

## With a Little Help from the War on Terror

### *The Women's Shelters*

*As long as there is violence against women, . . . when a girl has no place at her father's house, which should have been the place of love and mercy; when she has no place at her husband's house, which should have been a place of dignity; when she is not treated according to the rights and dignity that Islam has given to a woman, then she must have a place where she can take refuge and her life can be saved, and shelters are these places.<sup>1</sup>*

*The girls running away from their houses and seeking refuge in shelters are of the kind who seeks to realize immoral and unhealthy desires, desires contrary to our society and against our culture. These are girls wishing to be free to do whatever they want.<sup>2</sup>*

This chapter focuses on the controversies in Afghanistan over the space, both literally and metaphorically, for women to leave their homes and families in cases of abuse. Between 2001 and 2014, more than two dozen women's shelters were established in the country, providing a living space for women and girls who could not—or for security reasons, did not want to—live with their families. As it was highly uncommon, if not altogether unheard of, for women to set up accommodation on their own outside of family or marital dwellings, the shelters were, by their very existence, radical establishments. They unsettled government practices and popular discourses that cast women running away from their homes as transgressors and even criminals. They also problematized the domestic domain as a potential site of abuse, from which women had a legitimate right to seek protection. As the shelters gradually established themselves in the post-2001 landscape, a series of negotiations unfolded over the conditions under which women could legitimately

“escape” from home and take up residence in a shelter. At stake were the interests that kinship groups and society at large could claim in the movement, chastity, and propriety of women—and how such interests could be secured in practice through surveillance mechanisms over women’s mobility and conduct.

At the same time, I argue that the controversies over the shelters revealed deeper social and political fault lines. The women’s shelters operated through donor funding and donations from abroad. As they drew upon international networks and resources, they were, at least in part, constituted as transnational institutions. This enabled the shelters to act fairly autonomously of the Afghan government on many counts and to challenge or circumvent attempts by Afghan government officials to regulate, supervise, or co-opt them. However, the international leverage and resources that the shelters were able to mobilize could be sources of frustration, suspicion, and resentment. To many Afghan officials, and to the conservative media and politicians rallying against the shelters, the fact that the shelters were funded and supported by foreigners meant that the women residing in them were out of control in three ways: beyond family control and outside both government and national supervision. In other words, the shelters were regarded as a challenge to the institution of the family, to the government’s authority over the foreign-funded civil society, and finally to Afghanistan as a sovereign Islamic nation. Such anxieties formed the backdrop to the government’s 2011 attempt to nationalize the shelters by placing them under government administration. As I will explain, the contestations over the shelters became enmeshed in broader issues of competing models of service provision, popular discontent with NGOs, and finally the U.S.-led war against the Taliban.

#### THE “RUNAWAY WOMAN” AS A TRANSGRESSOR

When human rights workers visited Afghan prisons in the months after the 2001 invasion, they found that the majority of female detainees were held for reasons related to “moral crimes”: “There were about 300 women confined in Kabul jail. . . . The majority were . . . detained for a variety of offences related to family law such as refusing to live with their husbands, refusing to marry a husband chosen by their parents, or for having run away from either the parental or the matrimonial home. It appears that these women have no access to lawyers, have no information on their rights, if any, and are generally left in jail until their respective relatives intervene” (Lau 2003).

Being incarnated for having run away was a gender-specific predicament. Only women could “escape from the house” (*farar az manzel*); men simply went out, left, or, in some cases, abandoned their families. Broadly speaking, constructions of “running away” as a female-specific crime or subversive act hinge upon a gender order in which women are considered legal minors. Women are the wards of

household heads, husbands, and families who have claims over them and to whose supervision and protection they should be returned. Women's outings to public places (anywhere outside the house: the street, the bazaar, or the houses of relatives) are thus subject to permission (*ijaze*) by elders, husbands, or male relatives.

The kind of gender order that renders unaccompanied women in public places potential runaways whom the authorities are duty-bound to arrest is not only hierarchical (in the sense that women are subordinated to men and family elders) but also segregated. Outside space is constructed as male space, where men socialize and engage in business, trade, and politics, whereas women remain trespassers. As interlopers in public spaces, women must limit their forays to what is strictly necessary and with a clear purpose. Unaccompanied women who move around at leisure or without legitimate reasons are suspect and seen as potentially threatening to the social order. The head of a juvenile detention center in Herat patiently explained this to me as a response to my somewhat disingenuous question as to whether there were any boys in the center who had been arrested for running away. Boys, he said, could not be said to "run away": "When a boy leaves and come back after two or three days, no one in the family considers that to be a problem. A boy can walk alone on the street in the night; nobody's going to stop him to ask him what his business is or where he is going. The police take notice of a girl or woman walking alone on the street in the night with no obvious aim, but they won't notice boys in the same way. According to our traditional beliefs, if a girl is gone for three [or] four days, it will be a big shame for her family."<sup>3</sup>

The underlying principle in this is the stake others, namely a woman's family and male guardians, hold in her sexuality and her reproductive capacities. In post-2001 Afghanistan, doubts over a woman's virginity or fidelity could potentially be raised whenever her chaste behavior and nature could not be positively verified by reputable witnesses. Women who had spent unaccompanied time outside of family domains might fall into a category of questionable virtue. From a systemic perspective of public morality and social order, that is, the overall upholding of a gender order that recognizes kinship claims on women, single women at large in public spaces or living beyond family surveillance are deeply unsettling. If tolerated, the entire system of social regulation of female sexuality might collapse. As it turned out, this was exactly what many feared the shelters might bring about.

