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### **55° SESSION FOR THE WOMEN OF AFGHANISTAN**

Madrid, ICAM, C. de Serrano, 9-11, Salamanca, 28001

8-10 October 2025

### **JUDGEMENT**

General Secretariat:

VIA DELLA DOGANA VECCHIA 5 - 00186 ROME - TEL:0039 066879953

E-mail:[ppt@permanentpeopletribunal.org](mailto:ppt@permanentpeopletribunal.org), [www.permanentpeopletribunal.org](http://www.permanentpeopletribunal.org)

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# 1. INTRODUCTION

## 1.1. General framework

The Permanent Peoples' Tribunal (PPT) is an international organisation competent to rule on any serious crime committed against people and minorities. A request was submitted by Rawadari, the Afghanistan Human Rights and Democracy Organisations (AHRDO), the Organisation for Policy Research and Development Studies (DROPS) and Human Rights Defender Plus, for the launch of a People's Tribunal for Women of Afghanistan before the Permanent Peoples' Tribunal, to address the impunity around gender persecution in Afghanistan.

The request led to the submission of an Indictment, followed by public hearings on the situation of women in Afghanistan, which were held in Madrid at the ICAM, located at Calle de Serrano 9, from October 8 to 10, 2025. Following the procedures outlined in the PPT Statute<sup>1</sup>, the Indictment was recognised as fully in line with the Tribunal's competences and terms of reference, as documented in the series of Judgements adopted by the Tribunal over the past four decades.

A few introductory remarks could be useful for better understanding both the procedures and the historical, cultural and legal background of the PPT, which was formally established in 1979 as a follow-up to the two Russell Tribunals on Vietnam (1966–1967) and Latin American dictatorships (1974–1976). The PPT is a tool designed to promote and monitor the implementation of the Universal Declaration of the Rights of Peoples<sup>2</sup>, which was proclaimed in Algiers on 4 July 1976. As the decolonisation process reached its official conclusion, it became evident that the States' interpretation of the universality of human rights was, in practice, effectively transforming people from their collective identity as subjects with inviolable personal and collective rights into objects, and thus also victims of violations of their rights in a context of full impunity. This transformation occurred in the absence of an independent international court recognised and empowered by the States.

The PPT was established as a bottom-up tribune of visibility, legitimacy and recognised justice for those people who requested its competence with documented evidence of violations of their right to live with dignity. By documenting the type and severity of the violations through testimonies and factual/doctrinal data, people are assumed to be the real subjects of the process, with the independent Panel of Judges (not only composed of juridical competency) translating the submitted evidence into a Judgement of the causes and responsibilities. This is not only based on existing legal instruments but also provides an analysis and recommendations on what should be mandatory in order to overcome the failures, omissions and crimes of silence of the international juridical order.

The situation of women of Afghanistan, as presented in the request, was recognised by the PPT Presidency and the General Secretariat as a matter of urgent competence for the Tribunal. The targeted and brutal expression of a system of structural violations of women's fundamental individual and collective rights, is based on the denial of their identity as inviolable subjects entitled to live with autonomy and dignity. The Indictment details all the forms of evidence on

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<sup>1</sup> PPT Statute, available at:

[https://permanentpeoplestribunal.org/wp-content/uploads/2019/05/Statute-of-the-PPT\\_ENG\\_FINAL.pdf](https://permanentpeoplestribunal.org/wp-content/uploads/2019/05/Statute-of-the-PPT_ENG_FINAL.pdf).

<sup>2</sup> Universal Declaration of the Rights of Peoples, available at:

<https://permanentpeoplestribunal.org/wp-content/uploads/2016/06/Carta-di-algeri-EN-2.pdf>.

the factual, legal and cultural aspects of the violations and who bears responsibility and should be held accountable.

The significance of this session is also, and possibly specifically, of broader and more profound importance. The current situation in Afghanistan is the product of a long history, during which the country has been at the crossroads of the interests, wars, promises and betrayals of some of the major powers that have been in conflict with each other for geopolitical control of the wider region for the last four decades. This situation has already been the subject of two PPT sessions held in Stockholm in 1981 and in Paris in 1982<sup>3</sup>, focused on the period of the Soviet occupation of Afghanistan.

Through their courage and resilience, the women of Afghanistan are challenging the legitimacy and credibility of an international community that is fully aware of the situation yet appears unable to address and stop a process that violates the fundamental principles of international law, which asserts the equal human dignity of all people, without exclusion or discrimination.

In strict accordance with its Statutes, the PPT aims to provide a platform that gives visibility and a voice to Afghan women, as an echo and a loudspeaker of a wider process of resistance and awareness that can stop and prevent not only the destruction of the lives of Afghan women and their right to live in freedom and dignity - but also that of women around the world, who are the guarantors of life and social reproduction, and who cannot remain the victims of gender-based colonisation, which is possibly the most deeply rooted obstacle to a human future.

## **1.2. Procedure**

The period considered in this hearing includes more directly the facts, the jurisdiction, the actors, and the violations that have occurred from 2021, when the Taliban took full control of the country following the withdrawal of the international forces, and the collapse of the then government.

