H U M A N RIGHTS WATCH



AFGHANISTAN Ending Child Marriage and Domestic Violence

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Ending Child Marriage and Domestic Violence

The rights of women and girls, including freedom from child marriage and domestic violence, have generated emotionally charged debates in Afghanistan over the past decade. Such debates often focus on personal opinions and experiences, or on the varied interpretations of religious teachings on marriage. This brochure provides basic facts about the impact of child marriage and domestic violence on the lives of Afghan girls and women, and on the broader economic development of the country. At the end, we provide recommendations for needed reform.

ROQIA D. (not her real name) was married against her will at age 12. Her husband was an opium addict who repeatedly left Roqia and their three children. Eventually he began stealing to pay for drugs, harming Roqia's reputation and creating problems for her in the community. She asked him for a divorce. "He refused," she said. "He said, 'Who will take care of the children if you go? Besides I won't be able to find another wife since I'm an addict. So you will have to stay."

A major advance for women and girls in Afghanistan in recent years was the enactment in 2009 of the Law on the Elimination of Violence Against Women (EVAW law). The law imposes criminal penalties for child and forced marriages, domestic violence, and numerous other abuses against women. The law has been inadequately enforced, but it set an important marker for respect for women's rights.

But the EVAW law—and rights protections for women and girls—is under threat. During a parliamentary debate in May 2013, a number of members of Afghanistan's lower house, the Wolesi Jirga, spoke out against the EVAW law. Several called for the law to be examined—and voted on—article by article. In July 2013, the lower house of the Afghan parliament approved a new Afghan criminal pro-

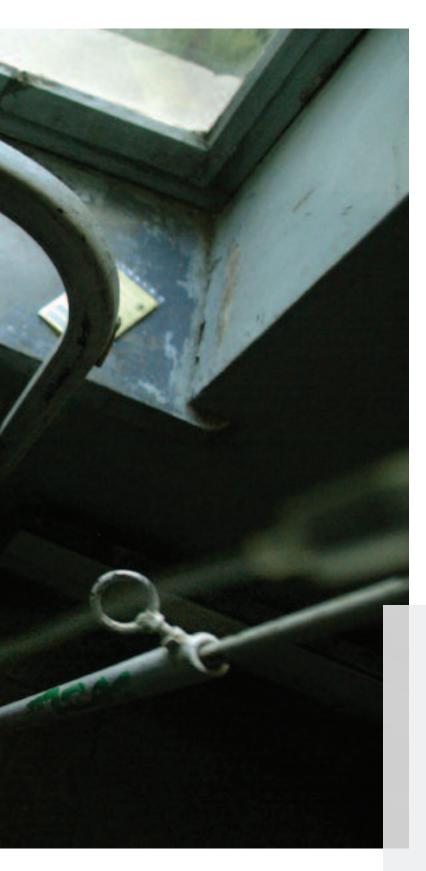
cedure code that includes a provision banning all relatives from testifying against a criminal defendant, thus preventing wives from testifying against abusive husbands or daughters from testifying about forced or child marriage. The provision creates a tremendous barrier to prosecuting such cases of abuse.

The EVAW law has also been the target of public protests. In July, students at Kabul University held a rally in which they denounced the EVAW law as "un-Islamic" and a "Western" import.

Those both inside and outside of Afghanistan who are concerned about the EVAW law and the rights of women and girls should consider key facts about the health and economic problems associated with child marriage and domestic violence.



Amina R. (not her real name) sleeps with her newborn baby in a hospital in Kabul. © 2002 Paula Bronstein/Getty Images



CHILD MARRIAGE

After ZARGONA F.'s father died when she was 5 years old, her mother had Zargona live with her uncle and his family. They treated her badly. When Zargona was 14 years old her uncle arranged for her to marry a cousin. Zargona was desperate to avoid the marriage and ran away. When Human Rights Watch interviewed her, she was in a juvenile detention center, sentenced to six months' imprisonment for "running away" from home. "I am happy with everything here," Zargona said about the detention center. "Happier than I was at home."

Child marriage is defined as marriages where either spouse is below age 18. There is a growing global trend, including in some Islamic countries, of setting 18 as the minimum age of marriage.