In the years following the overthrow of the Taliban, government practices generally accommodated family sovereign claims over women, although in fluid and unpredictable ways. During the Karzai presidency (2001–14), the number of women imprisoned for moral crimes was several hundred at any one time, according to government figures.<sup>4</sup> But moral crimes was a broad category; it encompassed both *zina* (premarital or extramarital intercourse) and the more vague crime of running away. While the Penal Code made *zina* a punishable crime for both sexes, there was no reference in the legal framework to any crime of running away. Families,

judges, and the police often asserted that, regardless of the written legal framework, the practice of detaining runaway women was in accordance with Islam. In fact, however, governments in Muslim countries have dealt with women runaways in quite different ways, as recent literature has shown. Mir-Hosseini (2010) points out that while all the classical *fiqh* schools construct a marital relation in which women are placed under the protection and domination of the husband in an exchange relationship—in return for *nafaqa* (maintenance: food, shelter, and clothing), a wife is obliged to observe *tamkin* (obedience), but the exact meaning of *obedience* differs. For some legal scholars, obedience is primarily understood as sexual obedience, a husband's right to his wife's body. If the wife requires her husband's permission to leave the house, it is because of his rights of sexual access to her. To go out without his permission would be to infringe upon his rights to this access and she would be declared *nushuz* (disobedient). Others have interpreted the duty to obedience more broadly, as opposed to only in sexual matters.

Furthermore, the exact conditions under which women have been housebound in Muslim societies have been shown to vary. And even more variance has been found in the degree to which this has been enforced by institutions of law. Sonbol (2003) examines the Egyptian concept of the “house of obedience” (*bayt al-ta'a*), which she points out is a modern practice. The house of obedience is a precept under which a judge could order a woman to be forcefully sent back to her husband if her petition for divorce was rejected in court. Sonbol argues that prior to the codification of personal law in the late nineteenth century, legal practice was more flexible. Egyptian women were able to negotiate their own marriage contracts and could include clauses giving them significant mobility, the ability to get divorce, and so on (Sonbol 2003). As a general rule, a judge would not order—and even less, force—a woman to live with a husband if she refused to do so. Sonbol claims that the nineteenth-century promulgation of personal laws in Egypt, while ostensibly a mere codification of sharia, actually incorporated patriarchal gender relations from Europe to greatly enhance the husband's power over his wife compared to existing legal practice. The new laws, in effect, gave the husband absolute right over his wife and the *bayt al-ta'a* was an official enforcement mechanism to that end (Sonbol 1998; see also Cuno 2009; Tucker 2008). This Egyptian law also became a model for other codified personal laws across the Middle East, such as in Yemen, where, until recently, the *bayt al-ta'a* was enforced by the courts and police (Shehada 2009).

The Egyptian example serves to illustrate that there is no single Islamic or *fiqh* position on women's right to leave the home and certainly no uniformity in types of government enforcement. If Islam cannot serve as a deterministic analytical device, it follows that historical variation has existed also in Afghanistan, although the limited research on gender boundaries in earlier periods makes it difficult to assess how much. However, as detailed in chapter 1, judges and legal officials who

had been working since the 1970s and 1980s recalled that the government rarely prosecuted people for *zina* in those years, and it certainly did not detain women for escaping the house. The mujahedin government started to arrest runaway women, and incarcerations for *zina* also increased. Yet even compared to those stricter conditions, the Taliban government's infamous orders that women could leave their house only in the company of a *mahram* and only if completely veiled were a radical new imposition. In their rigidity, Taliban gender policies effectively usurped kinship power. The question of permission for women to leave the house was no longer left to the discretion of families or husbands; it was subject to the uniform dictates of the government, which also took it upon itself the right to punish women directly (Cole 2008). As Malikyar reports from the Taliban's 1996 takeover of Kabul: "The new rulers of Kabul assigned a number of militia men to the streets, markets and mosques, bestowing them with a mandate to carry out on-the-spot punishments on violators. On 2 October, two women, spotted in full veil on a Kabul sidewalk, were beaten with a car radio antenna. When asked for the charges, the militia men stated that the women did not have a good reason for leaving their homes" (1997: 396–97).

The Taliban's attempts to impose their singular gender regime was part of their larger project of imagining and enforcing a political vision counterposed to the West and to the urban depravity (as they saw it) and violent chaos presided over by the PDPA and the Rabbani-led mujahedin government, respectively. It was also an assertion of rural, Pashtun power over urban, non-Pashtun groups, forcing the latter to adapt practices more associated with the former (Cole 2008).

After 2001, government policies on women's mobility and public presence became much less restrictive, and more fluid and open-ended. Nevertheless, women and girls were detained, charged with, and convicted for *farar az manzel*, signifying that the Karzai government was accommodating family sovereign claims over women and had not embarked upon a total break with the mujahedin and Taliban governments of the 1990s. Except for in the large, more liberal cities (Kabul, Herat, and Mazar-e Sharif), women—particularly women in their teens or twenties—who appeared to be travelling on their own were usually considered suspicious and apprehended by the police. In some cases, women were tracked down and arrested after the police had received reports from their families that they had run away. Yet the outcome of an individual case of running away was never certain. If the police did not suspect adultery and thought that the woman had acceptable reasons to flee, they might refer her to a shelter. In other cases, women would be detained and investigated. Once detained, women were typically subjected to hymen examinations ("virginity tests"). Unmarried women who failed this test could be found guilty of adultery by default.<sup>5</sup> Others could be found guilty of the act of running away or the intention to commit *zina* based simply on the fact that they had left their home on their own and without family permission. Typically, the

prison sentence for running away would be one to five years, whereas *zina* could be punished with between five and fifteen years in prison.

The significant number of incarcerations of women based on charges of running away in the post-2001 period gradually became the focus of both Afghan women's rights workers and the gender and legal reform aid agencies. They protested that running away was not an offense according to Afghan criminal law; only *zina* was criminalized.<sup>6</sup> Elaborate training programs were developed to inform legal officials of the actual limits of the law. In response, many judges—if they engaged with such appeals to legality at all—referred to article 130 of the Constitution, which stated that Hanafi jurisprudence could be applied when no other laws did.<sup>7</sup> Alternatively, many changed the charge of running away to “running away with the intention to commit *zina*.” Eventually, the Afghan office of the International Development Law Organization (IDLO), the intergovernmental organization active in the field of women's rights and the legal system that had initiated the special prosecution units, solicited the opinion of the Afghan Supreme Court on the matter, which responded by issuing a directive in August 2010.<sup>8</sup> The directive stated that in order to determine a runaway case, the first step was to consider the following questions:

1. Is the runaway a female? Is the runaway single or married?
2. What was the cause and motive for running away?
3. Has the runaway escaped to the house of relatives or strangers?