The Indictment<sup>4</sup> accuses Hibatullah Akhundzada (Supreme Leader), Sirajuddin Haqqani (Minister of Interior), Mullah Mohammad Yaqoob (Minister of Defence), Abdul Ghani Baradar (Deputy Prime Minister), Noor Mohammad Saqib (Minister of Hajj and Religious Affairs), Sheikh Mohammad Khalid Hanafi (Minister for Promotion of Virtue and Prevention of Vice), Shaikh Abdul Hakim Haqqani (Chief Justice of the Supreme Court), Neda Mohammad Nadeem (Minister of Higher Education), Habibullah Agha (Minister of Education), Abdul Haq Wasiq (Director of the General Directorate of Intelligence, GDI), the Taliban as a group and the State of Afghanistan, of the following crimes, committed from 2021 to date:

- crimes against humanity, particularly the crime of gender persecution under Article 7 of the Rome Statute;
- other inhumane acts codified in the Rome Statute;
- violation of Afghanistan's binding obligation under core international human rights treaties, including the Convention on the Elimination of All Forms of Discrimination

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<sup>3</sup> The first PPT session on Afghanistan is available at: [https://permanentpeoplestribunal.org/wp-content/uploads/2016/07/Afghanistan\\_I\\_TPP\\_it.pdf](https://permanentpeoplestribunal.org/wp-content/uploads/2016/07/Afghanistan_I_TPP_it.pdf), while the second one is available at:

[https://permanentpeoplestribunal.org/wp-content/uploads/2016/07/Afghanistan\\_II\\_TPP\\_it.pdf](https://permanentpeoplestribunal.org/wp-content/uploads/2016/07/Afghanistan_II_TPP_it.pdf).

<sup>4</sup> Indictments, available at: <https://afghanistantribunal.com/wp-content/uploads/2025/10/Peoples-Tribunal-for-Women-of-Afghanistan-Indictment.pdf>.

against Women (CEDAW), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention Against Discrimination in Education (CADE), the Convention on the Political Rights of Women (CPRW), the Convention on the Rights of the Child (CRC), the Convention on the rights of People with Disabilities (CRPD), and the Convention against Torture (CAT).

The Indictment identifies the Taliban not merely as the *de facto* governing authority, but as a perpetrator of a coordinated, State-level campaign of gender persecution, carried out with the intent to erase women from public life and to restructure Afghan society around male supremacy. Appointed by the Requesting Organisations (ROs), the Prosecutors asserted that the Taliban's campaign is enforced through violence, coercion, and alleged religious justification based solely on the Taliban leadership's perception of Islam and Sharia, an assertion which was further supported by witness testimonies during the public hearings.

The procedures outlined in the Statute of the PPT for the proper and timely notification of the accused parties were observed. An official communication, including the text of the Indictment and a formal invitation letter requesting the exercise of the right to defence in any form, was sent to the parties on September 16, 2025, to the email address of the Human Rights Directorate at the Ministry of Foreign Affairs of the Taliban, including the names of the accused individual leaders of the Taliban. They were also offered assistance in the proceedings and ensured a timeslot for an oral presentation. However, the PPT has not received any response from the accused parties. The President of the Panel of Judges also made announcements during both days of the hearings, requesting members of the defence to identify themselves if present at the hearings. However, no representatives of the defence were present at the hearings.

The Panel of Judges was composed of: Rashida Manjoo (South Africa), President of the Panel, Elisenda Calvet-Martínez (Spain), Mai El-Sadany (Egypt/United States), Marina Forti (Italy), Araceli García del Soto (Spain), Ghizal Haress (Afghanistan), Emilio Ramírez Matos (Spain), and Kalpana Sharma (India).

The role of leading Prosecutors was assumed by Orzala Nemat, Benafsha Yaqoobi, Moheb Mudessir and Azadah Raz Mohammad, who were appointed by the Requesting Organisations and in charge of the Indictment and the collection of the evidence. They were also responsible for selecting the witnesses and analysing the impact of the various human rights violations, relying on the knowledge acquired by the ROs and the witnesses themselves.

The hearings followed the planned program. Witnesses testified on the following violations of the rights of women and girls in Afghanistan: systematic and systemic gender-based persecution as a crime against humanity; other inhumane acts; and the violation of human rights including the denial of the right to education and health; discrimination against women and girls with disabilities; suppression of freedom of movement, bodily autonomy, freedom of expression and assembly; denial of the right to work and civil and political rights; denial of the right to life; and arbitrary detention, ill treatment and torture. An expert opinion on Islamic rights was also presented. There was also a question-and-answer time for the Judges to ask the Prosecutors and witnesses questions and to seek clarity.

The PPT wishes to pay tribute to the courage of the women of Afghanistan, and to express our gratitude particularly to those who have shared their lived experiences. The Tribunal thanks the team of Prosecutors, witnesses, and ROs for the diligence and commitment with which they have assembled and presented an extraordinary wealth of evidence for this session.

## 2. THE CONTEXT

### **2.1. The structure of gender injustice in Afghanistan**

Across Afghanistan's modern history, women's rights have risen and fallen in response to shifting political regimes, cycles of conflict, and conservative social forces rooted in patriarchal customary practice and rigid interpretations of religion.<sup>5</sup> While a series of twentieth-century constitutions formally articulated commitments to equality and women's participation in public life, these legal reforms did not translate to transformative change and equality for women. Implementation remained fragile and frequently reversed as State authority shifted and political actors mobilized religion and culture to consolidate power.

The fragility of women's legal and political gains is closely tied to the longstanding patriarchal foundations of Afghan social and political life.<sup>6</sup> Patriarchy in Afghanistan is rooted in long-standing customary, tribal, and religious structures that place men in positions of authority and limit women's autonomy.<sup>7</sup> Women's experiences of this patriarchy have also been shaped by decades of war and displacement, which strengthened militarized forms of male dominance and made control over women a marker of social order.<sup>8</sup> Patriarchy in Afghanistan is asymmetric.<sup>9</sup> Women's experiences of gender vary depending on their geography and ethnicity, and are further intertwined with the enduring legacies of conflict and poverty.<sup>10</sup>

The impact of patriarchy becomes most visible when it is translated into law and State policy and practice. In contexts where patriarchal norms become tied to political power, they have translated into laws and State-enforced rules that restrict all women across diverse cultural and ethnic communities.<sup>11</sup> Conversely, when women gain constitutional and legal rights, these gains are framed by patriarchal actors as threats to cultural and religious authenticity. Women's empowerment becomes associated with moral and social disorder, prompting calls to restore "tradition" through renewed control over women's bodies, mobility, and family law.<sup>12</sup>

This dynamic has been evident in various moments in Afghanistan's history. In the 1920s, for example, reform efforts by King Amanullah and Queen Soraya to expand women's education and public participation were met with fierce backlash framed as a defence of religion and

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<sup>5</sup> Mohammad Hashim Kamali, "References to Islam and Women in the Afghan Constitution," *Arab Law Quarterly* 22 (2008).

