and the conservatives. The conservatives are the continuation of the several decades of war including Jihadis, war lords, and substantial number of mullahs who preach in mosques and in more than 100,000 unregistered *madrasas* across the country with their links to schools of religious theology in Pakistan, Iran, Egypt, Iraq and India.<sup>105</sup> These *madrasas* and religious schools have become a strong opposing force to the formal institutions which oppose the modern democratic values.

The practice of democracy in Afghanistan has been criticized by Afghan elites and modernists as a practice implemented by 'non-democratic actors'.<sup>106</sup> These agents who once formed the periphery have gradually gained power and shifted to the center of authority. Non-democratic actors (warlords and mullahs) who neither believes in democracy in practice nor in theory are a threat to the institutionalization of democratic values in society. The Afghan rulers have traditionally maintained close relations with the clergy for the survival of their regimes.<sup>107</sup> These mullahs and warlords do not apply democracy as a lifestyle and therefore do not promote such values.<sup>108</sup> The

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<sup>105</sup>. Sarah Ashraf, "Religious Education and Training Provided by Madrassas in the Afghanistan-Pakistan Boundary Area", *Arts and Humanities Research Council*, 2012, pg 19, accessed April 2, 2015, [http://www.ahrc.ac.uk/What-We-Do/Strengthen-research-impact/Inform-public-policy/Documents/Religious\\_Education.pdf](http://www.ahrc.ac.uk/What-We-Do/Strengthen-research-impact/Inform-public-policy/Documents/Religious_Education.pdf)

<sup>106</sup>. Ali Reza Yasa, January 2015, Kabul Afghanistan.

<sup>107</sup>. Amit Pandya & Ellen Laipson. "Islam and Politics", *Pragmatic Steps For Global Security*, 2009, Pg, 4, [http://www.stimson.org/images/uploads/research-pdfs/IslamPolitics-Chapter\\_3\\_Sharma.pdf](http://www.stimson.org/images/uploads/research-pdfs/IslamPolitics-Chapter_3_Sharma.pdf)

<sup>108</sup>. Ibid



warlords or mullahs are pro-Taliban or extremists whose ideas are incompatible with the ideals of democracy, freedom and women's rights.<sup>109</sup> Therefore, intellectuals mostly blame Hamid Karzai, the former president of Afghanistan, for the "failure of true institutionalization of democracy in post-Taliban regime."<sup>110</sup> In 2002, Karzai recognized the Shura-e-Ulama (the council of religious scholars) to be engaged in politics.<sup>111</sup> The elites believe that President Hamid Karzai's policies were defined through the principles of tribal values and patronage system.<sup>112</sup> As such, President Karzai's government developed what Barfield calls a "patrimonial" model of government, "in which the government administration and its assets were an extension of the ruler."<sup>113</sup> During President Karzai's presidency many of the warlords and former Taliban commanders became the "decisive force in his government."<sup>114</sup> For instance, Abdul Rasul Sayyaf the former warlord got elected in Parliament.<sup>115</sup> Upon doing so, Karzai hindered women's active roles in politics because those warlords and mullahs are opposing forces towards women's participation in social and political lives. President Karzai used the tribal leaders to sustain his presidency and balance the power among different ethnic groups ignoring the fact that legitimacy of these actors could challenge women MPs effectiveness in Parliament. Thus, he called the Taliban "brother"<sup>116</sup> and revived the status of some of the Taliban commanders in the post-Taliban regime.

On the other hand, the conservative force in the country sees democratic values as a political western agenda, used as an instrument of divide and rule alienating the Muslim populations from

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<sup>109</sup>. Ibid 5

<sup>110</sup>. Interview with Participant A, January 2015, Kabul Afghanistan.

<sup>111</sup>. Amit Pandya & Ellen Laipson. "Islam and Politics", *Pragmatic Steps For Global Security*, 2009, Pg, 4, [http://www.stimson.org/images/uploads/research-pdfs/IslamPolitics-Chapter\\_3\\_Sharma.pdf](http://www.stimson.org/images/uploads/research-pdfs/IslamPolitics-Chapter_3_Sharma.pdf)

<sup>112</sup>. Ibid

<sup>113</sup>. Christopher de Bellaigue. "The War with Taliban", *New York Review of Books*, 2010. accessed April 6, 2015, <http://www.nybooks.com/articles/archives/2010/oct/28/war-taliban/>

<sup>114</sup> Interview with Participant C, March 2015, Bishkek Kyrgyzstan.

