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UNAMA

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Press Release

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MIXED RESULTS ON IMPLEMENTATION OF THE LAW ON THE ELIMINATION OF VIOLENCE AGAINST WOMEN OVER PAST YEAR

KABUL, 8 December 2013 – Afghan authorities registered more reports of violence against women under the Law on the Elimination of Violence against Women (EVAW law) over the past year, but prosecutions and convictions under the law remained low, with most cases settled by mediation, a UN report today revealed.

The annual report by the United Nations Assistance Mission in Afghanistan (UNAMA) and the United Nations High Commissioner for Human Rights found that police and prosecutors were mediating more cases registered under the EVAW law and that large numbers of cases were still resolved through informal dispute resolution mechanisms (*jirgas* and *shuras*). Mediation whether through formal or informal dispute resolution bodies often fails to protect women from further violence by not applying criminal sanctions and legal protections for women.

“The landmark law on the Elimination of Violence against Women was a huge achievement for all Afghans,” said the United Nations High Commissioner for Human Rights, Navi Pillay. “But implementation has been slow and uneven, with police still reluctant to enforce the legal prohibition against violence and harmful practices, and prosecutors and courts slow to enforce the legal protections in the law. Afghan authorities need to do much more to build on the gains made so far in protecting women and girls from violence.”

Enacted in 2009, the EVAW law criminalizes acts of violence against women and harmful practices including child marriage, forced marriage, forced self-immolation, *baad* (giving away a woman or girl to settle a dispute) and 18 other acts of violence against women including rape and beating. It also specifies punishment for perpetrators.

The 49-page United Nations report entitled *A Way to Go: An Update on Implementation of the Law on the Elimination of Violence against Women in Afghanistan* compares and updates findings from UNAMA’s December 2012 report on EVAW law implementation and is based on consultations with 203 judicial, police and Government officials, and monitoring of almost 500 cases of violence against women throughout Afghanistan. The report analyses statistical data on the law’s application obtained from police,

prosecutors and courts in 18 of Afghanistan's 34 provinces over the one-year period October 2012 to September 2013.

The UN report found both advances and continuing gaps in enforcement of the EVAW law by police, prosecutors and courts in 16 provinces and in Herat and Kabul provinces. In the sample of 16 provinces, police and prosecutors registered 650 incidents of violence against women with prosecutors using the EVAW law in 109 or 17 per cent of cases and courts applying the law in 60 decisions. In the previous UN report covering the same 16 provinces (October 2011 to September 2012), 470 reported incidents of violence against women were registered to which the EVAW law was applied in 72 or 15 per cent of cases with courts using the law in 52 decisions. The crime of battery and laceration remained the most prevalent form of violence against women among the registered cases documented in the current period.

The current report observes that while registration of reported incidents increased by 28 per cent in the 16 provinces, use of the EVAW law as a basis for indictment increased by only two per cent. Courts this year applied the EVAW law in 60 decisions (55 per cent of 109 indictments filed) compared to 52 decisions (72 per cent of indictments filed) last year, a 17 per cent decrease in courts' use of the EVAW law to decide cases in the current period. Of concern, the report found that the overall number of criminal indictments filed by prosecutors in violence against women cases under all applicable laws decreased this year despite the rise in reported and registered incidents.

"Increases in reporting and registration of incidents of violence against women by Afghan authorities are encouraging," said the Special Representative of the Secretary-General in Afghanistan and head of UNAMA, Jan Kubis. "But it is a real concern that these positive steps have not been met with increased use of the EVAW law to indict and prosecute those who commit violence against women and girls. Until the EVAW law is enforced fully, progress in ending violence against women and advancing women's rights in Afghanistan will be limited."

The report highlighted that of an estimated 1,669 incidents of violence against women registered with Departments of Women's Affairs and police and prosecutors in the 16 provinces, only 109 cases (seven per cent) went through a judicial process using the EVAW law. This indicates that overall use of the EVAW law to indict and prosecute perpetrators of violence against women still remained low in the 16 provinces over the past year.

In Kabul and Herat provinces, the same trend was observed of more women coming forward to report violence with increased registration of incidents of violence against women by police and prosecutors. However the percentage of cases in which the EVAW law was used to prosecute perpetrators remained almost the same as in the previous one-year period.