<sup>6</sup> *Ibid.*

<sup>7</sup> See, Huma Ahmed-Ghosh, "A History of Women in Afghanistan: Lessons Learnt for the Future, Or Yesterdays and Tomorrow: Women in Afghanistan," *Journal of International Women's Studies* 2, 3 (2003).

<sup>8</sup> R. H. Augustine, "The History of Afghanistan and Its Impact on Women's Rights," *Journal of International Relations and Foreign Policy* 12 (2024): 13–30.

<sup>9</sup> Sylvia Walby, "Theorising Patriarchy," *Sociology* 23, 2 (1989): 213–34.

<sup>10</sup> Fatima Ayub et al., *Addressing Gender-Specific Violations in Afghanistan* (International Center for Transitional Justice, 2009), <https://www.ictj.org/sites/default/files/ICTJ-Afghanistan-Gender-Violations-2009-English.pdf>.

<sup>11</sup> *Supra* note 9 Walby.

<sup>12</sup> Valentine M. Moghadam, "Islamist Movements and Women's Responses," in *Modernizing Women Gender and Social Change in the Middle East* (Lynne Rienner Publishers, 1993), <https://doi.org/doi:10.1515/9781685858940-009>.

tradition.<sup>13</sup> In the decades that followed, women's rights activists and reform movements continued to push for expanded freedoms and opportunities, often making meaningful gains despite facing resistance. At other periods, especially the Mujahideen<sup>14</sup> and the Taliban regimes,<sup>15</sup> translated patriarchal norms directly into law or State policy and practice, enforcing strict controls over women's rights<sup>16</sup> and roles in society as a means of restoring what they defined as cultural and moral order. It is also noteworthy that foreign interventions enabled patriarchal actors to frame restrictions on women's rights as necessary defences against external domination.<sup>17</sup>

## **2.2. Constitutional developments: 2001-2021**

After the collapse of the Taliban regime in 2001, Afghan women experienced a period of significant legal and social changes in the country. The 2004 Constitution of Afghanistan included strong guarantees for women's rights and participation in public life, many of which were secured through the active participation and advocacy of women during the constitution-making process and by female delegates at the Constitutional Loya Jirga.<sup>18</sup>

The 2004 Constitution guaranteed women's equal rights and fundamental freedoms, creating opportunities for women to return to education, employment, political participation, and other spheres of public life.<sup>19</sup> Article 22 explicitly prohibited all forms of discrimination and affirmed that men and women have equal rights and duties before the law. The Constitution recognized the impact of the Taliban's earlier ban on women's education and therefore, Article 44 required the State to devise and implement programs that actively promote women's right to education. The Constitution also guaranteed women's rights to employment (Article 48) and political participation, as well as their representation in Parliament (Articles 83 and 84). Additional provisions reinforced women's access to health, social, and family rights, including obliging the State to protect the well-being of mothers and children.<sup>20</sup>

Taken together, the articles that explicitly guaranteed and protected women's rights, along with the broader gender-neutral rights such as the rights to life, dignity, liberty, freedom of expression and assembly, and protection from torture, together with the State's obligations in Articles 6 and 7 to uphold human rights and respect international conventions, created a strong foundation for advancing women's rights and equality. Building on this constitutional framework, other significant advances followed, including the establishment of the Ministry of

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<sup>13</sup> Micheline Centlivres-Demont, "Afghan Women in Peace, War and Exile," in *The Politics of Social Transformation in Afghanistan, Iran, and Pakistan*, ed. Ali Banuazizi and Myron Weiner (Syracuse University Press, 1994).

<sup>14</sup> Parwin Alimajrooh, "Afghan Women between Marxism and Islamic Fundamentalism," *Central Asian Survey* 8, 3 (1989): 87–98.

<sup>15</sup> Human Rights Watch, *Humanity Denied: Systematic Violations of Women's Rights in Afghanistan*, 13, 5 (C) (2001), <https://www.hrw.org/report/2001/10/29/humanity-denied/systematic-violations-womens-rights-afghanistan>.

<sup>16</sup> United Nations Secretary General (UNSG), *Secretary General Restates United Nations Policy on Gender Equality in Response to Concerns about Status of Women in Afghanistan*, SG/SM/6072 AFG/70 (United Nations, 1996).

<sup>17</sup> Thomas J. Barfield, *Afghanistan: A Cultural and Political History*, Princeton Studies in Muslim Politics (Princeton University Press, 2010).

<sup>18</sup> Supra note 5 Kamali. See also, Ariane Brunet and Isabelle Solon Helal, *Seizing an Opportunity: Afghan Women and the Constitution-Making Process*, Mission Report (Rights and Democracy: International, 2003).

<sup>19</sup> Constitution of Afghanistan (2004).

<sup>20</sup> Articles 52-54 of the Constitution of Afghanistan (2004).

Women's Affairs and the Afghanistan Independent Human Rights Commission, and legal initiatives such as the promulgation of the Law on the Elimination of Violence Against Women, which provided new forms of protection. Afghanistan also ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) without reservations<sup>21</sup> and adopted the Beijing Declaration and Platform for Action.<sup>22</sup>

The sum of the measures introduced after 2001 marked a departure from the Taliban era and created a legal foundation for women's rights. However, the sustainability of these advances was always in question in a political environment defined by weak institutions, strong patriarchal influence, and shifting international support.<sup>23</sup> The legal reforms faced insufficient political commitment, uneven enforcement, and rising insecurity, making it difficult to take hold in the everyday lives of women and translate into meaningful protection for women across the country.

