

Afghanistan: Hundreds of Women, Girls Jailed for 'Moral Crimes'
By Human Rights Watch
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The Afghan government should release the approximately 400 women and girls imprisoned in Afghanistan for "moral crimes," Human Rights Watch said in a new report released today. The United States and other donor countries should press the Afghan government under President Hamid Karzai to end the wrongful imprisonment of women and girls who are crime victims rather than criminals.

The 120-page report, "I Had to Run Away': Women and Girls Imprisoned for 'Moral Crimes' in Afghanistan," [4] is based on 58 interviews conducted in three prisons and three juvenile detention facilities with women and girls accused of "moral crimes." Almost all girls in juvenile detention in Afghanistan had been arrested for "moral crimes," while about half of women in Afghan prisons were arrested on these charges. These "crimes" usually involve flight from unlawful forced marriage or domestic violence. Some women and girls have been convicted of zina, sex outside of marriage, after being raped or forced into prostitution.

"It is shocking that 10 years after the overthrow of the Taliban, women and girls are still imprisoned for running away from domestic violence or forced marriage," said Kenneth Roth [5], executive director of Human Rights Watch. "No one should be locked up for fleeing a dangerous situation even if it's at home. President Karzai and Afghanistan's allies should act decisively to end this abusive and discriminatory practice."

The fall of the Taliban government in 2001 promised a new era of women's rights [6]. Significant improvements have occurred in education, maternal mortality, employment, and the role of women in public life and governance. Yet the imprisonment of women and girls for "moral crimes" is just one sign of the difficult present and worrying future faced by Afghan women and girls as the international community moves to decrease substantially its commitments in Afghanistan [7].

Human Rights Watch interviewed many girls who had been arrested after they fled a forced marriage and women who had fled abusive husbands and relatives. Some women interviewed by Human Rights Watch had gone to the police in dire need of help, only to be arrested instead.

"Running away," or fleeing home without permission, is not a crime under the Afghan criminal code, but the Afghan Supreme Court has instructed its judges to treat women and girls who flee as criminals. Zina is a crime under Afghan law, punishable by up to 15 years in prison.

Women and girls interviewed by Human Rights Watch described abuses including forced and underage marriage, beatings, stabbings, burnings, rapes, forced prostitution, kidnapping, and murder threats. Virtually none of the cases had led even to an investigation of the abuse, let alone prosecution or punishment.

One woman, Parwana S. (not her real name), 19, told Human Rights Watch how she was convicted of "running away" after fleeing a husband and mother-in-law who beat her: "I will try to become independent and divorce him. I hate the word 'husband.' My liver is totally black from my husband... If I knew about prison and everything [that would happen to me] I would have just jumped into the river and committed suicide."

Human Rights Watch said that women and girls accused of "moral crimes" face a justice system stacked against them at every stage. Police arrest them solely on a complaint of a husband or relative. Prosecutors ignore evidence that supports women's assertions of innocence. Judges often convict solely on the basis of "confessions" given in the absence of lawyers and "signed" without having been read to women who cannot read or write. After conviction, women routinely face long prison sentences, in some cases more than 10 years.

Afghanistan's 2009 Law on the Elimination of Violence Against Women makes violence against women a criminal offense. But the same police, prosecutors, and judges who work zealously to lock up women accused of "moral crimes" often ignore evidence of abuse against the accused women, Human Rights Watch said.

"Courts send women to prison for dubious 'crimes' while the real criminals – their abusers – walk free," Roth said. "Even the most horrific abuses suffered by women seem to elicit nothing more than a shrug from prosecutors, despite laws criminalizing violence against women."

Abusive prosecution of "moral crimes" is important to far more than the approximately 400 women and girls in prison or pretrial detention, Human Rights Watch said. Every time a woman or girl flees a forced marriage or domestic violence only to end up behind bars, it sends a clear message to others enduring abuse that seeking help from the government is likely to result in punishment, not rescue.

The plight of women facing domestic violence is made still worse by archaic divorce laws that permit a man simply to declare himself divorced, while making it extremely difficult for a woman to obtain a divorce, Human Rights Watch said. The Afghan government made a commitment to reform these laws in 2007 under its National Action Plan for Women in Afghanistan, and a committee of experts drafted a new Family Law that would improve the rights of women. This new law, however, has been on hold with the government since 2010, with no sign of movement toward passage.

"It is long past time for Afghanistan to act on its promises to overhaul laws that make Afghan women second-class citizens," Roth said. "Laws that force women to endure abuse by denying them the right to divorce are not only outdated but cruel."

By maintaining discriminatory laws on the books, and by failing to address due process and fair trial violations in "moral crimes" cases, Afghanistan is in violation of its obligations under international human rights law. United Nations expert bodies and special rapporteurs have called for the repeal of Afghanistan's "moral crimes" laws. The UN special rapporteur on violence against women has called on Afghanistan to "abolish laws, including those related to zina, that discriminate against women and girls and lead to their imprisonment and cruel, inhuman, and degrading punishment." The UN Committee on the Rights of the Child has urged Afghanistan to "[r]emove so-called moral offences as a crime and release children detained on this basis."

"The Afghan government and its international partners should act urgently to protect women's rights and to ensure there is no backsliding," Roth said. "President Karzai, the United States, and others should finally make good on the bold promises they made to Afghan women a decade ago by ending imprisonment for 'moral crimes,' and actually implementing their stated commitment to support women's rights."

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[4] <http://www.hrw.org/reports/2012/03/28/i-had-run-away>

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