"The EVAW law, when it is applied, has provided protection to Afghan women facing violence," said UNAMA's Director of Human Rights, Georgette Gagnon. "But most

women victims still remain largely unprotected due to a lack of investigation into most incidents and continued under reporting of pervasive violence against women and girls resulting from discrimination, existing social norms and cultural practices, and fear of reprisals and threat to life.”

The practice of wrongful prosecution and imprisonment of women and girls for “running away” from home, often to escape violence, continued in spite of directives from the Supreme Court and the Attorney General to end such practices. The practice is also referred to as “attempted *zina* (sexual intercourse outside of marriage).” The Supreme Court recorded the convictions of 283 individuals (mostly women) for “attempted *zina*” with 71 convictions of girls and women for both “running away” and “attempted *zina*” between March 2012 and March 2013 in three provinces. The report urged the Government to fully implement the Attorney General’s 2012 directive, which requires prosecutors to ensure that women are not prosecuted for leaving their houses. It also urged a new review of all cases of women who are imprisoned for “running away” and “attempted *zina*” and the release of those wrongly imprisoned without delay.

The UN report observed that police, prosecutors and courts need increased resources, and technical and political support and direction from the highest levels of the Government to deal adequately with the increase in reporting and registration of cases of violence against women documented in the report. Such support could enable these authorities to better meet their obligations under the EAW law and to do their jobs better.

“Increasing demands for justice by Afghan women who are coming forward to report incidents of violence have led to increased registration of such incidents by the police, prosecutors and courts,” said Ms. Gagnon. “However judicial authorities need to apply the EAW law – the main legislative tool that exists to protect women fully from violence – with much greater frequency to prosecute perpetrators of violence against women and bring them to justice. Only then can Afghan women’s demands for justice be met and can Afghanistan move forward on the long road toward ending violence against women.”

The report renewed 71 recommendations made in UNAMA’s two previous reports on the issue to enhance and strengthen enforcement of the EAW law and protection of women from violence. The report noted that only four of the UN’s previous recommendations had been acted on by the Government of Afghanistan while another 20 had been partially implemented. The UN report also called on the Government to put in place a concrete plan, within six months, for the next two-year period for improving implementation of the EAW law, including measures recommended to Afghanistan by the United Nations Committee on the Elimination of Discrimination Against Women (CEDAW) in August 2013.

The UN report recommended that major donors establish a joint monitoring framework with specific indicators to measure progress in EAW law implementation that includes incentives for sustained and increased financial support based on demonstrated

measurable results by the Government in ERAW law enforcement and related measures to end violence against Afghan women and girls.

Excerpted accounts from the UN report:

“I was 15 when I was forcibly married to someone in an exchange marriage when my brother married my husband’s sister [badal]. From the very first day my husband made it clear that he was married to me against his will and he regularly subjected me to violence including beating and abuse. In 2010 he married a second time and forced me to leave the house but my family forced me to return. In 2011 my husband and brother-in-law took me back to my father after severe beatings and told him they will not keep me. I took my complaint to the Afghanistan Independent Human Rights Commission which referred me to a women’s protection center. They appointed a lawyer for me. My case was mediated. My husband gave a written statement to the police that he would refrain from violence and I went back with him. Within a month he started beating me again. He tried to kill me when neighbors intervened to save me. I had to leave again. My case has been mediated three times by local elders, shuras, jirgas and the Department of Women’s Affairs. My family does not want me to do anything legal as it is considered a shame under Pashtunwali [traditional, unwritten ethical code followed by Pashtun people] and my brother will have to divorce his wife too. I have suffered a lot and I want justice. I don’t care about anything else.”

NAK, 24-year-old woman, Nangarhar province, November 2013

“I was kidnapped by my cousin who handcuffed me and raped me. I was kept at his relative’s house. I fainted after that. The police came and arrested my cousin and the owner of the house. The police interrogated me and sent me to the safe house. I was ashamed and scared. From the safe house, I was taken to the hospital as I had urgent medical needs as a result of rape. Based on my medical condition, the doctor sent me to Kabul for treatment and the Department of Women’s Affairs helped me with treatment. I am following up my case from Kabul living in a shelter and my attorney has asked that my case be transferred to Kabul. The prosecutor in Kunduz has prepared my file and hopefully my case will be heard soon.”

SA, 14-year-old girl, Kunduz city, September 2013

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