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Women battle apathy in fight for justice

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KABUL (PAN): With more and more women coming forward to report violence against them by husbands and family members, the rate of convictions has been disappointingly low, victims and human rights activists say.

A joint investigation by the Independent Media Consortium Productions (IMCP) shows there has been a dramatic surge in violent acts and crimes against women, ranging from sexual assault to murder and beatings to the rampant evil practice called *bad*.

Clinging to this off-putting tribal customs, some families still tend give away girls in compensation for a crime committed by males. Refusal to give alimony in case of divorce and failure to implement women's right to inheritance are also common.

The joint investigation by the six-member IMCP found widespread concerns about the spiraling wave of abuse over the past two years.

The Afghanistan Independent Human Rights Commission (AIHRC) recorded 200 cases of murder and rape between January and September 2012, compared with 89 in 2011.

Latifa Sultani, women's rights programme coordinator at AIHRC, says the panel has registered a record number of 211 cases of women killed by family members between 2002 and 2010. It is impossible breaking the silence around crimes of this kind, she adds. Families are not prepared to report such deaths either to police or rights organisations.

Gross failure

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Improved reporting, however, has not seen any progress in punishing the offenders. In 40 percent of cases, the accused have not even been investigated, indicating the gross failure of the justice system to establish guilt and redress victims' grievances. In cases where police have probed the crime, the accused have "bribed" their way out of trouble.

Eng. Nafisa Azimi, a member of the Parliamentary Commission on Women's Affairs, agrees with the AIHRC findings. She says the failure to prosecute the accused has contributed to the rise in violence against women -- as established in the AIHRC study for 2012.

Sultani believes: "Lack of decisive action against the perpetrators of violence can be a key reason for the murder of women as well as sexual aggression against them."

Fawzia Amini, the head of the Legal Department at the Ministry of Women's Affairs, acknowledges there has been an increase in cases of women's murder and rape. She says the ministry, which has recorded 90 cases of murder and 50 of rape in the first nine months of 1391, is concerned at the situation.

Civil society

Last year, AIHRC convened a meeting on the pervasive violence against women. Participants included government authorities, victims of violence and representatives of civil society. There was near consensus about the lack of "decisive action" against the accused in crimes against women.

Latifa Sultani told IMCP, "Decisive action has not been taken against the culprits. Some have fled; others pay the bribe (allegedly demanded by law authorities) and get away." The situation in remote areas is much worse.

So-called honour killings have increased manifold, according to Sultani, with the guilty hiding behind the controversial Article 398 of the Afghanistan Criminal Code.

The article states that it is legitimate for a husband to kill or wound his wife if he has proof of her infidelity. He cannot be tried for murder but can be awarded a maximum sentence of two years. And when it is vice-versa, the accused woman would be "convicted with a harder punishment", says AIHRC's Sultani.

Denied rights

There are people in the government who have killed their wives knowing they cannot be touched, she adds. She could not identify either the murderers or their families in case they took revenge.

"Ours is a patriarchal society. In some parts of Afghanistan there are judges who don't believe women should have rights," she observes.

In the opinion of judge Parwin Rahimi, head of the women's rights and support at AIHRC, most of the killings have been carried out by people who are supported by the powerful people or living under support of powerful people. "Let their names be handed over to the president in anonymous letters," she argues.

A case in point, she claims is an incident that happened two years ago. "A deaf-mute girl was sexually abused in a neighbouring province. She delivered a child. But the man responsible was never arrested. Whenever the AIHRC asked government authorities what they were doing in the case, they claimed he was a fugitive from the law."

Rahimi cites yet another example of justice being bent to favour the accused. Nine years ago a man who killed his 12-year-old daughter was sent to prison for 12 years. But a year later he was out of prison. "That made us very concerned," she says.

In another instance two daughters were sexually assaulted by their father. Medical investigation also confirmed the charge but the court dismissed the charge against the father, Jamshed, for lack of evidence.

The AIHRC would continue to appeal in the case, Rahimi says. She is certain the father has bribed court officials. Transparency International in a report released recently has estimated bribes worth \$1,250 million were given to Afghan justice and judicial officials.