According to the Afghan Ministry of Public Health's 2010 Mortality Survey, conducted in all 34 provinces of Afghanistan including a nationally representative sample of 24,032 households, 53 percent of all women in the 25-49 age group were married by age 18, and 21 percent of the women were married by age 15.3 A 2012 global study by the United Nations Population Fund put Afghanistan among 41 countries in the world that reported 30 percent or more of its women in the 20-24 age group married by age 18.4

Health Consequences of Child Marriage

Child marriages expose girls to early pregnancy and childbirth, which entail significant risk of damaging health consequences for girls and their children.

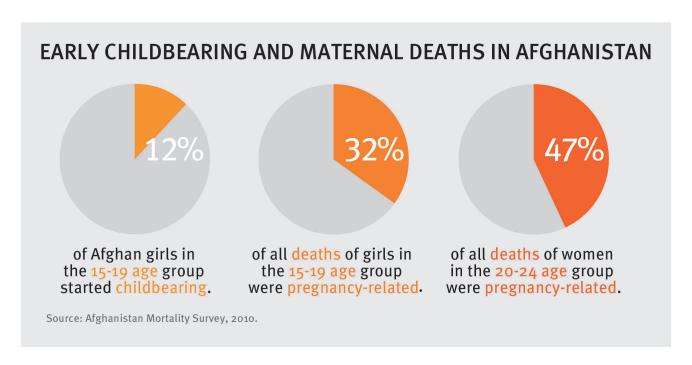
Maternal Deaths

Afghanistan has one of the highest levels of maternal deaths in the world. The World Health Organization and other UN agencies estimate that at 460 pregnancy-related deaths for every 100,000 births Afghanistan has the second highest level of maternal deaths outside sub-Saharan Africa.⁵

The 2010 Afghanistan Mortality Survey found that of every five Afghan women who died in their reproductive years, two deaths were pregnancy-related. One Afghan woman will die every two hours from pregnancy-related causes and one in every 50 Afghan women will die because of pregnancy. The survey also found that adolescent pregnancy and motherhood pose serious health concerns.

Fistula is a hole in a woman or girl's birth canal caused by labor that is prolonged—sometimes for days. During prolonged obstructed labor, soft tissues of the birth canal are compressed between the head of the fetus and the woman's pelvic bone. The lack of blood flow causes tissue to die, creating a hole that leaves the woman leaking urine and/or feces continuously. Women and girls in rural areas who do not have access to timely emergency obstetric services are at particular risk of developing fistula. Girls are at a greater risk of fistula because their pelvises are not fully developed and their smaller size may contribute to obstructed labor.

Because fistula leaves girls and women leaking urine or feces, it often results in social ostracism, loss of earning capacity, medical expenses for treatment, and depression. Left untreated, fistula can cause further medical problems, including frequent pelvic and urinary infections, painful genital ulcers, skin irritation from the constant wetness, infertility, and nerve damage to the legs. Fistula can also lead to early death in some cases.



Fistula

Afghan girls who marry early are at greater risk of giving birth at younger ages and suffering a terrible childbirth injury—obstetric fistula (fistula).

Most fistulas can be surgically repaired. In Afghanistan there is very little assistance available for women and girls with fistula. Fistula treatment exists primarily through two hospitals in Kabul that are staffed with doc-

FISTULA FACTS

A 2011 report examined the prevalence of fistula in six Afghan provinces. The report is based on interviews with 3,040 married women between ages 15 and 49, with follow-up clinical diagnosis for fistula cases. More than 75 percent of girls and women who reported fistula came from poor families that had an average monthly household income of less than 5,000 Afghanis [US\$100]. Some of the major findings of the study were:



in every 1000

married girls and women in the provinces studied developed fistula.



of all women diagnosed with obstetric fistula were less than 16 years old when they first gave birth.



of women diagnosed with obstetric fistula were less than 16 years old at the time of marriage

67%

of women diagnosed with obstetric fistula were 16-20 years old when they married

100%

Source: Social and Health Development Program, "Survey Report: Prevalence of Obstetric Fistula among Women of Reproductive Age in Six Provinces of Afghanistan," 2011.

tors trained and equipped to provide fistula-repair services. Women in the rest of the country have very little access to reliable or quality care. The UN Population Fund spends about US\$100,000 annually in Afghanistan to treat girls and women with fistula. This includes support

for awareness-raising and prevention, treatment, training, and policy formulation. The Afghanistan government has not budgeted any funding for treatment and reintegration for girls and women with fistula.