<sup>115</sup>. Jonathan S. Landay, "Warlords and Killers Seek Re-Election to Afghan parliament", *McClatchy DC*, September 2010, Accessed April 25, 2015

<sup>116</sup>. Alissa J. Rubin, "Thousands of Afghans Rally in Kabul to Reject Any Peace with Taliban", *New York Times*, 2011, accessed April 7, 2015, <http://www.nytimes.com/2011/05/06/world/asia/06afghanistan.html>

their very crucial Islamic *Sharia*.<sup>117</sup> The conservatives believe that Islam is defined in *Sharia*, which bases itself on two divine sources, the Quran and the *Hadiths*. In these sources, the objectification of women is traceable at a high scale. For instance, in Quran, which is the most important source for conservative *Sharia* believers, Allah says in *Surah Al-Baqara* (the Cow) that “Your wives are a place of sowing the seed for you, so come to your place of cultivation however you wish and put forth for yourselves.”<sup>118</sup> This specific quote reduces the value of women to an object for man’s pleasure rather than a human being. Based on the interpretation of Quran, the most conservative parts of the Afghan population have perceived women as nothing more than men’s property to be owned.<sup>119</sup> With such important reference to Quran one can understand how the conservative element of Afghan society perceives the status of women. Therefore, in a traditional society like Afghanistan, “the prevailing social values are referred as sacred”<sup>120</sup> and the society functions on the basis of such tribal values where women are subordinate to men.

In addition, the above stated values shed some light on the barbaric incident of March 19<sup>th</sup> 2015 in Kabul. A young woman named Farkhunda, falsely accused of burning a Quran, is beaten up, stoned to death, smashed under a car, and burnt in the smog of capital city.<sup>121</sup> This incident happened just a few kilometers from the presidential palace in the presence of police who were responsible to provide security and order to the city. This case raised many questions regarding the functions and legitimacy of formal institutions when a citizen can face such a fate in the presence of officers of law. If the “law enforcement had been strong in Afghanistan no other citizen would dare

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<sup>117</sup>. Afghanistan Survey on Political Institutions, Election and Democracy in Afghanistan. *Democracy International*. 2012. Pg 9, [http://www.democracyinternational.com/sites/default/files/Afghanistan%20Survey%202012%20-%20Executive%20Summary%20and%20Statistics\\_1.pdf](http://www.democracyinternational.com/sites/default/files/Afghanistan%20Survey%202012%20-%20Executive%20Summary%20and%20Statistics_1.pdf)

<sup>118</sup>. Quran, Surat Al-Baqarah (The Cow), 2:223, <http://quran.com/2/223-229>

<sup>119</sup>. Interview with Arif Rahmani, MP, January 2015, Kabul Afghanistan.

<sup>120</sup>. Ehsan Shayegaan, January 2015, Kabul Afghanistan.

<sup>121</sup>. Frozan Marofi, “Farkhunda belongs to all of the women of Kabul, of Afghanistan” *The Guardian*, 2015, accessed April 6, 2015, <http://www.theguardian.com/global-development/2015/mar/28/farkhunda-women-kabul-afghanistan-mob-killing>.

to kill a citizen in such a barbaric way” adds a civil activist.<sup>122</sup> Throughout the course of Afghanistan history, the political structure of Afghanistan never took the responsibility to give equal rights for men and women and this equality before the law was never internalized among Afghans. Even the present democracy has not emerged from within the Afghan society. It has been introduced by Afghanistan’s strategic international partners and, as such, democracy has remained alien to the conservative Afghans. This “dominant discourse and mentality that democracy is not for Afghan people”<sup>123</sup> prevented the conservative Afghans from allowing their women to be active in every sphere of life.

Farkhunda’s murder paints a clear picture of the objectified status of women in the Afghan society where the women’s voices are rarely heard. A male MP states that “Afghan women still don't have voice”<sup>124</sup> due to the gender discrimination that exists in families, in society and inside governmental structures. This “gender discrimination is domestically institutionalized”<sup>125</sup> and has taken roots in the Afghan mentality, which cannot be changed easily. Thus, man is the central authority and this authority never allows women to have a voice in society or in Parliament.<sup>126</sup> The question that quickly flashes through the minds of many people is whether Farkhunda’s gender had anything to do with her objectification among the angry crowd who took the law in their hands and killed a woman in such a rush that even the security forces could do nothing to protect her.

A well-known filmmaker and civil activist said that “if Farkhunda had been a man she would not have faced the same fate.”<sup>127</sup> Despite the fact that constitutionally Afghans are equal, it is obvious that society and law treats men and women differently. A case similar to Farkhunda’s

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<sup>122</sup>. Interview Participant A, March 2015, Kabul Afghanistan.

<sup>123</sup>. Interview with Arif Rahmani, MP, January 2015, Kabul Afghanistan.

<sup>124</sup>. Interview with Arif Rahmani, MP, January 2015, Kabul Afghanistan.

<sup>125</sup>. Anna Wordsworth, “A matter of Interests: Gender and the Politics of Presence in Afghanistan's Wolesi Jirga” *Afghanistan Research and Evaluation Unit*, 2007. pg31, Accessed 14.10.2014, <http://www.areu.org.af/Uploads/EditionPdfs/711E-A%20Matter%20of%20Interests%20IP.pdf>

<sup>126</sup>. Interview with Zahra TokhiZabuli, MP, January 2015, Kabul Afghanistan.