Stating that it concerned itself with female runaways only, the Supreme Court further listed three scenarios, differentiated on the basis of whether there had been violence or not, and whether the woman had run away to a relative or “legal intimate” (*mahram*). It concluded that if a woman had experienced violence and was running away to a relative or legal intimate, this would not be considered a crime, “because it is the right of every individual to stay safe from cruelty or torture.” Moreover, if a married woman ran away to a relative or legal intimate, but for no “religious or legal reason,” this was deemed not to be a criminal issue but a civil one, and only the husband could launch a complaint against the wife. However, if a woman, married or single, ran away to the house of a “stranger” (a category that included any nonrelative, not necessarily people the woman didn't know) rather than to relatives or to state authorities, even if she ran away due to family violence, this act was prohibited and punishable, because, the court reasoned, it could result in crimes such as adultery or prostitution. The Supreme Court's directive referred to a principle of Islamic jurisprudence called the Prohibition of Means: “Any action that leads to what is prohibited is prohibited. That is why running away [to a stranger] is prohibited and is punishable.”

The Supreme Court's directive illustrated that what was under discussion was not only the validity of the grounds for running away, but also the *mode* of doing so. Effectively, it identified a danger in the prospect of women being outside family

or government surveillance. This hinged on a strong connection being made between women's mobility and freedom and their sexual availability. The directive said women were incapable of being entrusted with their own virtue—therefore, women who had been outside the supervision of authorized guardians could no longer be considered positively chaste. Although men could also be arrested for *zina*, it was not considered problematic per se for them to travel or live on their own or to go to the houses of “strangers.” For women, these acts were deemed crimes in themselves.

The fact that escaping from the house was considered such a subversive act is critically important for understanding the controversy over the shelters. Shelters enabled women to leave their families and reside in a space where, in the imagination of many Afghans, they were completely at liberty to indulge in immorality. As Qazi Hanafi, MP, said on a television program in 2011: “[A shelter] is a place where youngsters want to go to fulfill their immoral desires, those that they cannot fulfill at home, where they are monitored and controlled by their parents.”<sup>9</sup>

Given such sentiments, it is not surprising that the shelters increasingly found themselves on a collision course with conservatives. The first shelter had been registered in Kabul in early 2003, initially in response to the deportation of single Afghan women from Iran. They were a novelty in Afghanistan. During earlier times, women subjected to abuse would seek refuge with other family members, neighbors, or in some cases, local leaders. During the communist era, a number of women, if they could afford it, also lived independently.<sup>10</sup> Mary Akrami, whose organization set up the first shelter, argued that the shelters responded to a new need in Afghanistan, brought about by the upheavals of war and the accompanying impoverishment and dislocation.

“When I returned to Afghanistan [after the fall of the Taliban], there were women on the street, at night, who had nowhere to go. I don’t remember it was like this before. Other family members or neighbors would take in women with problems at home. Now, family members were too poor, and neighbors were strangers to each other. . . . When I set up the shelter, even my friends and family were against what I was doing. They said that shelters are against our culture. But I told them: it’s not in our culture to have women on the street either.”<sup>11</sup>

By the end of the decade, there were nine registered shelters in the country. The majority of these were run by Afghan women’s NGOs, receiving funds from a variety of sources, including U.N. agencies, private donations, and international NGOs.<sup>12</sup> Two were run by directly by UNIFEM, although these were technically short-term referral centers, from which women would move to long-term shelters in the capital. Four of the shelters were in Kabul and would each typically house between forty and fifty women. Provincial shelters, located in the northern, eastern, and central parts of Afghanistan, could accommodate around twenty women

each. Shelter residents had quite different backgrounds. Some were single women deported from Iran or Pakistan; others had fled forced marriages, threats, or violent abuse. Yet others had been placed in the shelters after the police had acted upon reports from neighbors about family violence—in some cases, violence so severe that it could only be described as torture. Foreign women had also stayed at the shelters, including citizens of Pakistan, Iran, and European countries.

At the same time, the shelter managers were well aware of the fact that some of their residents were potential criminals in the eyes of the authorities and sections of the public. By the time the Supreme Court directive was issued in 2010, such considerations had already informed the admittance procedures of several shelters, as became clear in my conversations with shelter staff in Kabul and provincial capitals. However, the exact practices that the shelters developed in response to this dilemma differed. In theory, women were not supposed to go directly to the shelters (whose location was not to be disclosed), but to MOWA, the Afghan Independent Human Rights Commission (AIHRC), or the police, who would then refer them to the shelters. But one shelter manager in Herat explained that a lot of women in her province were unable to come to the shelter because the police would accuse them of adultery and begin a criminal prosecution instead. If a woman failed to go directly to the authorities or to a close relative's house after she fled her home, she was liable to be prosecuted for *zina* or running away. The response of this particular shelter manager in Herat was to attempt to systematically inform local women of what she perceived to be the parameters set by the law. Using the example of a driver breaking the speed limit and then claiming ignorance, she contended that it was the duty of women themselves to know how the law worked. Women seeking to leave their families because of abuse had to make sure they would come directly to the authorities. A woman should not spend even a single night at a more distant relative's house or anywhere else, which would create a gap of time in which she was unaccounted for.