Despite these challenges, in the post-2001 period, Afghanistan witnessed measurable and meaningful progress in advancing women's rights. Access to education expanded dramatically. According to UNESCO, school enrolment increased from around 1 million students in 2001 to about 10 million in 2018, and the number of girls in primary school rose from almost zero to 2.5 million during that period, with girls accounting for 4 out of 10 primary students by 2021.<sup>24</sup> Women's presence in higher education also grew sharply, increasing from 5,000 female university students in 2001 to over 100,000 in 2021, and women's literacy rates nearly doubled, rising from 17 percent in 2001 to nearly 30 percent.<sup>25</sup> During this period, women re-entered professions including medicine, law, journalism, engineering, aviation, public administration, the security sector, and others, in growing numbers. Women's participation in the civil service rose from almost zero under the Taliban regime (1996-2001) to approximately 28% by 2020.<sup>26</sup> Women held 27 percent of seats in the Lower House and 17 percent in the Upper House, placing Afghanistan among the countries with the highest levels of female parliamentary representation at the time.<sup>27</sup> Together, these changes reflected not only legal and policy reform but also the determination of Afghan women in claiming public space and professional identity.

### **2.3. Peace talks: 2018-2021**

In the years leading up to 2021, efforts, including those of the United States and other countries, to negotiate a peace deal with the Taliban gradually undercut the progress women had made over the previous two decades, and without clear, enforceable guarantees for women's rights in the ensuing agreement, the fragile gains achieved since 2001 were left exposed and vulnerable to reversal.<sup>28</sup> During the negotiations with the United States, the Taliban presented

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<sup>21</sup> United Nations, *Treaty Series*, vol. 1249, p. 13. Afghanistan ratified the CEDAW on 5 March 1983.

<sup>22</sup> Supra note 16 UNSG statement.

<sup>23</sup> Jacqui True and Farkhondeh Akbari, "Geopolitical Narratives of Withdrawal and the Counter-Narrative of Women's Rights Activism in Afghanistan," *Global Studies Quarterly* 4, 3 (2024).

<sup>24</sup> UNESCO, "Let Girls and Women in Afghanistan Learn!," accessed November 10, 2025, <https://www.unesco.org/en/articles/let-girls-and-women-afghanistan-learn.u>.

<sup>25</sup> *Ibid.*

<sup>26</sup> Parwiz Mosamim and Jean-Patrick Villeneuve, "Women in Government: The Limits and Challenges of a Representative Bureaucracy for Afghanistan (2001–2021)," *Policy Studies* 44, 6 (2023): 703–27.

<sup>27</sup> Andrea Fleschenberg, *Afghanistan's Parliament in the Making: Gendered Understandings and Practices of Politics in a Transitional Country* (Heinrich-Böll-Stiftung, 2009).

<sup>28</sup> *Afghan Women's Rights on the Verge of Roll Back as International Forces Withdraw and Peace Talks in Stalemate*, Public statement No. ASA 11/4143/2021 (Amnesty International, 2021).



themselves as defenders of women's dignity, describing women as "builders of society" and asserting that Islam has already granted women all of their fundamental rights.<sup>29</sup> They argued that the hardships facing Afghan women, such as lack of healthcare, poverty, and vulnerability, are the result of foreign occupation, corruption, and the influence of Western-backed organizations, which they claim promoted "immorality," "indecentcy," and non-Islamic cultural practices in the name of women's rights.<sup>30</sup> The Taliban maintained that they were committed to protecting women's "legitimate rights" within what they described as Islamic and Afghan cultural values.<sup>31</sup> These assurances were aimed largely at external audiences and did not reflect substantive change in the group's policy or ideology. Practices in areas under their control told the real story. Women remained excluded from political decision-making, faced strict controls over mobility and dress, and had only limited and inconsistent access to education.<sup>32</sup>

Afghan women and human rights activists repeatedly warned that this discourse would be used to justify the reimposition of strict gender controls and to undermine women's autonomy. They repeatedly appealed to ensure women's rights are on the negotiation agenda, but they and their rights were largely ignored and eventually excluded from the Doha Agreement, signed between the Taliban and the United States.<sup>33</sup> In effect, the international community chose to place its confidence in a group with a well-documented record of repression rather than in the Afghan women who had directly experienced and warned against their abuses. Most troubling and damaging of all, it signalled that women's rights were negotiable and secondary and could be set aside when politically convenient. These factors set the stage for the sweeping rollback that followed the Taliban's return to power in August 2021. The warnings Afghan women had voiced throughout the peace process were realized immediately when the Taliban regained control.

The Taliban framed their goal as preventing what they characterize as threats to Afghan identity and religious morality, deliberately using broad and undefined terms. The vagueness of this language allows for vast discretionary power, enabling them to determine what is considered "immoral" "un-Afghan" or "un-Islamic". In practice, this framing would reinforce a patriarchal order in which male religious and political authorities define the boundaries of women's rights and their public participation.<sup>34</sup> The narrative presents a "protective" approach,<sup>35</sup> positioning the Taliban as guardians of cultural and moral integrity while rejecting the constitutional protections and broader rights frameworks developed after 2001 as foreign, imposed, and socially destabilizing.<sup>36</sup>

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<sup>29</sup> Taliban Member Sher Mohammad Abbas Stanekzai's Speech At Moscow Talks, Tolo News on Youtube, 5 February 2019, <https://www.youtube.com/watch?v=BNFA09GDX1M>.

<sup>30</sup> *Ibid.*

<sup>31</sup> *Ibid.*

<sup>32</sup> Thomas Ruttig, *Have the Taliban Changed*, CTC Sentinel, 14, 3 (Combating Terrorism Center, West Point, New York, 2021).

<sup>33</sup> "Agreement for Bringing Peace to Afghanistan between the Islamic Emirate of Afghanistan Which Is Not Recognized by the United States as a State and Is Known as the Taliban and the United States of America," State Department, United States, 2020, <https://www.state.gov/wp-content/uploads/2020/02/02.29.20-US-Taliban-Agreement.pdf>.