<sup>127</sup> Interview with Participant B, March 2015, Kabul Afghanistan.

happened in 2005 in Kabul and the “person who burnt Quran was a man.”<sup>128</sup> Due to the fact that he was a man people reacted differently and he was not killed or punished, said a civil activist.<sup>129</sup> So, circumstances that made Farkhunda vulnerable were the Afghan perception that women are a source of immorality in society.<sup>130</sup> “Immorality in corruption”<sup>131</sup>, is perceived in Afghan society as something that is directly proportional to the control of women on their social appearance, clothing and behavior.<sup>132</sup> Afghan men have dehumanized and objectified women through Islamic conservatism and tribal values. The Sunni population of Afghanistan refers to *Sharia* law and the *Shia* sect refers to Shiite Personal Status law as a legitimate source to control women’s behavior and appearances in private and public spheres.

Farkhunda’s incident shows the different and unequal attitude and reaction of Afghan men towards women. Men and women are not treated equally because women still struggle to be accepted as equal citizens to men. Unless women are accepted as equal citizens not just in formalities but also in practice there will not be a dramatic change towards the women’s active role in society and Parliament. In this socio-political context, no matter if the number of women MPs equals to that of male MPs, the substantive representation of women does not seem feasible.

The recent public murder of Farkhunda clearly demonstrates how women are dehumanized and highly objectified in Afghanistan. This dehumanization and objectification of women contributes to women MPs’ symbolic representation in Parliament because these female MPs are part of the same society. In such a patriarchal society, women MPs are criticized, possessing a critical mass in Parliament, of having a symbolic representation rather than to be a “substantial agent of change”, says a male MP.<sup>133</sup>

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<sup>128</sup>. Interview with Participant A, March 2015, Kabul Afghanistan.

<sup>129</sup>. Ibid

<sup>130</sup>. Interview with Participant B, March 2015, Kabul Afghanistan.

<sup>131</sup>. Ibid

<sup>132</sup>. Ibid

<sup>133</sup>. Interview with Asadullah Saadati, MP, January 2015, Kabul Afghanistan.

There are several reasons why women MPs, despite occupying sixty-nine seats in Parliament have minimal roles and impacts on decision-making process. Firstly, the presence of women in Parliament was a western recommendation (quota system) to legalize their presence. The international community believed that once women's presence is legally accepted by the government and population then the female parliamentarians would make their way towards a substantive representation in near future. This never happened because Afghanistan is a patriarchal society and still a large portion of the society is opposed to women's reforms and empowerments. Women have marginal roles in the families, society and even in Parliament. The roles are divided with women at the periphery and men at the core."<sup>134</sup> The societal norms demand men to be decision-makers and relegate women to accept those decisions due to "the authority men possess."<sup>135</sup> In Parliament the same mentality is dominant giving "men the leadership roles and the expectation that women MPs will follow them."<sup>136</sup>

On the other hand, resentment that male MPs feel toward women MPs is another factor that impedes women's substantive representation. The male MPs feel that the women MPs did not earn their seats but the seats were given to them.<sup>137</sup> As a result of this discrimination, male MPs minimize female MPs' roles in decision-making by ignoring and limiting their engagement to only gender issues.<sup>138</sup>

Secondly, "women MPs lack specialization"<sup>139</sup> and they are not familiar with politics and law formation. They have limited knowledge of politics and parliamentarianism or parliamentary procedures. Overall, in Afghan Parliament there is deficiency of specialization in law and politics

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<sup>134</sup>. Interview with Ehsan Shayegaan, January 2015, Kabul Afghanistan.

<sup>135</sup>Ursula Smartt, "Honor killings" Pub; 2006, pg 4, accessed April 10, 2015, <http://ursulasmartt.com/pdf/JustPeace%5B1%5D.HonourKillings.9.1.06.pdf>

<sup>136</sup>. Ibid

<sup>137</sup>. Anna Wordsworth, "A matter of Interests: Gender and the Politics of Presence in Afghanistan's Wolesi Jirga" *Afghanistan Research and Evaluation Unit*, 2007, pg 19, Accessed 14.10.2014, <http://www.areu.org.af/Uploads/EditionPdfs/711E-A%20Matter%20of%20Interests%20IP.pdf>

<sup>138</sup>. Ibid

<sup>139</sup>. Interview with Timor Sharan, January 2015, Kabul Afghanistan.

but this is more evident among the women MPs. According to a woman MP, there are many “female parliamentarians that do not have higher education.”<sup>140</sup> So, a certain number of women MPs in Parliament do not have the political awareness about their roles and responsibilities. Because most of the women MPs came from the rural areas of Afghanistan, and they do not know about the democratic values, they are unable to defend or represent their gender interests in Parliament. This absence of field specialization makes them incapable to “promote policies that are beneficial to their gender interests”<sup>141</sup> and makes them subordinate to male MPs. Moreover, a substantial number of parliamentarians have their party affiliations and supports the conservative sections of the society.<sup>142</sup> Such conservative individuals or groups that are anti-women use Sharia Law and Hadiths to legitimate their actions against the women MPs. These conservative groups are backed by strong mullahs and have successfully influenced the parliamentarians to pass anti-women laws in National Assembly of Afghanistan.

