

Report of Legal Department on the Violence against Women

Since its establishment, the Legal Department of the Ministry of Women's Affairs has been active to restore the women's legitimate rights, solve family problems and improve the status of women in different fields. Within its possible means, it has withdrawn no effort to solve women's problems.

To improve women's social status, to find a comprehensive national solution, to find the root-causes of the violations of women's legitimate rights and taking into consideration the years of experience and realizing the realities of the society, we decided to seek the advice of all authorities that are somehow involved in women's affairs based on a comprehensive and far-reaching plan.

As you know, Afghanistan is a traditional and rural society that is under the impression of values, norms and traditions that has been inherited from the past generations. On the other hand, three decades of war has aggravated the problems and created new social crises elimination of which needs far-reaching comprehensive long-term plans.

According to a report, 90 per cent of the Afghan society is illiterate. Only three per cent of the women are educated. The civil rights and other privileges can not be divided equally between the men and women. The role of the women and their status, as an equal human being, should be recognized first. Then, the obstacles on their way should be removed. This way, a natural movement to restore their rights will start automatically.

The social and cultural structure of a society consists of all norms and values that have been inherited from the past generations and the creativities of the societies in their social and cultural life. So, the members of a society are not completely under the effect of traditions. They can differentiate between the traditions that disturb the social interactions within a society and the traditions that cause prosperity, development, order and mutual respect. Otherwise, no changes will come to the society, we will be deprived of the merits of a civilized life or, taking an extremist approach, all of the common popular traditions, whether bad or good, are belittled and then destroyed.

To both respect the valuable heritage of the past and to avoid the traditions that cause underdevelopment, unfortunately reinforced over the three decades of war, we decided to table women's legal problems to the official authorities that are somehow related to the fate of women in order to find proper solutions.

About 533 cases were referred to the Legal Department over the last year. And, 193 cases have been filed with the Legal Department by the victims of family violence in the current year. It is predicted that the numbers will increase in the coming years. We should expect more cases with the spread of security and the

increasing access of the women to the relevant authorities. So, to avoid hasty decisions taken for fait accompli, it is necessary to devise a well-thought-out plan for the coming years.

As examples, we have chosen some cases to be discussed and find proper practical solutions. Now, I draw your attention to some cases.

1. A woman named (S), daughter of Abdulkarim, living in District 4 of Kabul City married Mohammad Askar. After living with one another, her husband disappeared. Three months after the disappearance of his husband, she gave birth to a child that died 24 hours after birth. She lived without her husband and without alimony for 22 years. Around two years ago, he married another man. Then the first husband showed up and claimed that all his property had been looted and his child had been murdered. Prosecution Office of District Two of Kabul City has judged in favour of the husband. And, the woman filed a complaint with the Legal Department of the Ministry of Women's Affairs. Writing a letter to the Prosecution Office of District Two of Kabul City, the Legal Department has asked it to handle the case according to the injunctions of the holy religion of Islam and the effective laws of the country and refer it to the family court. But, no action was taken about the case.
2. A man called Nurgol, brother of Sharifa, daughter of Khan Amir, living in Maidan Province, filed a complaint with the Ministry of Women's Affairs. He wrote to the ministry: As the consequence of a family dispute and clash between the two families of Sharifa and his [maternal] uncle, a son of Sharifa's uncle was killed. So, to settle the dispute between the families, Sharifa's uncle decided that Sharifa should marry his son. In the letter no 177, dated 1383/6/9 to Wardak provincial government, the Legal Department asked for handling the case according to the effective laws of the country and the Islamic injunctions. But, no measures were taken in this regard.
3. A woman named Marzia, daughter of Shah Mohammad, living in District 7 of Kabul City, married Fayz Mohammad, son of Nur Mohammad, living in Qal'e Saber of Logar Province. Her husband died after a while. The family of his ex-husband forced him to unwillingly marry his husband's brother who had not come of age yet. Dissatisfied with the marriage, she brought her complaint to the Legal Department and asked for help. The Legal Department of the Ministry of Women's Affairs, considering the marriage illegal, has referred the case to Logar provincial government. But unfortunately, no measures have been taken in this regard.
4. According to the reports reaching the Legal Department from the capital and provinces, the masses of the society think women are properties of the husband. It is the husband who decides about the life and death of this

wife. This dominant thought has prevented the women from going to the authorities though they are always victims of violence. If some women go to the government authorities in exceptional cases, they are ignored by those authorities. Instead of observing the relevant laws, they exert systematic oppression, called “social violence”, on the women according to the indecent traditions. The following case can be given as an example:

5. In a complaint filed with the Ministry of Women's Affairs, a woman named Ayesha, daughter of Faqir Ahmad, wrote: “My daughter, Nahid, has been stabbed to death by her husband, Taher, son of Sarwar. No serious legal measures have been taken though complaints have been filed with the relevant authorities”. In the letter no. 171, dated 1383/5/1, the Legal Department of the Ministry of Women's Affairs asked the Kabul's Prosecution Office for a legal handling of the case.
6. It should be mentioned that a woman is not only victim of her husband's violence, but are oppressed by those of the same blood line, that is her brother. She is deprived of her financial rights God has ordained for women. The following case can be given as an example:
7. Filing a complaint with the Legal Department of the Ministry of Women's Affairs, three women named Shayma, Shah Gol and Bibi Ayesha, daughters of late Mohammad Na'im Khan, wrote: “Two houses, located in Char Qala-e Wazirabad, two shops, located in Kabul City, and five Jaribs of farming land, located in Qale Musa of District 10 of Kabul City have been bequeathed on us. We face beating and insults and we are threatened when we ask for our rights. We were treated unfairly when we went to the relevant authorities. They paid no heed”. So, to restore their legitimate rights, they sought the help of the Legal Department of the Ministry of Women's Affairs. In the letter no. 281, dated 1383/6/25, to the riyasat-e mahkameye jaydadha, the Legal Department referred the case to them. The results are not yet known.
8. Not only such violence exists inside the country, but some others fall victim to it among the refugees outside the country. The hosting countries consider the cases according to their own effective laws and do not pay attention to family violence among the refugees. Our political representatives and consulates are also inactive in this regard. Because of that, the victims of violence, sending letters or e-mails to the Ministry of Women's Affairs, ask for our help. Sending an e-mail to the Ministry of Women's Affairs, Fatema, a refugee in Iran who is accused of murdering her husband, wrote: “I have a 15 year-old daughter from my former wife. When my second husband wanted to raped her, he was killed in a legitimate defence of my daughter”. Iranian court has sentenced Fatema to death. Since no authority, including the Afghan political representatives in Iran, offered help to her, she contacted the Ministry through e-mail.

When long imprisonments and death sentences are involved, it is suggested that the Afghan political representatives and consulates defend the rights of all Afghan citizens outside the country and ensure the dispensation of justice towards them.