<sup>34</sup> Deniz Kandiyoti, "Bargaining with Patriarchy," *Gender and Society* 2, 3 (1988). And supra note 9 Walby.

<sup>35</sup> Supra note 12 Moghadam.

<sup>36</sup> Supra note 29 "Taliban Member".

## **2.4. Concerns about and the consequences of a second Taliban regime**

Afghan women's concerns stemmed from lived experiences under the Taliban. During their first regime from 1996 to 2001, the Taliban, through decrees and edicts, prohibited women from pursuing education and employment, and limited their access to healthcare, justice, and participation in public life. Stringent regulations mandated that women wear the burqa and be accompanied by a male guardian when outside the residence. The Taliban enforced their discriminatory edicts through a system of intimidation and violence led by the Religious Police, who conduct patrols to monitor compliance and impose immediate punishment for perceived violations.<sup>37</sup>

The Taliban, during their insurgency from 2001 to 2021, threatened, harassed, and in some cases assassinated women in areas under their control and major government-held urban centres who worked as teachers, health workers, civil servants, or with aid organizations. This signalled that female participation in public life would be punished. Girls' schools were burned or forcibly shut down, and brutal attacks such as acid assaults and poisonings spread terror, pushing some families to withdraw their daughters from education.<sup>38</sup> Through night letters, targeted killings, and community intimidation, the Taliban created zones of fear that severely restricted women's mobility, visibility, and access to services and resources.<sup>39</sup>

## **2.5. The second Taliban regime: 2021 to present**

The Taliban regime, grounded in a rigid interpretation of *Shari'a* (Islamic law) coupled with a patriarchal and ideological vision of society, has been working since August 2021 to systematically exclude women and girls from public life. Women have been banned from secondary and higher education and most forms of employment, prohibited from traveling without a male guardian, and face severe restrictions on access to justice and healthcare.<sup>40</sup> Women and girls are no longer permitted to enter parks, gyms, public baths, or many other public spaces. Those who peacefully resist these restrictions, including activists, educators, and community leaders, face threats, arbitrary detentions, enforced disappearances, torture, and ill-treatment. The scale and intent behind these actions reveal a systematic and targeted attack on Afghan women and girls.<sup>41</sup>

Across every period of Taliban rule or influence, women have been systematically excluded from public life, their mobility restricted, their visibility erased, and their access to education, employment, justice, and basic services denied. This persistent pattern reflects deep-rooted ideological commitments grounded in the Taliban's perceived interpretation of Islam and a rigid patriarchal worldview that casts women as inferior and threatening to their moral order.

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<sup>37</sup> Supra note 15 Human Right Watch Report.

<sup>38</sup> "Afghan Girls Hospitalized in Apparent Poisoning," *NBC News*, 11 May 2009, <https://www.nbcnews.com/id/wbna30681708>.

<sup>39</sup> Human Rights Watch, *The "Ten-Dollar Talib" and Women's Rights: Afghan Women and the Risks of Reintegration and Reconciliation* (Human Rights Watch, 2010), <https://www.hrw.org/report/2010/07/13/ten-dollar-talib-and-womens-rights/afghan-women-and-risks-reintegration-and>.

<sup>40</sup> Belquis Ahmadi et al., *Where Is Afghanistan Three Years into Taliban Rule?* (United States Institute of Peace, 2024), <https://www.usip.org/publications/2024/09/where-afghanistan-three-years-taliban-rule>.

<sup>41</sup> See, Report of the Special Rapporteur on the Situation of Human Rights in Afghanistan A/HRC/56/25 (2024). See also Rawadari, *Afghanistan Mid-Year Human Rights Situation Report: January–June 30, 2025* (2025), [https://rawadari.org/wpcontent/uploads/2025/08/RW\\_MidYear2025\\_Human\\_Rights\\_Report\\_ENG.pdf](https://rawadari.org/wpcontent/uploads/2025/08/RW_MidYear2025_Human_Rights_Report_ENG.pdf).

Systemic gender-based discrimination is therefore not an anomaly, but a deliberate system of “structural injustice”<sup>42</sup> that the Taliban have incorporated and institutionalized at the heart of their governance.

### 2.5.1. Taliban’s interpretation of *Sharī‘a*

When the Taliban returned to power, they assured Afghan women that their rights would be protected within the bounds of Islamic law.<sup>43</sup> Since then, they have repeatedly justified restrictions on women’s education, mobility, work, and public participation by claiming these policies are mandated by *Sharī‘a*, reinforced through internal doctrinal texts.<sup>44</sup> Across the Muslim world, leading jurists, *mufīīs*, and institutions demonstrate that the Taliban’s positions reflect cultural extremism, not *Sharī‘a*, and deviate significantly from all major *fiqh* traditions.<sup>45</sup> For instance, scholarly consensus recognizes that classical schools permitted women’s participation in communal religious life, directly contradicting the Taliban’s prohibitions.<sup>46</sup> Likewise, the Islamabad Declaration (2025), endorsed by senior *ulamā* and *fiqh* councils, affirms that girls’ education is a religious obligation (*fard*) grounded in *Sharī‘a* and upheld by *ijmā‘*.<sup>47</sup> These authoritative positions demonstrate that the Taliban’s gender policies are not rooted in Islam but represent isolated, politicized interpretations which are in clear contradiction with the established Islamic legal tradition.

Islamic law (*Sharī‘a*) is inherently diverse. This diversity stems from the fact that *fiqh*, the human interpretation of divine texts, is not a fixed code but a dynamic process that relies on multiple interpretive tools, each shaped by social and historical contexts.<sup>48</sup> Differences of opinion and disagreements exist among the *madhāhib* (schools of thought), among the *imāms* and jurists within each school, and even within the evolving opinions of individual scholars.<sup>49</sup> *Sharī‘a* law not only accepts but values the differences of opinion, treating principled disagreement as a resource that allows jurists to acknowledge the fallibility of their views, draw on alternative opinions, and address new developments through interpretations that best serve

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<sup>42</sup> Sophia Moreau, “A Fully Systemic Approach to Structural Injustice,” *Nomos* LXVII (Forthcoming, Fall 2025 - page numbers unavailable).

