

HARMFUL TRADITIONAL PRACTICES THAT VIOLATE WOMEN'S RIGHTS WIDESPREAD IN AFGHANISTAN: SPEEDY IMPLEMENTATION OF THE LAW ON ELIMINATION OF VIOLENCE AGAINST WOMEN NEEDED

9 December 2010, Kabul - Harmful traditional practices that violate the human rights of women and girls are pervasive in Afghanistan, occurring in varying degrees in all communities throughout the country, the United Nations Assistance Mission in Afghanistan (UNAMA) said in a report released today. Speedy implementation of laws that protect girls and women, in particular the *Law on Elimination of Violence against Women* is needed to help end these harmful practices.

UNAMA Human Rights' 56-page report: *Harmful Traditional Practices and Implementation of the Law on the Elimination of Violence against Women in Afghanistan*, documents the prevalence of customary practices that violate women's rights, including child and forced marriage, the giving away of girls to settle disputes, exchange marriages, forced isolation in the home and "honour" killings, describes the Government of Afghanistan's response to these practices, and makes recommendations to end such practices. UNAMA Human Rights publishes the report produced in cooperation with the Office of the UN High Commissioner for Human Rights today to mark International Human Rights Day on 10 December and the end of the global 16 Days of Activism against Gender Violence campaign.

Based on extensive research discussions and interviews carried out in 2010 in nearly all 34 provinces of Afghanistan with women, men, Government authorities, religious leaders and community groups, UNAMA Human Rights found that such practices are widespread, occurring in rural and urban communities, among all ethnic groups and worsened by three decades of insecurity and poverty. Rooted in discriminatory views and beliefs about the role and position of women in Afghan society, harmful traditional practices cause pain, suffering, humiliation and marginalization for millions of Afghan women and girls.

"As long as women and girls are subject to practices that harm, degrade and deny them their human rights, little meaningful and sustainable progress for women's rights can be achieved in Afghanistan," said Georgette Gagnon, Director of Human Rights for UNAMA. "Ensuring rights for Afghan women – such as their participation in public life, including in the peace, reconciliation and reintegration process and equal opportunities in education and employment – requires not only legal and constitutional safeguards on paper, but more importantly, speedy and adequate enforcement."

The report observed that harmful practices are further entrenched by the Afghan Government's inability to fully protect the rights of women and girls, underscoring the need to expedite implementation of the Law on Elimination of Violence against Women (EVAW law) that criminalizes many harmful practices. The report notes that most harmful traditional practices are not only crimes under Afghan law, but are also inconsistent with Sharia law. Extensive

discussions with a diverse range of Islamic legal experts informed UNAMA Human Rights' analysis of the principles of Sharia law.

Religious leaders, community elders and traditional dispute resolution mechanisms play a key role in both ending and continuing harmful traditional practices. The report observes that some religious and community leaders reinforce harmful traditional practices. Many Afghan men and women interviewed said the way to end harmful practices is to provide religious leaders with training and education on women's rights and violence against women. They said that the moral voice of religious leaders could advise local communities that such practices harm, degrade and discriminate against women and are in most cases inconsistent with Islamic law.

The report found that many marriages in Afghanistan are "forced" because a woman's free and informed consent was missing. Religious leaders and experts informed UNAMA Human Rights that under Islam, marriage is a mutual contractual agreement and consent is required by both, the woman and the man for a marriage to be valid. UNAMA Human Rights observed that child marriage is widespread in Afghanistan. Women in Balkh province quoted a popular saying: *"If you hit a girl with your hat and she doesn't fall over, it's time to marry her."* Despite the prevalence of this practice, all Afghan men and women interviewed identified child marriage as one of the most serious harmful traditional practices in the country.

The consequences of child marriage have been widely demonstrated to be lasting and damaging to the health, education and well-being of girls. Afghanistan has the worst rate of maternal mortality in the world and many deaths are of women who were married under the age of 16. Among the most tragic consequences of harmful practices is self-immolation, where women set themselves on fire often as a cry for help or as their only escape from violence.

Enacted in August 2009, the EVAW law is a major step forward in the legal protection of women's rights. If fully implemented, the law could significantly help to end most harmful practices. It seeks to eliminate "customs, traditions and practices that cause violence against women contrary to the religion of Islam." The EVAW law makes it a crime to buy and sell women for marriage and to offer girls for dispute resolution under *baad*, and criminalizes forced and child marriage, forced isolation, forcing a woman to commit self-immolation and denying women the right to education, work and health services. The law prescribes preventive measures for implementation by seven Government ministries.

"The urgent need now is to raise awareness of the EVAW law and ensure its full implementation," said Gagnon. "The Afghan police and judiciary require far more guidance, support and oversight from national-level authorities on how to properly apply the law."

UNAMA Human Rights found that some Afghan law enforcement authorities were unaware of the EVAW law and many were unwilling or unable to apply the law, a main factor permitting harmful traditional practices to persist. Many Afghans interviewed said the police and judiciary often fail to enforce laws that protect women's rights and take a selective rather than impartial approach to administer justice. They often pursue cases where women are perceived to have transgressed social norms and fail to act when women report violence or, for example, in cases of child marriage claiming these are "private matters." This situation is demonstrated by the large number of women detained in Afghan prisons for "moral crimes." When social and cultural circumstances do not allow women and girls to oppose harmful traditional practices, or to escape violence, they sometimes run away from home. "Running away" is not a crime under Afghan law. Yet law enforcement authorities often arrest, jail and prosecute girls for running away; the charge is usually "intention" to commit *zina* (sexual intercourse outside of marriage).

UNAMA Human Rights calls on the Afghan Government, religious leaders, communities, civil society and international donors to immediately take all possible steps to end harmful traditional practices and fully implement the EVAW law and recommends that:

- The Afghan Government, including the President, continue to publicly champion women's rights as a priority of peace, reintegration and reconciliation; expedite implementation of the National Action Plan for the Women of Afghanistan including full implementation of the EVAW law; and, as an immediate step, issue a Presidential decree releasing from detention girls and women arrested for "running away" which is not a crime under Afghan law.
- The Supreme Court and Attorney-General instruct courts and prosecutors to apply the EVAW law, and police and prosecutors, as required by law, to register all complaints of harmful traditional practices criminalized under the law, and the Attorney-General's Office to promptly investigate and prosecute such cases.
- The Ministry of Justice, in cooperation with the national High Commission for the Prevention of Violence against Women, provide training and capacity-building on the EVAW law to all law enforcement officials, including on recognizing, investigating and prosecuting forced and child marriage and giving away girls to settle disputes.
- Religious leaders, together with the ministries of Hajj and Religious Affairs and Women's Affairs develop and deliver training and awareness-raising programmes for mullahs, imams and religious teachers about women's rights, violence against women and the EVAW law; and, religious leaders should speak out about harmful traditional practices that are inconsistent with Islamic teachings and hold open discussions among Sharia experts on Islam and women's rights.
- International donors increase support to Afghan Government and civil society initiatives aimed at enforcement of the EVAW law and efforts to implement the National Action Plan for the Women of Afghanistan.

NOTES TO EDITORS:

For further press enquiries, please contact:

1. Nilab Mobarez, Spokesperson (Pashto, Dari, English) on + 93 (0)797 662 503 or mobarez@un.org
2. Dan McNorton, Spokesperson (English) on + 93 (0) 700 250 358 or mcnorton@un.org

**Strategic Communication and Spokespersons Unit
United Nations Assistance Mission in Afghanistan (UNAMA)
Kabul, Afghanistan**

Tel: 079 000 6121; +39 083 124 6121

<http://unama.unmissions.org>

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