### **1.1. Shiite Personal Status Law (SPSL):**

In 2007 a bill was proposed by the Shia religious scholars (Ulama) to the Parliament of Afghanistan which contained issues of delicate family and personal matters (marriage, divorce, guardianship, and inheritance) called Shiite Personal Status Law.<sup>143</sup> In religious and traditional countries like Afghanistan family law is often contentious<sup>144</sup> because reforms to family laws mostly contradict with tribal and cultural values. In 1920s, King Amanullah Khan’s attempts to reform family law also resulted in a political struggle for power, which later put an end to the rule of

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<sup>140</sup>. Interview with Zahra Tokhi Zabuli, MP, January 2015, Kabul Afghanistan.

<sup>141</sup>. Ibid

<sup>142</sup>. Anna Wordsworth, “A matter of Interests: Gender and the Politics of Presence in Afghanistan's Wolesi Jirga” *Afghanistan Research and Evaluation Unit*, 2007, pg 19, Accessed 14.10.2014, <http://www.areu.org.af/Uploads/EditionPdfs/711E-A%20Matter%20of%20Interests%20IP.pdf>

<sup>143</sup>. Lauryn Oates, “ A Closer Look The Policy and Law-Making Process Behind the Shiite Personal Status Law”, *Afghanistan Research and Evaluation Unit*, 2009, pg 10., accessed April 2, 2015, <http://www.areu.org.af/Uploads/EditionPdfs>

<sup>144</sup>.Ibid 14.

Amanullah Khan.<sup>145</sup> The contents of Shiite Personal Status Law were in total contradiction with Article (22) of the Afghan Constitution, which states that “...any kind of discrimination between and privilege among the citizens of Afghanistan is prohibited. The citizens of Afghanistan have equal rights and duties before the law.”<sup>146</sup>

The Shiite Personal Status Law was extremely controversial because it contained issues of gender discrimination granting superiority to a husband over his wife resulting in public outcry in both inside and outside the country. Afghanistan is a signatory to Convention on the Elimination all Forms Discrimination against Women that resulted in the criticism of the donor countries on the signature of this law by president.<sup>147</sup> The implementation of Shiite Personal Status Law was threatened the advancement of gender equality in Afghanistan. The criticism inside the country were raised mostly by civil society, women’s rights activists, Independent Human Rights Commission, intellectuals, university professors, and a large body of student communities. International critics were mostly from the donor countries that warned the former president Hamid Karzai that they would pull out their female forces if this law was enacted.<sup>148</sup> The fear was that if the law was passed then the gains had been achieved regarding gender issues would be erased. According to this law, the Afghan Shia men would have legal right to dominate and control Shia women. Besides many other controversial and delicate matters, this law included the following statement in Article 254 “Shiite man in Afghanistan has the legal right to have sexual demands from his wife in one night of

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<sup>145</sup>. Ibid

<sup>146</sup>. Afghanistan Constitution, Article 22, pg 5, <http://unpan1.un.org/intradoc/groups/public/documents/APCITY/UNPAN015879.pdf>

<sup>147</sup>.Lauryn Oates, "A Closer Look: The Policy and Law-Making Process Behind the Shitte Personal Status Law", Afghanistan Research Evaluation Unit, 2009, Pg 10, Last accessed April 2, 2015, <http://www.areu.org.af/Uploads/EditionPdfs>.

<sup>148</sup>. Jon Bonne, “Karzai Bows to International Calls to Scrap Afghan 'Rape' Law”, *The Guardian*, 2009.

Accessed April 6, 2015, <http://www.theguardian.com/world/2009/apr/05/afghanistan-ShiaShia-rape-law-scrap>

every four nights.”<sup>149</sup> Shia wife has no other option but to fulfill her husbands’ sexual demands<sup>150</sup> because husbands are superior or the decisive authority. Also, in Afghanistan men is the source of income women lack financial security. Women’s rejection to their husband’s sexual demands can deprive them of maintenance. The Shia law further confirms in Article 261 that “women are subjected to obtaining permission from their husbands for leaving house except for the severe cases.”<sup>151</sup> In other words, the implementation of this law was considered as “legalizing rape within the marriage”<sup>152</sup> and repressing women’s active roles.

Despite the role and responsibility of the women MPs, a modified version of this law was eventually put into practice and fully in effect by Shiite followers in 2009. Most of the women MPs were against this law and tried their best to bring amendments. They were successful to some extent with the elimination of some articles related to “temporary marriage” and the legal age for girl’s marriage was increased from nine to seventeen years.<sup>153</sup> There were still some women MPs who supported the passing of this law without any modifications.<sup>154</sup> These women perceive the world through the lenses of conservative Afghan men. They are “under the influence of their male family members”<sup>155</sup> and, therefore, these women MPs cannot act independently, states a female MP. Specifically, those female MPs who come from the rural areas and are not exposed to modern values are dominated by male MPs in Parliament. Such women MPs during their five year terms in Parliament never appear in social media because they do not feel the need to argue their stance

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<sup>149</sup>. Afghanistan, *Shia* Personal Status Law, Article 254, accessed April 12, 2015, <http://www.hazara.net/downloads/docs/Shia-law-original.pdf>