<sup>43</sup> Arwa Ibrahim, “Explainer: The Taliban and Islamic Law in Afghanistan,” *Al Jazeera*, accessed 13 November 2025, <https://www.aljazeera.com/news/2021/8/23/hold-the-taliban-and-sharia-law-in-afghanistan>.

<sup>44</sup> “A Look at Abdul Hakim Haqqani’s Book,” Institute for East Strategic Studies, 11 July 2022, <https://www.iess.ir/en/analysis/3149/>.

<sup>45</sup> El-Sayed Gamal El-Din and Amr Kandil, “Al-Azhar Grand Imam Calls on Taliban to Reconsider University Ban for Afghan Women,” *Ahram Online*, 23 December 2022, <https://english.ahram.org.eg/NewsContent/1/1234/483095/Egypt/Foreign-Affairs/AlAzhar-grand-imam-calls-on-Taliban-to-reconsider-.aspx>. See also Sahar Akbarzai et al., “Taliban to Impose Their Interpretation of Sharia Law in Afghanistan,” *CNN*, 15 November 2022, <https://www.cnn.com/2022/11/15/asia/taliban-afghanistan-sharia-law-intl-hnk>.

<sup>46</sup> Lutforahman Saeed, *Freedom of Communal Prayer in the Primary Sources of Islamic Law and Under the Taliban-Ruled Afghanistan*, Canopy Forum, 2025, <https://canopyforum.org/2025/09/20/freedom-of-communal-prayer-in-the-primary-sources-of-islamic-law-and-under-the-taliban-ruled-afghanistan/>.

<sup>47</sup> “Islamabad Declaration on Girls’ Education in Muslim Communities. The International Conference on Girl’s Education in Muslim Communities: Challenges and Opportunities,” *Muslim World League*, January 2025, <https://www.themwl.org/sites/default/files/islamabad-declaration-on-girls-education-en.pdf>.

<sup>48</sup> Mohammad Hashim Kamali, *Shari‘ah Law: An Introduction* (Oneworld Publications, 2008).

<sup>49</sup> Lutforahman Saeed, “Constitutionalism in Islam and Interpretation of Sharia by the Taliban,” in *Status of Constitutionalism and Rule of Law in Afghanistan* (Center for Dialogue and Progress, 2025).

justice and public welfare.<sup>50</sup> Against this backdrop, the Taliban's approach elevates one narrow reading to the level of unquestionable law, concentrates power without accountability, and results in harm and injustice, conditions that the *Sharī'a* law explicitly rejects.<sup>51</sup> Indeed, even within the Taliban's own ranks, there is no consistent agreement on how *Sharī'a* should be interpreted or on the extent of restrictions on women's education, further underscoring both the diversity inherent in Islamic jurisprudence and the fragility of the Taliban's claims to a singular, immutable religious interpretation.<sup>52</sup> By imposing a single, rigid, and harmful reading, the Taliban fundamentally violates this tradition and undermines the legitimacy of their own claims to religious authority.

Furthermore, the deeply entrenched patriarchal structures and norms that the Taliban endorse, and portray as Afghan tradition and culture, have been known to contradict and undermine many of the rights that Islamic law accords to women. For example, although Islam explicitly recognizes a woman's right to inherit property and to give free consent in marriage, such rights are frequently denied in practice under customary and patriarchal norms.<sup>53</sup> This disconnect between religious principle and social practice illustrates how patriarchal applications of culture have systematically undermined women's autonomy and equality. It also demonstrates how Islamic principles are overridden by custom when convenient, yet selectively invoked as a tool, and at times a weapon, to legitimize discriminatory practices and justify violations of women's rights.

### **2.5.2. Institutionalized system of gender persecution**

The institutionalization of the Taliban's gender regime reflects broader patterns in which patriarchal authority becomes embedded in State structures. Under this system, women's subordination is framed as natural, culturally authentic, and religiously mandated, while male authority is positioned as the source of protection, moral guidance, and social order.<sup>54</sup> Once the State adopts this worldview, it becomes enforced through law, administrative practice, and everyday governance, rather than merely through family or community norms.<sup>55</sup> At the same time, restricting women's rights becomes a political project tied to claims of restoring national identity and defending cultural and religious values.<sup>56</sup> Therefore, the Taliban's gender-based domination is not incidental, but systematic and structural, woven into the State's governing ideology, producing a system of institutionalized discrimination that targets women as a group and treats their exclusion as a necessary condition of social order.

Since returning to power, this ideology has been translated into a comprehensive governing system. The Taliban have issued roughly 250 edicts and decrees, with at least 157 directly

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<sup>50</sup> Mohammad Hashim Kamali, "The Scope of Diversity and 'Ikhtilāf' (Juristic Disagreement) in the *Sharī'a*," *Islamic Studies* 37, 3 (1998): 315–37. And Lutforahman Saeed, "Constitutionalism in Islam and Interpretation of Sharia by the Taliban."

<sup>51</sup> Supra note 48 Kamali.

<sup>52</sup> Abubakar Siddique, "The Azadi Briefing: Taliban Appears Split Over Women's Education Ban," *Radio Free Europe/Radio Liberty*, 3 August 2024, <https://www.rferl.org/a/azadi-briefing-taliban-womens-education-ban-split-siddique/32854007.html>.

<sup>53</sup> Mohammad Hashim Kamali, *Law in Afghanistan: A Study of the Constitutions, Matrimonial Law and the Judiciary* (E.J. Brill, 1985).

<sup>54</sup> Supra note 34 Kandiyoti.