According to the manager of a referral center in Jalalabad—a kind of short-term shelter that would send women on to shelters in the capital—the police and this center had an understanding that the former would subject all women to hymen examinations before they were allowed to go to the center. Unmarried women were allowed to go to the shelter only if they were found to have intact hymens; those who did not were arrested and could be prosecuted for adultery. This was a way of giving the shelter legitimacy within the local community, and, the shelter manager said, it was also in accordance with the protocol they had signed with MOWA.<sup>13</sup> Staff members at the local MOWA office, however, confided that when they suspected sexual relations between a young man and woman who were eloping, they would try to contact the family directly and arrange for a *nikah* (wedding ceremony) so as to keep the couple out of reach of the police and their medical examinations.<sup>14</sup>

Other shelters, notably those run by the organization Women for Afghan Women (WAW), were more defiant. They stated that they would admit women even if they had come directly to them without referral—regardless of their prior history.<sup>15</sup> This stance fed into anxieties among conservatives and others that the shelters were some kind of moral void into which women could escape and where they could behave without regard for social norms and propriety. The statement by Qazi Hanafi, MP, quoted at the beginning of the chapter succinctly articulated such concerns. Allegations such as Hanafi's, which circulated widely in Afghan media, formed part of the backdrop for the sudden announcement by the minister of women's affairs in 2011 that the government would take over the administration of the shelters.

“WHAT HAVE BEEN RUN BY NGOS NOW BELONG  
TO THE GOVERNMENT”: ATTEMPTS  
TO NATIONALIZE THE SHELTERS

On February 15, 2011, the minister of women's affairs, Dr. Husn Banu Ghazanfar, held a press conference in Kabul at which she stated that the women's shelters would henceforth be run by MOWA. In a series of rather nebulous formulations, the minister made several accusations against the shelters and laid out the reasons why MOWA was better positioned to run them. The background to the new regulation, she stated, was a ministerial commission that had reviewed the shelters and had uncovered “serious problems and many violations.” When asked for further clarifications, the minister mentioned a lack of order and discipline, chaos, no follow-up of the women's legal cases, and disregard for the protocols that MOWA had drawn up for the individual shelters.

The question of who would run the shelters was also presented as a matter of national sovereignty and self-reliance. Minister Ghazanfar referred to a donor conference held in 2010 at which the Afghan government had asked the international community to channel money through the government. “What have been run by NGOs now belong to the government. We are ready to be responsible and should stand on our own feet.” The minister further stated that the budgets of individual shelters were completely out of proportion to their activities, implying that some were involved in corrupt practices. Questioning why the shelters needed to spend a total of US\$11 million on 210 residents, she declared that MOWA would be able to run these shelters much more cost-effectively. The minister also said that there were rumors that were discrediting the shelters, but that they would find less fertile ground if the shelters came under government control. The minister did not specify what these rumors were, but they generally consisted of allegations that shelters were immoral places harboring prostitution, extramarital sex,

and drug abuse and that they were encouraging women to leave their families and husbands. When probed, the minister stated that she had no evidence that such things had taken place in the shelters, but she added that neither did she have any evidence to the contrary. In any case, she said, the takeover by MOWA would stop such rumors, as the ministry's staff would be present in the shelters and constantly report back to the ministry.

The press conference was the culmination of long-running tensions over the shelters involving the government, conservative politicians, the international donor community, and the NGOs running the shelters. The statements made by the minister illustrated the many dimensions to this conflict. Indeed, the press conference was a microcosm of them. One axis of tension concerned the conditions under which women could leave their families. Although the formal requirement was that admittance to the shelter was only through referral from the government or AIHRC, some shelters admitted women directly. Such open-door policies undermined the possibility of screening out those women who were not deemed worthy or in need of protection. To the conservatives, they opened up the possibility for any woman to leave her family, engage in adultery on the way, and take up residence in a place where no questions were asked. But some women's rights activists and shelter managers were also uneasy with the open-door policy adopted by a few shelters, which they regarded as an obstacle to a broader acceptance of the shelters in Afghan society. To these activists, adhering to the stricter admittance procedures would provide some reassurance that those residing in shelters had legitimate protection needs, demonstrating that the shelters were providing a necessary and legitimate service.<sup>16</sup> When faced with the unilateral declaration by MOWA that the shelters would be nationalized, however, all the shelters joined together to form a united front in the ensuing confrontations.

As the press conference indicated, MOWA's decision to take over the shelters was the result of other considerations as well. Minister Ghazanfar spoke about how Afghanistan, as a sovereign country, should no longer tolerate the fact that large portions of its development aid were channeled directly to NGOs. Whether the government or the NGOs should run the shelters was made a litmus test of whether the country was recognized as an equal and sovereign nation state in the international community and, particularly, by its Western allies. But the skepticism toward NGOs was also rooted in preferences for welfare and social services to be more tightly regulated and implemented by the state, as well as a growing antagonism toward the aid industry in general and "Westernized" female NGO personnel in particular. In order to show how the shelters had become entangled in all these additional dynamics, the next section details a few events leading up to MOWA's nationalization attempt.

“WHAT HAPPENS IF WE LEAVE  
AFGHANISTAN”: BIBI AISHA

In the spring of 2010, when I visited a shelter in Kabul run by WAW, the staff told me that one of their residents was a girl from the province of Uruzgan whose nose and ears had been cut off by her husband. The main reason I had visited the shelter that day was to try to retrace the complicated story of a woman named Fereshta, who had run away from her family and whose tragic fate is detailed in chapter 5. The girl who had been disfigured by her husband did not feature much in our conversation, but a few months later the world would come to know her as Bibi Aisha. On the cover of *Time Magazine*, her mutilated face was accompanied by the headline “What Happens If We Leave Afghanistan.”<sup>17</sup> The *Time* cover revived debates both about the war in Afghanistan and about the appropriation of Afghan women’s suffering as an argument for supporting the U.S.-led military operation. The magazine cover was rightly criticized for constructing an irrefutable and uncomplicated relationship between saviors and victims, between Western withdrawal and the mutilation of Afghan women. In fact, the linkages of Aisha’s husband with the Taliban—which the logic of the article associated with the mutilation—proved vague at best and, as was widely pointed out, the presence of NATO countries had not prevented the violence against the girl. More generally, by making the fate of women like Aisha directly dependent on the West’s willingness to commit to continued armed operations—and by depriving the maiming of Aisha of all context save this direct relationship—the magazine was a model example of how “discourses of salvation—of saving Muslim women from Muslim patriarchal law—are sutured on to a specific civilising mission, one that involves giving women their democratic/secular rights” (Siddiqi 2011: 77).

