

Hope for Afghan Women Traded to End Feuds

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Campaigners hail progress in efforts to end ancient practice.

When families in some parts of Afghanistan fall out over serious matters, one way of avoiding an escalating blood feud is for the offending party to hand over a woman to the other side.

Known as “baad”, the custom involves an arranged marriage between the woman and someone from the injured family.

Campaigners against this practice, which often leads to a miserable life of abuse for the woman, say their work has been given a major boost in recent months.

The issue became a national talking point last year when 27-year-old Khan Wali Adil took the unprecedented step of setting up a protest tent in front of the Wolesi Jirga, the lower house of the Afghan parliament.

Originally from Paktia province, the teacher had refused to take part in a forced marriage himself and said that he had been ostracised as a result.

“I do not want women and girls to live in slavery and become the victims of the dishonest demands of others,” he told IWPR. Adil explained how, after his elder brother was murdered in a land dispute, the killer’s family offered their eldest daughter in marriage as a way to end the dispute between them.

However, Adil refused to agree to the union.

“In my own family, this custom of giving girls forcefully against their will to end enmity between two families was common,” he said. “But I faced strong opposition from villagers [for my refusal] and was told that I was insane, accused of being an unbeliever and I was expelled from village; they even tried to kill me.”

Adil’s father, Noor Mohmmad Khan, who lives in Muhlan in central Paktia, said that he was now in ill health and did not want to speak to the media.

“I do not want anything from the killer’s family anymore and I don’t have any claim against them,” he said.

Following Adil’s four-month protest, the ulema shura, or national religious scholar’s council, issued a formal declaration outlawing the practice. Signed by 50 scholars in August 2016, the decree stated that any religious scholar, witness or even a musician who takes part in such a marriage faced punishment.

The fatwa emphasised that, according to Islamic law, women had the right to choose their own marriage partner. Trading them to resolve conflicts was forbidden.

“In Islam, committing a crime is a personal act and the Koran says that no one is held responsible for the crimes committed by others,” Mawlawi Qasim Halimi, the spokesman of Afghanistan Islamic religious council, said. “In such cases, giving a girl against her will as compensation for her brother’s or father’s crime is completely forbidden. People who commit such crimes should be reported to the judicial services and must be prosecuted.”

Halimi acknowledged that action from Islamic leaders was overdue, adding, “There are many detestable customs such as giving girls to end enmity, exchanging girls against their wills, and underage marriage, which are all forbidden in Islam.”

“Unfortunately, in the past, religious scholars did not speak out much regarding women and their rights. However, we are now committed to spread awareness through Friday prayers and through seminars so that men start respecting women and treating them with kindness.”

“If any mullah now acts against the constitution and other laws of country by reciting the khutba-e-nikah [the Islamic marriage service] and by approving forced or underage marriage, he shall be punished,” he concluded.

Government officials said that they would be backing the move made by the council of scholars.

“Every year, we hold many seminars in Kabul and different provinces of Afghanistan to combat violence against women,” said Karamatullah Sidiqi, an advisor to the minister of hajj and religious affairs, adding that such messages were also spread through mosques and via multimedia campaigns.

“Marriage is a contract and it is important to have the consent of both sides,” he continued. “If one of the sides doesn’t agree to the marriage then it is not valid and the religious scholars who approve such forced unions are criminals. Giving girls against their will and other loathsome traditions are against Islamic Sharia and are due to illiteracy, a lack of development as well as ignorance of the teachings of Islam and the law.”

CUSTOMARY LAW

Baad is an ancient tradition in Afghanistan, dating back to the days when no central legal authority existed, and conflicts were settled through the tribal system.

Slowly the practice became widely accepted, even though there is no religious or legal basis for it. When a man kills, rapes, or has sexual relations with someone other than his wife, a local council can step in to mediate. Lesser offences can usually be settled by the exchange of money, perhaps a few sheep or a cow. But the standard penalty for a serious crime is for the offender’s family to part with a girl, who is given to the victim’s family.

While face is saved, the woman, or often a young girl, finds herself forced into marriage, and her in-laws often take out lingering resentments on her. Campaigners say the practice is a major cause of domestic violence.

“The tradition of giving girls to end disputes between families isn’t limited to just a few provinces, it’s seen all over Afghanistan and violates human rights in our country,” women’s rights activist Humaira Saqib said.