<sup>55</sup> Supra note 9 Walby.

<sup>56</sup> Supra note 12 Moghadam.

restricting women's and girls' rights to education, work, mobility, and political participation.<sup>57</sup> They have institutionalized a system of discrimination and exclusion that fundamentally denies women full humanity and dignity.<sup>58</sup> Rather than isolated acts, the restrictions operate as the core architecture of governance in which each policy reinforces others, producing a totalizing system of control that shapes every sphere of women's lives. This system reflects continuity rather than rupture. The Taliban's treatment of women has shown a consistent pattern across their first regime (1996–2001), their years as an insurgent movement, and their rule since August 2021.

Taliban policies interrelate and mutually reinforce one another, producing deep and enduring forms of structural injustice. Structural injustice arises not from a single law or act, but when institutions, cultural norms, and everyday practices align in ways that systematically subordinate a group and make inequality appear natural or inevitable.<sup>59</sup> These interconnected restrictions are sustained by ideological narratives that depict women's subordination as morally necessary and socially protective, framing the denial of rights as an expression of religious and cultural authenticity.<sup>60</sup> In Afghanistan, this dynamic is evident in how the Taliban's restrictions intersect and reinforce one another, producing cumulative and enduring disadvantage for women.<sup>61</sup>

The Taliban also individualizes the harms women experience, characterizing obstacles such as lack of access to healthcare or schooling as personal, familial, or cultural issues rather than as the result of State-imposed prohibitions. In doing so, they obscure the systemic nature of the oppression and prevent recognition of these harms as deliberate political acts.<sup>62</sup> Taken together, these mechanisms embed gender hierarchy into both public institutions and private life, producing a system of domination in which women's exclusion is treated as a necessary foundation of social order. Recognizing this system as structural also clarifies how responsibility should be understood. Coordinated State practices are reinforced across ministries, security forces, courts, religious bodies, and local authorities. Responsibility is therefore collective: each ministry enforcing restrictions, each commander carrying out arrests of women protesters, each judge issuing discriminatory rulings, and each leader publicly defending the system all participate in maintaining gender oppression - even if not everyone engages directly in physical violence. Responsibility for injustice lies with individuals who directly commit violations, such as the leader who signs discriminatory and restrictive decrees, the leaders who order attacks on women protesters, and officers who torture protesters. Under this framework, these actors are responsible not because each individual causes every harm, but because they are co-authors of a structural order that predictably and systematically harms women. However, when injustice is structural, embedded in laws, institutions, economic

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<sup>57</sup> For decrees issued from August 2021 to December 2024, see United States Institute of Peace, "Tracking the Taliban's (Mis)Treatment of Women," United States Institute of Peace, accessed 25 October 2025, <https://www.usip.org/tracking-talibans-mistreatment-women>. Since January 2025, Belquis Ahmadi, a former USIP staff member and human rights lawyer, has continued updating the list independently and shares monthly updates as a personal initiative.

<sup>58</sup> Supra note 41 Special Rapporteur on the Situation of Human Rights in Afghanistan Report, para 14.

<sup>59</sup> Supra note 42 Moreau.

<sup>60</sup> Mohammad Ali Nazari, "Taliban's Restrictions on Women: Ideological Beliefs or Political Motives?," Analysis, *Hasht-e Subh*, 28 November 2024, <https://8am.media/eng/talibans-restrictions-on-women-ideological-beliefs-or-political-motives/>.

<sup>61</sup> Supra note 41 Special Rapporteur on the Situation of Human Rights in Afghanistan Report.

<sup>62</sup> Supra note 42 Moreau.

arrangements, and social hierarchies, responsibility is also borne by those who uphold, manage, or benefit from the system.<sup>63</sup>

### **Conclusion**

The consequences of the Taliban's systemic discrimination are profound and multidimensional, extending far beyond individual rights violations to reshape Afghanistan's social, economic, and political landscape. The near-total exclusion of women from education and employment has caused the female labour force to collapse and pushed millions of households into poverty, with women-headed families among the most at risk of destitution. The long-term denial of schooling for girls guarantees intergenerational disadvantage, permanently constraining future opportunities for autonomy, income, and social participation. These material harms are accompanied by widespread psychological trauma, with reports of rising depression, anxiety, and suicide attempts among young women who face isolation and a loss of life prospects.<sup>64</sup> At the political level, the erasure of women from decision-making structures produces a governance system devoid of representation for half the population and undermines any claim to legitimacy. More broadly, the normalization of gender persecution on this scale poses a direct threat to the universality of human rights norms, posing the risk that women's equality may be treated as culturally negotiable.

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<sup>63</sup> Iris Marion Young, *Responsibility for Justice* (Oxford University Press, 2011).

<sup>64</sup>Supra note 41 Special Rapporteur on the Situation of Human Rights in Afghanistan Report.

### 3. THE FACTUAL SITUATION

#### **3.1. Introduction**

During the hearings, witnesses described the most extreme system of oppression against women and girls. Some appeared in person, some with recorded statements; some are now out of the country, while others live in Afghanistan. Together, they painted a troubling picture of life in Afghanistan under the regime established by the Taliban since they came to power in August 2021.

This section reviews their testimonies to highlight how Afghan women have been denied their fundamental rights including the right to education, to work, to access healthcare, to freedom of movement, to freedom of speech and expression, and to experiences of arbitrary detention and torture - while any path to justice has been denied.