But the publicity surrounding the *Time* cover also fed into the growing controversy in Afghanistan over the shelters. In some circles, the cover was viewed as a national humiliation. The case came to represent the impotence of the Afghan people vis-à-vis the international community. For instance, Amina Afzali, the minister of labor, social affairs, martyrs, and the disabled, expressed her displeasure with the shelters’ high profile in discussing abuse. She referred in particular to the case of Bibi Aisha, who had been taken to the United States for facial reconstruction, which had humiliated Afghanistan in the eyes of the world. Other countries, if subject to similar scrutiny, would also have been shown to have such extreme cases, she contended (A. J. Rubin 2011).

The photograph and the publicity surrounding it also reinforced the skepticism in some of the other shelters toward WAW—the organization running the shelter where Bibi Aisha had lived. WAW was founded by expatriate Afghans in New York in 2001. It proved very apt at fund-raising, lobbying, and arranging high-profile gala events in the United States. WAW also espoused an uncompromising stance

on women's rights. However, among other shelters and their supporters, there was a measure of frustration over WAW. Questions had long been raised about its policy with the media. The fact that WAW permitted journalists to publish photographs of the shelter residents was criticized in particular, given that Afghan women who allow photos of their faces to be circulated are often stigmatized in conservative communities. Other shelters limited media access on the grounds that their residents were both deeply traumatized and in need of anonymity for protection. The location of some of the WAW shelters was an open secret in Kabul, and women were allowed to go out and visit their families. WAW also appeared to be paying little heed to its protocol with MOWA, which called for regular reporting and admission only through referral. Other shelters claimed that WAW's lenient ways were undermining the standing of the shelters as a whole, making them vulnerable to populist backlash as well as government antagonism. The Bibi Aisha cover made these sentiments resurface. It might be easy for WAW to spirit one or two women away to the United States, but all Afghan women could not be sent into exile, one women activist complained.<sup>18</sup> She worried about the ramifications that the publicity of the Bibi Aisha case had for the legitimacy and acceptance of the shelters in the communities where they were located.

Like the controversy over the government regulations for the shelters a few months later, the Bibi Aisha cover highlighted the transnational alliances that many Afghan women's advocates had established. These sometimes entailed a framework of action in which the main target of advocacy was NATO countries and their populations, who had to ensure that their politicians would do the right thing and not "abandon" Afghanistan. NATO governments had to stand up to Karzai and his warlords, to mercilessly defeat the Taliban, and to keep supporting and funding Afghan women. Such a reductive framework made Afghanistan a homogenous field where the sources of women's oppression were interchangeable—local patriarchies, the Taliban, warlordism, and Afghan culture were collapsed into a singular threat that only the West could defeat. This framework could not accommodate the trade-offs, negotiations, and compromises that other Afghan feminists at times found necessary in order to mitigate continuing dependence on the West. Nor did it easily allow for a scrutiny of the new relations of domination created by the international military forces. In fact, the publication of Aisha's photo coincided with a surge of targeted operations involving frequent night raids and the detention and killing of suspects, creating widespread fear and anger among many Afghan groups.

The fallacies of "the rhetoric of rescue" and the discursive effects they produce have been amply analyzed elsewhere (Abu-Lughod 2002; Butler 2009). My point here is to show how such discourses appeared in contestations about concrete gender issues *within* Afghanistan. For instance, WAW espoused a clear political position that called for a continued NATO presence and was uncompromising toward

any strategy other than military defeat of the Taliban. After the announcement of the surge and the increase in U.S. troops in 2009, WAW had issued a press release declaring its support for this policy.<sup>19</sup> The following year, referring to how the picture of Bibi Aisha had laid out the bleak future of Afghan women should Western troops leave Afghanistan, its country director, Manizha Naderi, told a *New York Times* journalist, “That is exactly what will happen. People need to see this and know what the cost will be to abandon this country” (Nordland 2010).

As the controversy over the shelter regulations moved into international arenas, a similar logic was articulated. Calls for the United States and other countries to honor their pledges to Afghan women were made synonymous with a resolute stand against the Taliban, and thus the defense of women’s rights was made dependent upon continued international military presence.

#### NASTO NADERI’S CAMPAIGN AGAINST THE SHELTERS

Fanning the backlash against the shelters around the turn of the decade was the relentless anti-shelter campaign of Nasto Naderi, a journalist at Noorin Television, which was affiliated with the political party Jamiat-e Islami.<sup>20</sup> Known as a formerly reputable journalist who had inexplicably turned into a populist reporter with questionable journalistic standards, Naderi had for a long time been running what he claimed to be an investigative exposé of the shelters. His television show *My Homeland (Sarzamin-e Man)* was widely watched. One of his early programs on the shelters had shown footage of an orphanage falsely presented by the show as a shelter. The program showed several young women gathered in a room in the purported shelter, and Naderi had implied that they had been forced into prostitution by international aid workers.