<sup>150</sup>. "Afghanistan: Law Curbing Women’s Rights Takes Effect", *Human Rights Watch*, August 2009, Accessed April 20, 2015, <http://www.hrw.org/news/2009/08/13/afghanistan-law-curbing-women-s-rights-takes-effect>

<sup>151</sup>. Afghanistan, *Shia* Personal Status Law, Article 254, <http://www.hazara.net/downloads/docs/Shia-law-original.pdf>

<sup>152</sup>Ben Farmer, “Hamid Karzai signs law 'legalizing rape in marriage’”, *The Telegraph* March 2009, accessed April 15, 2015, <http://www.telegraph.co.uk/news/worldnews/asia/afghanistan/5080797/Hamid-Karzai-signs-law-legalising-rape-in-marriage.html>

<sup>153</sup>. Interview with Zahra Tokhi Zabuli, MP, January 2015, Kabul Afghanistan.

<sup>154</sup>. Ibid

<sup>155</sup> Ibid



against male MPs on anti-women issues.<sup>156</sup> When SPSL was being discussed on anti-women themes in Parliament, some female parliamentarians complained that the Shia influential leaders inside and outside the parliament lobbied to sign the law (SPSL) and ignored the voice of women's rights advocates.<sup>157</sup> However, this law, despite its barbaric anti-women themes, could not be deterred or deleted by the Afghan women MPs. Such examples of failure are perceived to be proofs of ineffectiveness of Afghan women MPs regarding their immediate responsibilities and agendas of fighting against violation of women's rights.

The Afghan women, in general, and the women MPs, in particular, who stood in support of such anti-women status laws represent the crippling complexities of Afghan society under the influence of informal institutions. Mohammad Asif Mohsini, a former warlord and the leader of Islamic Harakat Party, is an influential Shiite scholar. He drafted this law when Shiite religious sect was first constitutionally recognized in 2004.<sup>158</sup> He was able to get this bill passed through his complex network of commander MP's and warlord supporters, legalizing the repression of Shiite women in the Afghan Parliament forever. Considering a chronological timeframe of the duration of passing this law, the influence of informal institutions such as conservative religious groups were evident. Such circles of MP lobbyists succeeded in manipulating the approval of this law for their interests, reducing women parliamentarians to mere symbols ineffective to cause a change.

## **2. Tribal Values Obstruct Women MPs Substantive Representation:**

Gender violence and structural inequalities in Afghanistan are internal and cultural phenomena rooted in the family.<sup>159</sup> As a result, it means that family is the most immediate source of cultivating the seeds of violence. This is where the bases of a form and frame of cultural values are

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<sup>156</sup>Interview with Participant B, January 2015, Kabul Afghanistan.

<sup>157</sup>. Jon Bonne, "Karzai Bows to International Calls to Scrap Afghan 'Rape' Law", *The Guardian*, 2009. Accessed April 6, 2015, <http://www.theguardian.com/world/2009/apr/05/afghanistan-Shia-rape-law-scrap>

<sup>158</sup>.Lauryn Oates, " A Closer Look The Policy and Law-Making Process Behind the Shiite Personal Status Law", *Afghanistan Research and Evaluation Unit*, 2009, Pg 14., accessed April 2, 2015, <http://www.areu.org.af/Uploads/EditionPdfs>

<sup>159</sup>. Interview with Ali Reza Yasa, January 2015, Kabul Afghanistan.

shaped, where a man, as the superior member of a family, is the leader and the only breadwinner. As such, family is where the personalities of members of Afghan society are shaped. In the tribal Afghan society, family is the most fundamental source of psychological and physical protection due to the lack of social and economic support from government and the absence of strong formal institutions. It leaves the status of tribe at the peak of significance of human interactions. Tribes are regarded as crucial social agencies that both protect individuals from outside or rival ethnic and tribal groups and they also support individuals to materialize their needs reproduced in the whole cycle of tribal interactions. Similarly, strong tribal values such as *Pashtunwali* have been established to direct, order, assist, solidify and regulate Pashtun tribes for many generations.

## **2.1: The *Pashtunwali* Code of Conduct's Impact on Women MPs' Substantive Representation**

*Pashtunwali* code of conduct is being practiced in most rural areas of Afghanistan populated by Pashtun tribes. The main mechanisms of this code are the customary and *Sharia* laws from Hanafi Islam<sup>160</sup> that have been practiced for many generations among Pashtuns.<sup>161</sup> Besides many other restrictions in this code, the subjugation of women is evident in the practice of *Pashtunwali* which constrains women in different forms to make them subordinate to their male peers.<sup>162</sup> According to Kakar, "*Pashtunwali* has a religious identity in Islam, which affects the tribal code's relationship with *Sharia* that supports legislation of its norm."<sup>163</sup> Despite the fact that religious

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<sup>160</sup>. Thomas Barfield, "Afghanistan A Culture and Political History", Princeton Press, Pg. 260.