Najia F. (not her real name) lies in her bed as she recovers from losing her baby while giving birth at a hospital in Afghanistan. © 2002 Paula Bronstein/Getty Images





The children of girls married at an early age also face heightened health risks. According to the World Health Organization, globally, stillbirths and newborn deaths are higher among infants born to adolescent mothers than among those born to mothers aged 20-29 years. Additionally, the World Health Organization states that children born to adolescent mothers run a greater risk of being born preterm or with low birth weight.⁹

The 2010 Afghanistan Mortality Survey found that more babies died within the first month and the first year of birth when their mothers were below age 20 rather than between the ages of 20 and 40.10

Minimum Age at Marriage

Afghanistan's minimum age of marriage for girls is 16, or 15 with the permission of the girl's father or a judge, well below the internationally recommended standard of 18.11

A number of countries with large Muslim populations, including some in Afghanistan's region, have taken steps to set a minimum age of marriage of at least 18, with some allowing exceptions in narrow circumstances. These include Bangladesh, India, Egypt, Iraq, Libya, Tunisia, Morocco, Jordan, Oman, Algeria, and the United Arab Emirates. ¹² Several Muslim countries had even done so before UN bodies had called for an 18 minimum age for marriage. ¹³

Afghanistan is a member of the Organization of Islamic Cooperation (OIC), which in 2008 adopted the Plan of Action for the Advancement of Women. The Plan of Action stresses the importance of special legislation to ensure effective participation by women in all fields of life. It calls for the elimination of all forms of discrimination against women, including preventing early and forced marriages by all possible means. And it recognizes that early and forced marriages are an impediment to improving the health, education, political participation, social justice, and well-being of women. Is



The mother of 19-year-old Rahima M. (not her real name) holds her hand while she lies in a hospital bed in Afghanistan. Trapped in an unhappy marriage, Rahima attempted to commit suicide by burning herself with petrol. ©2004 REUTERS/Farzana Wahidy AL/FA



DOMESTIC VIOLENCE

MEZGHAN A. was an orphan who was living with her uncle. He often beat and ill-treated her. When she was 14, he forced her to marry a man who was about age 45. Her husband ultimately abandoned her, leaving her to live with her brother-in-law and his wife, who beat her.¹⁶

Domestic violence is pervasive in Afghanistan. While having terrible health and economic consequences for survivors, domestic violence also has serious economic impacts on Afghan society more generally.

The risk of domestic violence is particularly heightened in cases of child marriage. The case of Sahar Gul, an Afghan girl forcibly married in 2011 at age 13 or 14, received global attention when her in-laws were convicted for beating and torturing her after she resisted being forced into prostitution. The case returned to the news when a court threw out their 10-year sentence after just one year.

Human Rights Watch has interviewed many girls who married young, as early as age 12, and experienced tremendous violence within their marriages. Souriya Y. (not her real name) at age 12 was forced to marry into a family to whom her relatives owed money; she said that her husband beat and abused her. Bashira S. was forcibly married when she was 12 and her husband routinely beat her—by age 14 she was already a mother. Fatema A. was forcibly married at age 15 as a second wife, and her father-in-law sexually abused her. Stories like these are sadly not unusual in Afghanistan.

girls try to leave abusive relationships or run away to escape forced marriage, their parents, brothers, fiancés, and husbands frequently accuse them of zina or "running away." Male family members, knowing that their own behavior will not be subject to legal scrutiny, can easily use such accusations as a weapon. They can accuse a woman of zina or "running away," and have her arrested by authorities willing to accept the allegations at face value. Afghan judges, prosecutors, and police continue to treat "running away" as a crime, despite the absence of this offense in Afghan statutory law, some-

times charging it as "attempted zina."

DOMESTIC VIOLENCE IN AFGHANISTAN

According to Global Rights, an international nongovernmental organization that conducted a survey in 2006 in 4,700 households in 16 provinces across Afghanistan,

More than

of Afghan women surveyed reported that they had experienced physical, sexual, or psychological violence or forced marriage.