A later program, which aired just hours after the MOWA press conference, featured a story about a girl who had fled her family after her father had killed her lover. When we met a few months later, Naderi claimed to me that this “very beautiful” girl had caused the death of twelve people and was therefore a criminal who did not deserve to be in a shelter.<sup>21</sup> In reality, she had run away after her affair with the boy was discovered. Her father had killed her boyfriend when the latter refused marriage, which led to a cycle of revenge killings that claimed the lives of twelve people. In his feature about this story, Naderi stated his intention to go to the shelter where the girl lived the very next day, film crew in tow, to confront the shelter staff on live television about housing such a girl and to “show the faces of these activists.”<sup>22</sup> Horrified, the manager of the shelter—run by an Afghan NGO—mobilized her supporters and networks. They contacted the U.S. embassy,<sup>23</sup> and—as later narrated to me by Naderi—“then Karl Eikenberry [the U.S. ambassador] called the minister of interior, and the minister of interior told the chief of my television channel: ‘don’t make a program about this woman again.’”<sup>24</sup>

Unsurprisingly, Naderi argued that this constituted an undue interference into media freedom, and the event only served to reinforce his claims that the shelters were ultimately a foreign product. Mixed into these spurious and speculative broadcasts was Naderi's rhetoric, drawing upon the established vocabulary of the jihadis' antifeminism (see chapter 2), which painted women's increased mobility as a threat to national independence and Islam and, thus, to the historical achievements of the mujahedin. Naderi declared that the shelters were an abomination and an insult to the establishment of the Islamic Republic of Afghanistan,<sup>25</sup> which the former mujahedin commanders had sacrificed so much for: "The shelters are not acceptable for our people who have fought 30 years to put the word Islam in front of Afghanistan. We live in an Islamic country. . . . But some NGOs come and want to make another way for our country" (Abi-Habib 2010).

Yet interspersed with all of this were elements of more substantial, if ultimately deeply flawed, criticism of the aid industry. In military combat trousers, a tight T-shirt, and a bandana, Naderi and his similarly clad colleagues in the television station had the air of urban vigilante militias, out to protect ordinary Afghans from the predations and injustices of NGO women and their international collaborators. Echoing the charges made by the minister of women's affairs, Naderi told me that the anti-shelter campaign had been motivated by what he called an "NGO mafia" that was exploiting women for its own gain. He claimed that while all women in Afghanistan needed help, those running the shelters were merely using the image of the downtrodden Afghan women to raise money for themselves and to further their careers. How was it possible, Naderi asked me, that so much money could be spent with so few results? And how could the shelters justify spending ten thousand dollars a month on a building that housed five or six women when other women were starving in the streets outside? These statements were not substantiated by evidence, but they undoubtedly carried some local resonance. Naderi also played on popular perceptions, reinforced by the Bibi Aisha case, that the shelters pitted women against their families and encouraged them to leave their homes, and even their country, upon a whim. He complained to me, "They say you should leave your family, go to the shelter, and if you have a big problem, you can just go to the United States or Europe [for asylum]. No NGO is talking about how the women can live with their families."<sup>26</sup> This statement ignored the fact that some of the shelters were involved in or supported reconciliation between shelter residents and their families. Upon written promises that the families would not harm them, women would go back to their marital or natal homes, though sometimes with tragic consequences (see chapter 5).

Despite their inaccuracies, *Sarzamin-e Man's* tirades against the shelters gave force to government and popular skepticism about them. Following Naderi's cue, other television channels started to air programs about the shelters, often including personal attacks on the shelter managers and others, such as officials at AIHRC,

who had supported them. Eventually, as the public outcry escalated, the ulema council of religious leaders declared that the shelters had to be closed down, and upon the orders of the Vice President Marshal Fahim, MOWA was tasked with drafting new regulations that would bring the shelters under government control.

#### VICTORY FOR THE SHELTERS

At some point in early 2011, a draft of the new government regulations on the shelters was presented to the Criminal Law Reform Working Group (CLRWG) in the Ministry of Justice, tasked with reviewing all laws and regulations related to criminal matters.<sup>27</sup> Members of CLRWG alerted the shelters and activists, who found the draft deeply unsettling.<sup>28</sup> In particular, they objected to article 4, which stated that all shelters would henceforth be run by MOWA: “The Ministry of Women’s Affairs shall be responsible for the administration of the protection centers. To administrate protection centers established by non-governmental organizations (NGOs) the Ministry of Women’s Affairs shall appoint 2 of its female employees as the director and deputy director to the protection center.”<sup>29</sup>

The draft also provided for an admission committee that would consist of representatives from relevant ministries, the Supreme Court, and AIHRC, who would supervise the running of the shelters and, when appropriate, refuse admission to some women. Furthermore, this committee would refer “women and girls who had been compelled to leave their house” for a forensic medical examination (i.e., a virginity test). Article 8 stated that women and girls suspected of or accused of crimes would not be allowed into the shelters and that residents were not allowed to leave the compound of the shelters. Shelter organizations and women activists feared that this would mean that the ability to accept women who were suspected of moral crimes would be even more constricted.

These provisions clearly reflected the ongoing tension between protection needs versus the dangers of adultery and anxieties over unsupervised women. MOWA representatives argued that the regulations were an attempt to secure legitimacy for the shelters and that a framework of government monitoring would provide reassurances (or recognized proof) that the women living in shelters were still chaste. The head of the legal department of MOWA explained to me: “Most men in this country are very conservative when it comes to the issue of women. To those men who regard themselves as Muslims, for their wives to go and live in a shelter, when nobody knows what’s going on in those places, . . . it is never acceptable.”<sup>30</sup>

In short, the draft regulations laid out an official monitoring regime to prevent women’s shelters becoming black holes where women’s conduct and chastity could not be controlled and verified. They were also designed to create some local anchoring for incidents related to individual admission. Many shelters were under strong pressure to return women to their families who attempted to claim them

back. In one case unfolding during the development of the regulations, even a current minister was said to be applying pressure to retrieve a female relative from a shelter.<sup>31</sup> MOWA, meanwhile, claimed that an admission committee at the local level would strengthen the authority of shelter decisions to admit women and make it more difficult for families to challenge them.

The shelters protested these and other elements of the regulations. They argued that government-run shelters and an admission commission would actually be less able to withstand pressure from relatives and that MOWA was not institutionally equipped to run the shelters. On February 2, 2011, WAW issued a strongly worded press release, warning that the proposed government regulation endangered NGO funding of the shelters and conceded to the Taliban and their sympathizers in the government.