<sup>161</sup>. Palwasha Kakar, "The Tribal Law of Pashtunwali and Women's Legislative Authority", Pg. 1, [http://www.rolc.sc.edu/sites/rolc.sc.edu/files/attachments/Tribal%20Law%20of%20Pashtunwali%20and%20Women's%20Legislative%20Authority\\_0.pdf](http://www.rolc.sc.edu/sites/rolc.sc.edu/files/attachments/Tribal%20Law%20of%20Pashtunwali%20and%20Women's%20Legislative%20Authority_0.pdf)

<sup>162</sup>. Ibid

<sup>163</sup>. Palwasha Kakar, "The Tribal Law of Pashtunwali and Women's Legislative Authority", Pg 2, [http://www.rolc.sc.edu/sites/rolc.sc.edu/files/attachments/Tribal%20Law%20of%20Pashtunwali%20and%20Women's%20Legislative%20Authority\\_0.pdf](http://www.rolc.sc.edu/sites/rolc.sc.edu/files/attachments/Tribal%20Law%20of%20Pashtunwali%20and%20Women's%20Legislative%20Authority_0.pdf)

scholars see contradiction in Pashtun customs and Sharia law, the Pashtuns do not perceive it as different from Sharia.<sup>164</sup>

Subsequently, *Namus* or Purdah is main element of tribal code of honor in *Pashtunwali* which is related to “defense of women’s honor.”<sup>165</sup> Kakar says that “*Namus* is thus an important institution for maintaining the gender segregated order of the society.”<sup>166</sup> For instance, there are some imposed limitations on the movement of men and women between gendered segregated spaces. Men are not allowed to go to women’s space and women are not allowed to enter a men’s space<sup>167</sup> and the violator of this tribal norm is severely punished by the members of the *Jirgas*. Additionally, many of the parliamentarians are from Pashtun ethnic group (the largest ethnic group in Afghanistan)<sup>168</sup> and Pashtuns are the practitioners of *Pashtunwali* code conduct. As such, these male MPs are against the presence of women in the political and social domains because it contradicts with their tribal values and norms.<sup>169</sup> In family institutions, men are superior to women and most of the women who are not aware of their gender rights have accepted the dominance of their male family members. In doing so, when such female enters into Parliament, they “see the world from the eyes of their husbands” adds a Pashtun woman MP.<sup>170</sup> The tribal values and the dominance of informal institutions are so internalized within the women that they never question or raise their concern about it.<sup>171</sup> Supposedly, if a woman MP defends her gender interest she may believe that she is breaking the long established norm of the society. As such she never raises her

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<sup>164</sup>. Palwasha Kakar, “The Tribal Law of Pashtunwali and Women’s Legislative Authority”, pg 3, [http://www.rolc.sc.edu/sites/rolc.sc.edu/files/attachments/Tribal%20Law%20of%20Pashtunwali%20and%20Women's%20Legislative%20Authority\\_0.pdf](http://www.rolc.sc.edu/sites/rolc.sc.edu/files/attachments/Tribal%20Law%20of%20Pashtunwali%20and%20Women's%20Legislative%20Authority_0.pdf)

<sup>165</sup>. Ibid 4.

<sup>166</sup>. Ibid

<sup>167</sup>. Palwasha Kakar, “The Tribal Law of Pashtunwali and Women’s Legislative Authority”, pg 4, [http://www.rolc.sc.edu/sites/rolc.sc.edu/files/attachments/Tribal%20Law%20of%20Pashtunwali%20and%20Women's%20Legislative%20Authority\\_0.pdf](http://www.rolc.sc.edu/sites/rolc.sc.edu/files/attachments/Tribal%20Law%20of%20Pashtunwali%20and%20Women's%20Legislative%20Authority_0.pdf)

<sup>168</sup>. Qaiser Butt, “Pashtuns Strength in Afghan Parliament Diminished”, *The Express Tribune*, November 2010, Accessed April 20, 2015, <http://tribune.com.pk/story/73976/pashtuns-strength-in-afghan-parliament-diminished>.

<sup>169</sup>. Interview with Participant B, January 2015, Kabul Afghanistan.

<sup>170</sup>. Interview with Shukria Barekzai, MP, January 2014, Kabul Afghanistan.

<sup>171</sup>. Interview with Shukria Barekzai, MP, January 2014, Kabul Afghanistan.

voice to represent or defend her gender interests opposes those women who go against such established norms of the society. Thus, these female parliamentarians are being influenced by the strong informal institutions like *Pashtunwali*, which reduces their presence to symbolic and ineffective in Parliament.

Besides, other factors that hinder women MPs' effectiveness in decision-making is that female parliamentarians do not act collectively regarding their gender issues in Parliament.<sup>172</sup> Anti-women laws like Shiite Personal Status Law are passed and put into full effect despite women MPs' critical mass in Parliament. Another male MP says that "the female parliamentarians have not been successful in forming women's associations or inter-parliamentary unions that promote their gender interests or to be influential or effective on other policy formations."<sup>173</sup> According to a male MP, the reason behind this failure is that female legislators cannot move beyond the boundaries of language, ethnicity, and geography.<sup>174</sup> Afghanistan is a segmented society and suffers from religious and ethnic segmentation. This fraction and segmentation has made its way into Afghan Parliament too. These differences of language and ethnicities prevent women MPs from forming a block or acting collectively. As a result, female legislators are not united in their action and male MPs try to marginalize or decrease their influence.<sup>175</sup>

Moreover, most male MPs who were the former warlords and Taliban commanders are unable to reconcile the differences between the democratic and tribal values. So, they try to decrease the active role of women MPs to mere symbolic presence by ignoring their voice and stance in decision making.