More than

of Afghan women surveyed reported experiencing multiple forms of violence.17

According to Global Rights, Afghan girls who married young were more likely to experience violence than older girls and women¹⁸ and those who said that they were in forced marriages reported nearly twice as much physical and sexual violence as those not in forced marriages.¹⁹ One study in Afghanistan estimated that annually more than 2,000 women and girls attempt suicide by setting themselves on fire, with experts saying that this is mostly due to a combination of early and forced marriages and violence.20

In Afghanistan, the threat of prosecution for the "moral crimes" of zina (sex outside of marriage) or "running away" pose a barrier to those seeking help for forced marriages and domestic violence. When women and

A number of studies outside Afghanistan have also shown a direct relationship between the age of marriage and domestic violence. For instance, according to the World Health Organization, women and girls—especially those aged 15 to 19 years—are at higher risk of physical or sexual violence by their partners.²¹

In June 2013, the World Health Organization released a report saying that domestic violence was a massive global public health concern affecting approximately 30 percent of women worldwide.22

Domestic violence not only harms individual women and their families, it also takes a large economic toll on societies. The economic impacts can arise from many factors, including healthcare costs and lost productivity. While there is no recent data from Afghanistan on the economic costs associated with domestic violence, a 2010-11 study from Bangladesh estimated that the country lost about 2 percent of its Gross Domestic

Product because of domestic violence.²³

Afghanistan is among the least developed countries in the world, partly as a result of decades of war. Domestic violence and its effects on society doubtlessly contribute to the country's economic woes.

Some Afghan parliamentarians and other government officials have expressed reservations about the EVAW law, including concerns that its protections against domestic violence are "un-Islamic." However, a number of countries with majority Muslim populations have laws prohibiting domestic violence, including Bangladesh, Indonesia, Malaysia, Jordan, Tunisia, and Saudi Arabia.²⁴

RECOMMENDATIONS

Child marriage and domestic violence threaten the health and rights of Afghan girls and women, and puts their children's lives at risk. All this has tremendous social and economic costs.

Instead of undermining law like the EVAW law, the Afghan government and lawmakers should:

- Reinforce and expand efforts to implement the EVAW law, including protections against child marriage and domestic violence;
- Support establishment of specialized EVAW prosecution units in every province;
- Track the number of cases brought under the EVAW law in each province and district and investigate provinces or districts with no or extremely low numbers of prosecutions;
- Develop new initiatives to improve recruitment and retention of female police officers,
 and ensure that all police Family Response Units are staffed by female police officers;
- Set the minimum age for marriage at 18 for both girls and boys;
- Launch a country-wide awareness campaign about the negative impacts of child marriage including information about the risk of maternal death, fistula, and infant death or poor health;
- Provide earmarked government funding and high quality services for the treatment of fistula, especially outside of Kabul;
- Support the adoption of tougher laws against domestic violence and improve access to health and other services for survivors of domestic violence;
- Publicly endorse and provide logistical and security support for shelters for women fleeing violence, and work with donors to establish a shelter in every province;
- Revise Afghanistan's zina laws to harmonize them with Afghanistan's international legal obligations, and clarify through an administrative decree that "running away" should not be treated as a crime under Afghan law. Until Afghan law is reformed, impose an immediate moratorium on prosecutions for "moral crimes;"
- Investigate every alleged "moral crimes" case to determine whether the accused woman
 has been the victim of a crime under the EVAW law and, if so, take steps to investigate
 and prosecute the EVAW law offenses.

- ¹ Human Rights Watch interview with Rogia D., November 29, 2011.
- Human Rights Watch interview with Zargona F., November 28, 2011.
- ³ Afghan Ministry of Public Health et al., "Afghanistan Mortality Survey," 2010, http://www.measuredhs.com/pubs/pdf/FR248/FR248.pdf (accessed July 3, 2013), Table 3.11 "Age at first marriage." p.52.
- 4 UN Population Fund, "Marrying Too Young: End Child Marriage," 2012, http://www.unfpa.org/webdav/site/global/shared/ documents/publications/2012/MarryingTooYoung.pdf (accessed July 8, 2013), p. 23.
- 5 WHO, UNICEF, World Bank, "Trends in Maternal Mortality: 1990 to 2010," 2012, http://www.unfpa.org/webdav/site/global/shared/documents/ publications/2012/Trends_in_maternal_mortality_A4-1.pdf (accessed July 8, 2013), p.23.
- ⁶ Afghan Ministry of Public Health et al., "Afghanistan Mortality Survey," 2010, http://www.measuredhs.com/pubs/pdf/FR248/FR248.pdf (accessed July 3, 2013), p. 128.
- ⁷ Ibid.
- 8 This research was conducted in Kabul, Nangarhar, Badakhshan, Bamyan, Faryab, and Kapisa provinces.