“People value their traditions and customs so much that they take precedence over rules and laws in Afghanistan, but such traditions are unfair and can never bring justice.”

In theory, the Elimination of Violence Against Women Law, passed in 2009, outlawed a range of abuses from assault and rape to marriages that are coercive, involve minors or amount to a transaction between the families concerned.

Aziza Adalatkhwā, director of legal affairs at the ministry of women’s affairs, said, “Article 25 of the law on the elimination of violence, regarding the tradition of giving girls against their wills to end enmity between families, states that a person who gives the girl against her will, or marries the girl against her will, should be sentenced to a prison term of 10 years so as to serve as a lesson to people who consider such crimes.”

However, this law was rejected by parliament in May 2013, and has been shelved ever since.

In this context, Muska Qadri, head of the women’s rights section at the Afghanistan Independent Human Rights Commission (AIHRC) emphasised the importance of religious leaders speaking out against the practice.

“People value and follow religious scholars’ instructions and directions over others, so the AIHRC calls on scholars to raise their voices against such un-Islamic acts,” she said, praising the fatwa as an important first step.

“The ministry of hajj and religious affairs should hire scholars to serve in mosques who can spread the true message of Islam, not the so-called scholars who know nothing about Islam,” she continued, adding, “We have information about many cases in which instead of supporting human rights, especially women’s rights, mosques have been used to abuse them.”

Qadri said that the AIHRC had logged seven cases of baad over the last eight months of 2016, but said that the real figures were likely to be much higher.

“Unfortunately many cases take place in remote villages, so go unreported as the AIHRC doesn’t have access to such places.”

In one incident in Logar province, 20-year-old Shima (not her real name) was given in marriage against her will in compensation for her brother’s murder crime.

“As result of the extreme violence her in-laws subjected her to, she publicly set herself on fire in August 2016,” Qadri said, adding that other women also took such desperate measures to escape their situation.

“Zahra, whose father had kidnapped a second wife, was given in marriage to compensate for this crime. Zahra burnt herself to death on June 15, 2016.”

There are no government figures available on the estimated number of cases of baad in Afghanistan either, but Adalatkhwā said that at least 18 known murder cases in the last six months had been connected with the practice.

Jamshid Rasouli, the spokesman of the attorney general’s office, confirmed that baad contravened Afghan law but acknowledged that little action had been taken in the past.

“It’s the responsibility and duty of the attorney general’s office to take legal action and punish those who commit such crimes and mullahs who approve such marriages will also be punished,” he said.

EMPOWERING ACTIVISTS

Adil’s stand proved particularly popular among young people and activists, who hope it will energise more people to speak out against the practice.

Mohammad Sharif Salal, a student at a state-run university in Paktiya, said, “If young people and civil society groups in Afghanistan start supporting the decision of the religious scholars’ council and oppose the tradition of giving girls against their wills to end disputes, the mentality of people who support [baad] will change.”

“The stand taken by Khan Wali Adil has inspired the people of Paktiya to also speak up against these hated traditions,” agreed Shafiqah Adil, another student. “Due to his actions, young people are now more committed to fight such unpopular customs.”

The moves also won support amongst politicians and tribal elders who said it could help change attitudes towards the custom.

Lawmaker Gul Pacha Mujadidi, who represents Paktiya in the Wolesi Jirga, said, “I support the fatwa of the religious scholars’ council which deems this nasty tradition to be an unIslamic act.

“I admire the stand taken by Khan Wali Adil and this will have a positive impact on people in the southern areas of Afghanistan, especially Paktiya. His stand will encourage people to say no to such traditions.”

Mujadidi continued, “I will try to share this issue in parliament so that people who violate the rules of Islamic Sharia by giving their daughters to end family disputes are punished, in line with the ruling.”

Gul Baz Zadrani, a tribal leader in Paktika, said it was vital that the government now followed up on the ulema’s decision.

“The implementation of such fatwa needs a judicial and legal process,” he said. “If the government doesn’t enforce a law, then change will be difficult. I want the ministry of hajj and religious affairs to launch awareness programs in mosques against negative traditions such as giving girls against their will to end disputes, exchanging girls in marriage, and other kinds of un-Islamic traditions.

Zadrani concluded, “People should be informed not just once, but continuously in the coming months and years.”

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