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<sup>172</sup>. Anna Wordsworth, "A matter of Interests: Gender and the Politics of Presence in Afghanistan's Wolesi Jirga" *Afghanistan Research and Evaluation Unit*, 2007, Accessed 14.10,2014, <http://www.areu.org.af/Uploads/EditionPdfs/711E-A%20Matter%20of%20Interests%20IP.pdf>

<sup>173</sup>. Interview with Shukria Barekzai, MP, January 2015, Kabul Afghanistan.

<sup>174</sup>. Interview with Arif Rahmani, MP, January 2015, Kabul Afghanistan.

<sup>175</sup>. Anna Wordsworth, "A matter of Interests: Gender and the Politics of Presence in Afghanistan's Wolesi Jirga" *Afghanistan Research and Evaluation Unit*, 2007, Accessed 14.10,2014, <http://www.areu.org.af/Uploads/EditionPdfs/711E-A%20Matter%20of%20Interests%20IP.pdf>

### 3. Informal Justice System Influencing Formal Mandates:

The informal institutions compete with formal institutions. A survey conducted by “Democracy International on Political Institutions, Elections and Democracy in Afghanistan” showed dissatisfaction of Afghan people on the democracy and formal institutions and preference to refer to tribal leaders for dispute resolutions.<sup>176</sup>

Despite the fact that majority of the Afghans take part in elections to elect their president, representatives, and provincial councils, people rarely refer to them when facing problems.<sup>177</sup> The survey also revealed that Afghans have strong beliefs in the informal institutions (functions on the basis of Sharia, customary laws and some tribal norms and values) rather than elected representatives in formal institutions.<sup>178</sup> These informal institutions are of great importance in most remote and rural parts of the country. Citizens refer to local leaders or *mui-safed* (village elders) because they are accessible, less corrupt, and employ very fast procedures<sup>179</sup> by calling *Jirgas* and *shuras* to solve the local disputes and problems. The struggle between the formal and informal institutions in Afghan politics is prevalent. In such cases, the formal institutions, specifically the elected representatives to the National Assembly, lose most of their constituent’s trust in their ability to solve their issues on basis of written laws. For example, on April 8<sup>th</sup> 2015 CNN reports that an Afghan girl “Gulnaz was raped, imprisoned and later on forced to marry her rapist”<sup>180</sup> Afghanistan is a traditional society and society does not accept a raped girl because she has caused shame to the honor of the family. As a punishment she has two choices either to marry her rapist or to be honor killed in order to restore the honor of her family and community. In this specific example, the

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<sup>176</sup>.Afghanistan Survey on Political Institutions, Election and Democracy in Afghanistan. *Democracy International*, 2012.Pg 9,  
[http://www.democracyinternational.com/sites/default/files/Afghanistan%20Survey%202012%20-%20Executive%20Summary%20and%20Statistics\\_1.pdf](http://www.democracyinternational.com/sites/default/files/Afghanistan%20Survey%202012%20-%20Executive%20Summary%20and%20Statistics_1.pdf)

<sup>177</sup>. Ibid

<sup>178</sup>. Ibid 10

<sup>179</sup>. Ibid 11

<sup>180</sup>. Nick Paton Walsh, “An Afghan nightmare: Forced to marry your rapist”, *CNN*, 2015. Accessed April 12, 2015,<http://edition.cnn.com/2015/04/07/asia/afghanistan-gulnaz-rape-marriage/>

struggle and conflict between the formal and informal institutions can be seen. Theoretically, the state or the formal law demands to punish the rapist. The informal institution (informal justice system) punished the victim because the victim is perceived as the cause of immorality.<sup>181</sup> As such, in Afghanistan the customary laws are more powerful and influential than the formal justice system and government should understand its norms and legitimacy in order to function peacefully beside it.<sup>182</sup>

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<sup>181</sup> . “Still a Long Way to Go: Implementation of the Law on Elimination of Violence against Women in Afghanistan”, *UNAMA*. 2012. Accessed April 8, 2015, <http://unama.unmissions.org/LinkClick.aspx?fileticket=Qy9mDiEa5Rw%3D&tabid=12254&languageUS>

<sup>182</sup> . “Tribalism, Governance and Development, *USAID*, 2010, pg 5, <http://www.msiworldwide.com/wpcontent/uploads/Tribalism-Governance-and-Conflict-Report.pdf>.

## CONCLUSION

After 2001, women in Afghanistan have become visible and active in socio-political sphere, whereas, under the Mujahidin and Taliban regimes, women were marginalized and denied from their basic rights to education, freedom and mobility. Such gender discrimination and social exclusion were eliminated by the establishment of the democratic social system in 2001, following the US allied invasion of Afghanistan. The new Constitution of Afghanistan, drafted in 2004, gave equal rights for political participation. Therefore, to ensure women's representation, Afghan officials approved a quota of 27.7 percent of women MPs in the new Afghan Constitution.<sup>183</sup> It was assumed that electoral gender quotas are effective way to increase the number of women MPs in Parliament, which could lead to the substantive representation of women.