9 WHO, "Preventing Early Pregnancy and Poor Reproductive Out-

comes Among Adolescents in Developing Countries," 2011,

- http://whqlibdoc.who.int/publications/2011/9789241502214_eng .pdf (accessed July 29, 2013), p. 2; WHO, "Adolescent Pregnancy— Unmet Needs and Undone Deeds: A review of the literature and programs," 2007, http://whqlibdoc.who.int/publications/2007/9789241595650_en g.pdf (accessed July 26, 2013), p. 22-4; WHO and UNFPA, "Pregnant Adolescents—Delivering on Promises of Hope," 2006, http://whqlibdoc.who.int/publications/2006/9241593784_eng.p df (accessed July 29, 2013), p. 13; WHO, "Adolescent Pregnancy, Issues in Adolescent Health and Development," 2004, http://whqlibdoc.who.int/publications/2004/9241591455_eng.pdf (accessed July 29, 2013), p. 32; Independent research studies have also shown that infants born to adolescent mothers run a higher risk of poor health and death than infants born to older women. Jocelyn E. Finlay et al., "The association of maternal age with infant mortality, child anthropometric failure, diarrhea and anemia for first births: evidence from 55 low- and middle-income countries," BMJ Open, vol. 1 (2011), http://bmjopen.bmj.com/content/1/2/e000226.full (accessed July 29, 2013); Vandana Sharma et al., "Young Maternal Age and the Risk of Neonatal Mortality in Rural Nepal," Archives of Pediatrics and Adolescent Medicine 828, vol. 162, issue 9 (2008), http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2535853/ (accessed July 25, 2013).
- Afghan Ministry of Public Health et al., "Afghanistan Mortality Survey," 2010, http://www.measuredhs.com/pubs/pdf/FR248/FR248.pdf (accessed July 3, 2013), p. 99.

- UN human rights bodies such as the Committee on the Elimination of Discrimination against Women (CEDAW Committee) and the Committee on Rights of the Child (CRC Committee) have recommended that countries adopt 18 as the minimum age for marriage. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force September 3, 1981, General Recommendation 21,(13th session, 1994);Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, General Comment 4, para. 20.
- Bangladesh Child Marriage Restrain Act, 1929, http://bdlaws.min-law.gov.bd/print_sections_all.php?id=149 (accessed June 6, 2013); The Prohibition of Child Marriage Act, 2006, India, http://wcd.nic.in/cma2006.pdf (accessed June 6, 2013); Egypt Child Law, 1996 (amended in 2008), http://www.nccmegypt.org/e7/e2498/e2691/infoboxContent2692/ChildLawn0126 english_eng.pdf (accessed June 6, 2013); Iraq Personal Status Law, 1959,

http://apps.americanbar.org/rol/publications/iraq_personal_status_law_1959_english_translation.pdf (accessed June 6, 2013); Code of Personal Status, 1956 as cited in African Child Policy Forum, "Minimum Age of Marriage in Africa," March 2013, http://www.girlsnotbrides.org/wp-

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http://www.unicef.org/gender/files/Tunisia-Gender-Eqaulity-Profile-2011.pdf (accessed June 6, 2013); Moroccan Family Code (Moudawana), 2004 (unofficial English translation), http://www.hrea.org/moudawana.html#12 (accessed June 6, 2013); United Nations Committee of the Rights of the Child, "Consideration of Reports Submitted by States Parties under Article 44 of the Convention: Jordan," March 2006, CRC/C/JOR/3, http://daccess-dds-ny.un.org/doc/UNDOC/GEN/Go6/407/65/PDF/G0640765.pdf?OpenElement (accessed June 6, 2013); United Nations Committee on the Elimination of Discrimination against Women, "Consideration of Reports Submitted by States Parties under Article 18 of the Convention: Oman," July 2010, CEDAW/C/OMN/1, http://daccess-dds-