[The proposed regulation] would give the Ministry of Women's Affairs (MoWA) control over the few existing shelters in Afghanistan, all of which are run by non-government organizations (NGOs). These shelters are funded by international foundations and governments, not one of which has authorized any branch of the Afghan government to assume control of them. . . .

WAW has taken a strong stance against negotiating with the Taliban. All past and recent history—the accumulation of vicious threats and violent acts against women, their stance against education for girls—is undeniable evidence that regardless of what they sign during negotiations, the Taliban will not honor women's rights once they gain control of a territory. WAW sees MoWA's audacious move as an attempt to appease the Taliban and ultra-conservative members of the government.

NGOs have made progress on women's human rights in Afghanistan. In fact NGOs are the main defense against the obliteration of those rights in the country.<sup>32</sup>

Meanwhile, discussions in Afghanistan took place through CLRWG, where shelters and women activists were invited to provide their input. Although this process seemed to be making progress,<sup>33</sup> alarming articles about the regulations, detailing their content and quoting the concerns of the NGOs running the shelters, appeared in the international media.<sup>34</sup> Critics also linked the proposed regulations to ongoing efforts by the government to interest the Taliban in peace talks. Nader Nadery, a well-known human rights campaigner from AIHRC, stated that the government was restricting women's rights for this purpose: “[The government officials] are sending these signals [to the Taliban] that: ‘look we have made these changes and look we are putting some restrictions, we are taking on board some of your concerns.’ It is a very, very wrong policy. If you give in more, in advance of any talks, you feed into the confidence of the Taliban, so that they will come and dictate their terms. They will not accept the constitution; they will not accept the gains of the past nine or 10 years” (Farmer 2011).

A few days later, the fronts hardened further with the press conference given by the minister of women's affairs. She presented the regulations in their original

form, without the revisions arrived at in the CLRWG. Although more sympathetic observers argued that the minister's aggressive tone was designed to placate conservatives,<sup>35</sup> some of the shelters interpreted her intention as whipping up anti-shelter sentiment in order to assert MOWA's control. They found her accusations of corruption in the shelters to be irresponsible, especially since she had been unclear about what she meant—*corruption* in Dari can mean both *moral corruption* (*fesad-e akhlaqi*, which is a euphemism for illicit sexual behavior) and *financial corruption* (*fesad-e idari*, literally "office corruption"). Indeed, *fesad-e akhlaqi* was employed by Nasto Naderi later that day, when he declared his intention to visit one of the shelters and expose its activities on live television.<sup>36</sup>

The mistrust between MOWA and the shelters also reflected generational and ideological differences. In post-2001 Afghanistan, support for the state welfare model of the communist era remained influential, since many people from the urban middle class who were staffing government positions had also been bureaucrats under the communist government. Furthermore, the notion that the state should be a provider and benefactor, running welfare programs and intervening in markets had a certain resonance among the urban population as a whole. These ideas, however, ran counter to the dominant paradigm for the provision of social services in the international aid community that financed the shelters and for the ways in which the shelters were currently run, through NGOs. This paradigm entailed relying on non-state actors as subcontractors for provision of services. Doubtlessly, there was also a certain amount of resentment and even jealousy among MOWA staff toward the Afghan "NGO women" running the shelters, many of whom had made a name for themselves on the international conference circuit about Afghanistan and had received international awards and scholarships.<sup>37</sup> Their proficiency in English and in the vocabulary of the aid industry, as well as in delivering the project proposals and reports it required, stood in stark contrast to the somewhat hapless state of much of MOWA, where the skills valued by the international aid industry were much less in evidence.

In the weeks following the MOWA press conference, international mobilization against the regulations gathered pace. At the forefront was WAW, which set up an online petition demanding that President Karzai withdraw any law "that wrests control of Afghanistan's women's shelters from the local Afghan NGOs that have founded and run them and transfers it to the Ministry of Women's Affairs." The Afghan Women's Network, the umbrella network for women's organizations, wrote a passionate open letter (in English) entitled *To The Gatekeepers of Women's Honor*. The letter denounced the Afghan government for allowing a non-transparent and incompetent process to take over the shelters and for hypocritically accusing shelters and their supporters of undermining national honor by exposing human rights abuses against women. In reality, it was the government itself that was damaging Afghanistan's international reputation by turning a blind eye

to the abuses committed against women, often by its own officials. Letters about the shelters were sent to Western embassies in Kabul from citizens in their own countries, and three U.S. senators wrote to the Afghan president, reminding him of the sacrifices the United States had made for Afghanistan and calling the proposed regulations “a grave mistake.” The assistant secretary of state of the United States followed with a more cautiously worded statement, expressing concern over the regulation and encouraging the government to allow the NGOs to operate the shelters independently.<sup>38</sup>

As the international storm intensified, President Karzai eventually backed down. Claiming misunderstandings, he said the regulations were to be redrafted, along the lines of the suggestions already put forward by the CLRWG. This new draft would allow the NGOs to continue to run the shelters and incorporated their protests about admission committees and other issues. In contrast to earlier controversies, such as those over the Shia Personal Status Law (see chapter 2), the Afghan women activists were unanimous in their approval of the end result.<sup>39</sup> There was also a feeling of confidence: they had wielded influence and could shape government policy in a positive way. As one Afghan human rights official happily told me, “They [the government] are listening to us women activists, because they know that we are able to make trouble and noise if they don’t.”<sup>40</sup>

In the international diplomatic community in Kabul, not everyone considered the victory to be so clear-cut. A U.S. diplomat later told me that she thought the Afghan women activists had been too quick to mobilize international opinion. They should have tried to reach an agreement with the Afghan government first: “In this case, the women activists went straight to the *New York Times*. . . . They rely too much on international media. This kind of strategy is going to do some long-term damage. . . . Afghan women’s rights activists should focus more on negotiations, less on uncompromising public statements.”<sup>41</sup>