Women's presence in Afghan Parliament triggered debates among male MPs and general public due to their negative perceptions of reserved seat system and its minimal influence on gender representation. Therefore, this study has explored the relationship between the form and substance of women's representation in Afghan Parliament by quota system and found out that the influence and power of informal institution is stronger than formal institutions. With a special focus on the role of informal institutions, this study has attempted to indicate the impacts of the electoral gender quotas on the substantive representation of women MPs in Afghan Parliament. The findings show that women MPs have not met the intended effects by the gender electoral quotas in law formations and decision-making. Quotas or critical mass have not translated into representation of their gender interests because not all women are advocates of gender issues.

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<sup>183</sup>. Rahmani, Arif. & Mohammadi, Jumakhan. (Negahi Strategic ba Khane e Millat: Barasi Maheyat wa Kard Kardhaye Shurai Milli dar Afghanistan) "A Strategic Perspective on General Assembly: Studying the Nature and Functions of Parliament in Afghanistan", 2001. Pg 70.

From a theoretical perspective the Institutional Theory has been used in this research to understand the role and effect of these institutions in making a state function either for or against the sway of informal institutions. The Critical Mass Theory (CMT) has been criticized and it has been clarified that 'mass' does not necessarily equate to 'effectiveness'. The stance of this research is that increase in the quantity of the women parliamentarians is not proportional to the substantive representation of women in Afghan Parliament. In Afghan Parliament there are sixty-nine women MPs which has almost formed a critical mass but their influence and impacts on the politics have remained very small. From the review of a wide range of literature and analysis of interviews it is evident that informal institutions influence formal mandates and, therefore, women, despite reserving its quota seats in Parliament are not effective in the politics as well as in decision making.

This study claimed that the 'form' does not necessarily results the 'substance'. Afghan government has allotted spaces for women in political structure but has not allocated enough financial and human resources to empower them to become influential leaders. These women MPs are mere symbols, which were decided to be in power structure by Afghanistan's strategic partners at Bonn Conference.

The finding shows that the formal law enforcement has been weak in Afghanistan. The informal institutions have strength and means to manipulate the formal procedures. Some main informal institutions were studied in this research that hinder women MPs' substantive representation in Afghanistan. 1. Religious conservatives: see "women as source of immorality in society" and refer to Sharia Law and to control the behavior of women. This practice has been dominant in Parliament as well. 2. Tribal Values like *Pashtunwali* code of conduct: One of the main *Pashtunwali* principles is to control and protect women because



women are regarded as '*Namus*' or honor for them. This honor needs to be protected by men members in family and in society. This tribal code hinders the substantial representation of women in Parliament because majority of the parliamentarians are Pashtuns who practice this code. 3. Informal justice system: The influence of informal institutions like informal justice system has reduced formal procedures. Local people find informal institutions more effective and less expensive to approach rather than the officials. The norms of informal institutions oppose reforms on gender issues, which reduce women's substantive representation to symbolic one.

Findings further indicate that government cannot rely on its self-ambitious values without considering the strength and power of the informal institutions. In Afghan Parliament the situation will not change unless the mentality of Afghan society is changed or until the informal institutions act on behalf of women. Unless all women MPs do not take active part in decision-making no substantive representation will occur in the politics of Afghanistan. These women MPs have to compete with their male colleagues to achieve high governmental positions and have to lobby their interests. There is a need that women MPs have strong political will for substantive representation otherwise informal institutions influence might limit their presence in politics in future.

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### **APPENDIX A: LIST OF INTERVIEWEES**

<b>No.</b>	<b>Name</b>	<b>Position</b>	<b>Place and Date</b>
1	Arif Rahmani	MP, Ghazni Province	Kabul, January 2015
2	Asadullah Saadati	MP, Daikondi Province	Kabul, January 2015
3	Zahra Tokhi Zabuli	MP, Zabul Province	Kabul, January 2015
4	Shukria Barekzai	MP, Kabul Province	Kabul, January 2015
5	Timor Sharan	University Professor	Kabul, January 2015
6	Muzhgan Mustafawi	Deputy Minister for Ministry of Women’s Affairs	Kabul, January 2015
7	Ehsan Shayegaan	Social Researcher	Kabul, January 2015
8	Ali Reza Yasa	Chairman of Star Educational Society	Kabul, January 2015
9	Asif Ashna	Deputy Spokesperson of Abdullah Abdullah the C.E.O of Afghanistan	Kabul, January 2015
10	Shahrzad Akbar	C.E.O of Open Society Foundation Afghanistan	Kabul, January 2015
11	Jawed Nazari	Researcher	Kabul, January 2015
12	Anonymous	Civil Activist	Bishkek, March 2015
13	Dr. Sima Samar	Chairperson of (AIHRC)	Kabul, January 2015
14	Anonymous	Researcher	Bishkek, March 2015