ny.un.org/doc/UNDOC/GEN/G10/437/56/PDF/G1043756.pdf?Ope nElement (accessed June 6, 2013); Libyan Law No. 10 of 1984 on Provisions Concerning Marriage, Divorce, and the Effects Thereof as cited in UN Committee on the Elimination of Discrimination against Women, "Consideration of Reports Submitted by States Parties under Article 18 of the Convention: Libya," December 2008, CEDAW/C/LBY/5, http://www2.ohchr.org/english/bodies/cedaw/docs/AdvanceVersions/CEDAW.C.LBY.5.pdf (accessed June 6, 2013), p. 39; UAE Federal Law no.28 of 2005 on Personal Status of 19 November 2005, Official Gazette no.439 (35th year)

November 2005, including Explanatory Memorandum as cited in UN Committee on the Elimination of Discrimination against women, "Initial report of the United Arab Emirates," 2008, CEDAW/C/ARE/1 http://tbinternet.ohchr.org/_layouts/treaty-bodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fARE%2f 1&Lang=en (accessed July 26, 2013); Algerian Family Code, Law no. 84-11, June 9, 1984, as amended on February 27, 2005, http://www.droit.mjustice.dz/code_famille.pdf (accessed July 26, 2013), article 7.

- Several Muslim-majority countries recognized age 18 as the minimum age of marriage long before UN human rights bodies like the UN Committee on Elimination of All Forms of Discrimination Against Women (CEDAW Committee) and the UN Committee on Rights of the Child (CRC Committee) recommended that countries adopt this as the minimum age. The CEDAW Committee recommended that countries establish 18 as the minimum age of marriage in 1994 through its General Recommendation 21, an authoritative interpretation of the UN Convention on the Elimination of All Forms of Discrimination Against Women. Iraq, Bangladesh, and Jordan are among the Muslim countries that had already recognized age 18 as the minimum age of marriage before 1994. When the CEDAW committee recommended 18 as the minimum age of marriage, independent experts from Tunisia, Turkey, Egypt, and Nigeria were members of the committee.
- OIC, Plan of Action for Advancement of Women, 2008, p. 2.
- 15 Ibid., p. 5.
- ¹⁶ Human Rights Watch interview with Mezghan A., November 28, 2011.
- ¹⁷ Global Rights, "Living with Violence: A National Report on Domestic Abuse in Afghanistan," 2008, http://www.globalrights.org/site/DocServer/final_DVR_JUNE_16.pdf (accessed July 3, 2013), p. 1.
- 18 Ibid., p. 24.
- ¹⁹ Ibid., p. 16; The incidence of physical violence in consensual marriages was 37 percent, compared to 64 percent in forced marriages. Similarly, the incidence of sexual violence in consensual marriages was 11 percent, compared to 22 percent in forced marriages.
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- ²⁴ Bangladesh Domestic Violence (Prevention and Protection) Act, 2010, http://phrplanbd.org/attachments/article/42/DV%20Act_ Engling%20Translation%20(unofficial).pdf (accessed July 8, 2013); India Protection of Women from Domestic Violence Act, 2005, http://wcd.nic.in/wdvact.pdf (accessed July 8, 2013); Law of The Republic of Indonesia Number 23 of Year 2004 Regarding Elimination of Violence in Household,

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http://www.rescue.org/sites/default/files/resource-file/IRC%2oAddressing%2oViolence%2oAgainst%2oWomen%2o in%2oKurdistan%2o5-12.pdf (accessed July 8, 2013), p.10; Freedom House, "Women's Rights Survey: Jordan," 2010, http://www.freedomhouse.org/sites/default/files/inline_images/Jordan.pdf (accessed July 8, 2013), p.1; Malaysia Domestic Violence Act, 1994, http://www.wcwonline.org/pdf/lawcompilation/malaysia_DVact1994.pdf (accessed July 8, 2013); UNICEF, "Tunisia: MENA Gender Equality Profile," October 2011, http://www.unicef.org/gender/files/Tunisia-Gender-Eqaulity-Profile-2011.pdf (accessed July 8, 2013), p.2.