Judging from the timing of the press statements and international newspaper coverage, which appeared in parallel to the discussion over the shelter regulations in the CLRWG, the shelters and their allies had not exhausted the path of negotiation before mobilizing international outrage.<sup>42</sup> It was the storm of international reaction that made the Afghan government backtrack on its declaration to nationalize the shelters. As the controversy over the shelters was brought into the transnational sphere, however, the parameters of the debate changed. More than anything, the attempts to take over the shelters were presented as a deliberate strategy to appease the Taliban, as a first step on a slippery slope of bringing the militants into the government. The West was condemned for abandoning its commitment to Afghanistan and for not staying the course, which translated into fighting for Afghan women by defeating the insurgents and not making any concessions. In fact, there was nothing in the background or actions of the main advocates of the takeover—the minister of women’s affairs or Nasto Naderi—that

suggested they harbored a wish to bring the Taliban back into power. But in the polarized situation in which the shelters were now immersed, there was little room for the other kinds of criticism (however flawed) that earlier had emerged earlier, such as alternate visions of how to deliver these services or the limitations of the NGOs regarding accountability.

## CONCLUSIONS

As we have seen, attempts in 2011 to place the shelters under government administration spoke to the anxieties over the possible ramifications of unsupervised women. At stake were both individual families' authority over women and society's ability to enforce female modesty and propriety. At one level, therefore, the controversies over the women's shelters in Afghanistan centered on the sovereign claims that families could make over women (and the entire gender order that underwrote those claims). The shelters directly challenged the notions that women were the wards of their families and that the government and public institutions were duty bound to honor such claims by detaining women who appeared to be defying family authority by traveling alone. By opening up a space into which conventional forms of social regulation of women's conduct could not reach, shelters were seen as undermining family control over female sexuality. The initiative to nationalize the shelters was an attempt to accommodate such anxieties by establishing an official surveillance regime (or a guardianship system) that, through admission policies and the day-to-day monitoring of the shelters, would (re)constitute shelters as spaces where social regulation over female sexuality and mobility could be maintained. While some of the shelters were quietly addressing such demands on a case-by-case basis, having such concessions formalized and uniformly imposed by the government was unacceptable to the shelter managers and their international supporters.

The controversy over the shelters signified a logic of drawing up boundaries between good women, worthy of protection, and those beyond the pale of respectability. A woman's sexual purity was to serve as a measure of her eligibility for protection, based on the familiar notion "that the most important thing to know about a woman is her chastity" (Miller 2004). Moreover, in Afghanistan the parameters of respectability were extremely constricted, as shown by the Supreme Court directive that rendered all women outside family or government supervision criminals. The shelters did not challenge the validity of such a distinction between respectable and immoral women, at least not in Afghan public discourse. Instead, they adopted one out of two strategies. Some tried to expand narrow notions of propriety, by renouncing, for instance, the claim that shelters were places of moral corruption and by underlining the existence of cases of abuse so severe that the women had valid reasons to live in shelters. In other words, rather than

questioning the distinction between good and bad women *per se*, they maintained that the women residing in nonfamily settings were not bad. Secondly, some of the shelters, notably those run by WAW, circumvented the moral/immoral categorization by exiting the Afghan public domain altogether. Instead of directly confronting constructions of sexuality that sorted women into those deserving and those undeserving of protection, they leaned on transnational support to operate independently of the scrutiny of Afghan government officials and conservatives.

As the struggle over the shelters intensified, it was reframed as a litmus test of the Western commitment to earlier pledges to help Afghan women versus Afghan sovereignty. Embedded within these competing prisms were opposing visions of state domain and statehood; an older welfare (and often paternalistic) model of the state was confronted with a neoliberal, privatized model. In this context, the shelters appeared as foreign space in a double sense, defying the regulation of both the state and of Afghan society more broadly.

The shelters' success in thwarting government attempts to nationalize them indicated the consolidation of an effective transnational alliance around women's rights in Afghanistan. Yet the international financial and political support to the NGOs running the shelters served both to empower and to constrain them. It brought them victory, but it carried some costs, by entangling the shelters in the contested space of the ongoing war, the presence of the international military forces, and possibilities of negotiating with the Taliban. The transnational support structures used by some NGOs generated new hierarchies of power. In rallying Western support against the Afghan government's nationalization bid, some of the shelter organizations argued that permitting the Afghan government to take over the shelters was tantamount to capitulating to the Taliban. As I have shown, the effect was to flatten the context in which the backlash against the shelters had emerged, reducing the criticism against them to a mere expression of Taliban extremism, to be defeated by Western military resolve.

To a greater extent than the ERAW law (and the specialized prosecution units), the shelters could be said to work outside, rather than through, Afghan government institutions. Although the ERAW law had been promoted and implemented with external funds and support, it nonetheless came into existence with the appearance of being a *bona fide* national product. Its supporters, both Afghan and international, were at pains to erase any Western traces from the law, whereas the shelters were more starkly transnational. They defied closer government regulation by mobilizing international support. In the shelters, Afghan women were explicitly protected by virtue of international funds and pressure, not by Afghan government institutions.

Almost four years after the attempted nationalization, this bargain was quite durable. The shelters remained autonomous. Furthermore, by the end of Karzai's final presidential term, in 2014, the number of shelters in Afghanistan had tripled,

with close to thirty shelters in nineteen provinces. Run by NGOs, the shelters remained completely funded by international aid, but in a less ad hoc way. Their expenses were guaranteed up to at least 2017 through a shelter fund to which the U.S. government and UNWOMEN were the main contributors. Managers reported a more cordial relationship with MOWA and even with the police. The local police were now more likely to let women stay in shelters even if they were suspected of moral crimes, at least until their cases came up in court. At the same time, there were no shelters in the unstable, conservative parts of the country in the east and the south. In these areas, women who were abused typically faced the difficult choice of enduring the pain or fleeing by entering into an illicit relationship. The number of women imprisoned for moral crimes remained in the hundreds, and the Supreme Court still refused to change its stance that women who ran away from home might be punished for attempted adultery.