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USIP Recommendations on Traditional Dispute Resolution & Afghanistan's Women

The US Embassy in Kabul hosted a meeting on Thursday, March 10, on the subject of "Traditional Dispute Resolution and Women." The meeting enhanced invitees' understanding of USAID's work in informal justice and prompted a series of conversations among invitees to discuss shared principles and aims in enhancing access to justice for all in Afghanistan.

In general, women's groups oppose international donor support for informal justice systems because they believe they do not adhere to international standards on the protection of women. It is important to highlight, however, that there is a range of opinions among women in civil society on this topic. While all oppose traditional practices that do not respect women's rights, some recognize that traditional justice systems can help women resolve certain disputes and that the court system does not always respect women's rights either.

This memorandum sets forth guidelines and suggestions for future programming in traditional dispute resolution ("TDR") that reflect USIP's recent consultations with women in civil society and their respective organizations as well as its pilot project research in 13 districts in seven provinces on interactions between formal and informal justice actors.¹ These recommendations are meant to mitigate TDR practices that are harmful to women and prevent recognition or reinforcement of them by official actors.

Suggested Guidelines for Afghan Government & Donor Activities in TDR:

1. Aim to *maximize the positive* aspects of shuras and jirgas and *minimize and prevent* negative outcomes and side effects.

¹ Although this memorandum does not include specific findings from USIP's research, the recommendations contained herewith are consistent with USIP's understanding of TDR in Afghanistan.

2. *Progressive interpretations of shari'a and religious education* must be disseminated at every level of society through credible actors to inform citizens and traditional leaders ways in which customary law violates women's rights that are protected by Islamic law.
 - At the community level, awareness of modern mainstream interpretations of Islam can be more powerful than other justifications for human rights.
3. The most effective projects to raise legal awareness require *long-term partnerships* based on earned trust at the local level.
 - Lasting impacts in improving the status and rights of women are not achieved, for example, when trainers on women's rights are brought from Kabul or even a nearby city to conduct one-off workshops or campaigns. Such actors are often viewed as untrustworthy outsiders with different values from the community.
4. *Change agents* at the local level – most importantly, *male change agents* – possess the most potential to introduce, publicize, and popularize modern concepts of justice in any community.
 - Identifying and empowering these change agents requires long-term engagement and is most plausible in stable communities where the political and security space allows for progressive change agents to emerge.
5. Rather than *strengthening* shuras and jirgas themselves, *the linkages between informal and formal justice systems should be strengthened*, so as to introduce some accountability into the informal system.
 - Projects that purport to “strengthen” traditional practices that are perceived as disenfranchising and repressive to women's interests are not and will never be supported by women's groups.
 - Programs that aim to promote legal awareness, accountability, oversight, or at the least recordation of repugnant practices are more favorable.
6. *Working in more stable districts* can offer important *lessons and best practices*, and successful projects in stable areas often have *positive spillover effects* across a province or region.
 - Limiting work to areas of kinetic operations, where women's rights have in the past been sacrificed for immediate stabilization gains, are unlikely to achieve results and even risk negative long-term impacts on the equity of the Afghan justice system.

Suggestions for Projects and Programming in TDR:

1. **Work with the Minister of Hajj and Religious Affairs**, which is already developing a guidebook for mullahs across the country that aims to provide progressive training on Islamic principles.
 - Among other things, this guidebook should educate mullahs on the rights women are granted by Islam.
 - Thousands of mullahs are paid 1500 Afs/month by the Ministry. They form a powerful network of religious scholars and community activists who can engage their communities.

2. **Work with the Ministry of Education to develop curriculum**, including civics and rights education for boys and girls.
 - Madrassas employ an estimated 7,000 teachers, and public schools employ an estimated 200,000 teachers.
 - There are currently approximately 6 million students who need to be educated and sensitized to women's rights.
3. **Provide rights training for jirga members and mullahs and women religious trainers.**
 - An avowed demand for such training in some parts of the country should be nurtured and supported.
4. **Utilize media to raise awareness of religious discourse on women's rights.**
 - The wide reach of radio, television, and print programming should be exploited to inform the public on issues of women's rights under Islam. Radio programs, in particular, have market saturation and impact in all areas of the country and are accessible to the large percentage of the population who are illiterate.
5. **Explore linkages between legal aid providers and informal justice bodies.**
 - Legal aid providers can be important resources for jirgas and shuras, in particular to identify what options are available in the formal system in certain circumstances and to provide guidance on the potential repugnance or illegality of a decision to both women and men.
6. **Examine and expand the accessibility of legal aid services for women.**
 - Legal aid providers can educate women on their rights and practical options in a given situation. If women are aware of their options for recourse through formal justice, it can empower them to make better informed decisions within informal justice bodies, as well.
7. **Expand the role of paralegals and encourage training of paralegal professionals**, who can potentially advise jirgas and shuras and/or women and children on legal standards and practical options within the full landscape of justice.
8. **Local outreach and education should build upon culturally appropriate mechanisms of conveying messages.**
 - Storytelling has proven to be a particularly effective medium for communicating and invoking social change, as has been done with public health campaigns.