Plea for justice

One outrageous incident involving two girls is illustrative. Their mother Raheela, a teacher in Khairkhana Kotal School, has accused her husband (Jamshed) of raping his two daughters, 14 and 15 years old. They were repeatedly assaulted over three days in December last year.

"My husband raped my two daughters," the mother says boldly. She locked the girls in the bathroom on Dec 11, but they managed to escape through the window. A case was first reported to the 11th police district in Kabul.

Raheela quotes court officials as saying that her husband paid about 300,000 afghanis (\$5,465) in bribe to judges. He was let off by Sifatullah, a judge, for lack of evidence. She says the judge told her she was guilty of leaving her daughters alone with their father. "You should have installed a secret camera in the room to record evidence. Now you don't have any proof."

Two views

Varying results of two medical tests on the girls appear to have gone against them.

Dr Ghulam Farooq Masjidi, head of the Forensic Department, confirms both girls (their names are withheld for reasons of protect) were examined by female doctors.

The result of the examinations carried out in December 2012 (a copy is available with IMC) shows their hymens are intact.

But another section of the Forensic Department has come up with a different view. The report states: “Considering findings of the commission and the histology laboratory from virginity membrane the spermatozoa have been seen showing a positive result.”

The two teenage girls say they were frequently sexually assaulted by their father. In tears, the elder girl says, “My father must be punished. That is our request to the government.”

Efforts to contact their father, Jamshed, failed.

Meanwhile, Kabul resident Sayed Abdul Rahim says justice has been denied in the murder of his sister.

His sister Freshta, who was a mother of three children, was killed by her husband, Abdul Wase, on night of Jan 21. The police arrested him, his two brothers and their father in connection with the murder. Abdul Wase was sentence to death but the rest were released by Kabul Primary Court.

Rahim says Wase’s mother and sister should also be tried because the accused had confessed that he planned the crime with their assistance. He believes Wase has paid 300,000 afs in bribe to court officials to influence the case.

Allegations of bias

In another case, Mohammad Alam from central Bamyan province complains his 16-year-old sister Shakila was shot in February 2011 in Zargaran village but her dossier was kept pending in the Attorney General’s (AG’s) Office.

Mohammad Alam who has come to Kabul to pursue the case says Shakila was killed at her married sister’s house. Her sister’s husband Qurban was earlier a guard of Sayed Wahidi Beheshti, former Member of Parliament (MP) from Bamyan.

At the time of the murder Qurban’s wife was not at home but Beheshti, his wife and his brother’s son were present. Mohammad Alam was told by Beheshti’s nephew that his sister had committed suicide.

Mohammad Alam says: “The security forces got the finger prints of Qurban, his wife and Shakila but they neither got the finger print of Beheshti, his wife and nephew nor were they investigated as they were respected people in the area.”

According to Mohammad Alam, the primary court convicted Qurban who was not involved in the case but he got relief in the second court.

Alam accuses Sayed Jamal Fakoori Beheshti, MP, and brother of Wahidi Beheshti of keeping pending the dossier of the case.

But the MP says, “Murder of Shakila is not linked to me and my brother at all. Shakila committed suicide in her sister’s house, and Shakila’s sister is a witness in the case.” He denied charges that he had a hand in slowing down the progress of the case dossier.

Fatima Kazimi, the head of Bamyan’s Department of Women’s Affairs would like to see the murderers punished in the case. She thinks the facts seem to indicate Shakila was killed and did not commit suicide.

“When we heard about the case, we sent our officers to investigate one day after the murder of Shakila,” she says. “We found that the case cannot be followed up and there is a game of power. For instance the AG’s Office had arrested Qurban who was not present during the murder but they never interrogated those who were present at the (crime) scene.”

Basir Azizi, a spokesperson for the AG Office, denied the charges of corruption. He insisted dossiers were being investigated according to the law, and if rights organisations believed that 40 percent of rape and murder cases were not probed, they should contact the AG Office.