A sense of loss and uncertainty emerged in all the testimonies. Many witnesses emphasised that their stories represent the stories of all women and girls in Afghanistan. A human rights activist recalled the day the Taliban entered the capital Kabul as the day her worst fears were coming true: “It was the fall of human values and human rights. On that day, we lost everything we believed in”, she recalled. But she felt that women had to fight back: “The Taliban, from their very first days, denied women the right to education. And day by day, their restrictions increased, which was intolerable for us. So, we resorted to protests.”<sup>65</sup>

“We received the shocking news: the Taliban had entered Kabul. We were told to leave immediately and go home because the roads were unsafe,” a social worker then living in Bamiyan recalled. “Everything has collapsed. Afghan women have lost their most basic rights.”<sup>66</sup>

Due to multiple decrees announced by the *de facto* Taliban regime, women have been denied access to education beyond grade six, and to most forms of employment. The freedom to move outside their homes without a *Mahram* (male guardian) is restricted; public places are off limits to women; even seeking medical attention in a hospital has become a challenge. “They banned us from going to school and university, they dismissed us from our jobs. I currently live in a society where the presence of women has been minimized. We suddenly reached a situation where we are deprived of our most basic rights,” testified a young woman from the Northeastern province of Afghanistan. Women “have been confined to their homes,” she said.<sup>67</sup>

#### **3.2. Denial of the right to education**

Soon after taking power, the Taliban targeted universities and secondary schools. Restrictions for women and girls worsened over time. At first, the new authorities demanded that female students be accompanied to universities by a *Mahram*. Since that was impossible, classes were segregated. “The next step was to close universities to women entirely,” recalled a young woman. She expressed the deep disappointment felt by an entire generation of young women: “The hope, plans, and decisions we had made for our future were destroyed. They gave us no opportunity.”<sup>68</sup> She then tried to register for a Master’s degree at Nangahar University, as

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<sup>65</sup> Witness testimony 22.

<sup>66</sup> Witness testimony 15.

<sup>67</sup> Witness testimony 14.

<sup>68</sup> Witness testimony 18.

Master's programs were not specifically banned. "They didn't even let me reach the department door. They told me, who gave women so much rights? That seven or eight years of education is enough for you, you have already learned too much."<sup>69</sup>

Some recalled going to the University to ask for their academic documents and being insulted before being turned away. A witness living in the central provinces recounted the humiliation experienced when she visited the new Head of the University appointed by the Ministry of Higher Education, a mullah, to ask for her documents: "He used very vulgar and humiliating words, saying, 'You women committed prostitution for twenty years, and now you want to continue those things? The Islamic Emirate has arrived.'"<sup>70</sup>

Similarly, girls have been excluded from secondary schools. "Girls above sixth grade cannot attend. Universities, institutes, courses, and academies are all closed to girls", one witness summarized.<sup>71</sup> A former teacher recounted heartbreaking conversations with her female students: "Crying, they would say, 'Dear teacher, what is our sin? What should we do? What crime have we committed besides pursuing education?' I would encourage them to remain steadfast and resilient, but I would cry to myself."<sup>72</sup> Not allowed into schools, many young women took online courses as a poor substitute, but their educational careers were ruined. "The next generation is being destroyed", one witness stated. "Those years [out of school] are lost. (...) There is no compensation for the lost years. However, if steps are taken for the future generations, it would be better for them to be given time to get an education."<sup>73</sup>

Denying education to women and girls is not only to deny them a future. The entire society is undermined, as many witnesses pointed out. "If this trend continues, Afghanistan will quickly head towards misery. Women are an integral part of society", said a former law student: "Education is vital. To build Afghanistan, women must be granted permission for education."<sup>74</sup>

The Taliban wanted to silence women's voices in society for a reason, she added: "They fear that if women become educated, they will become leaders over them (...) they're afraid that an educated woman will recognize her rights, and then she will demand those rights. They want women to remain ignorant."<sup>75</sup>

### **3.3. Denial of the right to health**

Access to healthcare is an area of particular concern. In a context of limited medical facilities and health services for all Afghans, women face insurmountable obstacles. It is a vicious circle in which restrictions imposed on female health workers contribute to a general scarcity of doctors and paramedics, while the lack of female doctors means that women do not know who to turn to for medical assistance, as they cannot see male doctors.

Moreover, women are not allowed to study medicine, which will perpetuate a scarcity of female medical personnel and healthcare services in the future. Restrictions worsened over time and "At first women were allowed to study in some medical fields; then even those were banned," a former civil activist remarked.<sup>76</sup> Many women who were forced to leave other fields of

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<sup>69</sup> *Ibid.*

<sup>70</sup> Witness testimony 7.

<sup>71</sup> Witness testimony 14.

<sup>72</sup> Witness testimony 13.

<sup>73</sup> Witness testimony 18.

<sup>74</sup> Witness testimony 11.

<sup>75</sup> *Ibid.*

<sup>76</sup> Witness testimony 20.



studies, enrolled in midwifery schools. “Since women were initially allowed to work in the health sector, I studied midwifery and took a job there,” recounted a former law graduate from Kandahar. “I worked for a while, but the Taliban closed that down too. (...) Even private projects were shut down.”<sup>77</sup>

It was stressed that restrictions may vary by province. In Kandahar for instance, “there are no female dentists at all in the province and there are probably just one or two other doctors in the entire city. They have completely banned male doctors from treating female patients. Female patients are now even banned from seeing female doctors.” In private hospitals too, “restrictions on women are so many (...) a new restriction is enforced every day. In Mirwais Regional Hospital in Kandahar city, the largest hospital in the zone, there are only a limited number of female specialists who came from Kabul for their residency, and they might leave too.”<sup>78</sup>

The result is a breakdown of healthcare access: “People, especially women, are losing their lives due to very simple illnesses”, a witness remarked: “Where should women go? How will they get treatment?” Maternal health is particularly affected, she added: “Women are forced to give birth at home, like a century ago. They might survive the birth or die during it, leading to a significant increase in maternal mortality.”<sup>79</sup> Indeed, recent field research highlighted that the scarcity of gynaecologists, obstetricians and specialized midwives is likely to result in a rise of maternal mortality.<sup>80</sup>

“Health is a right, not a privilege” stated a specialist psychotherapist from northern town of Mazar-e-Sharif: “But access to this right has been severely restricted for women, especially since the Taliban took power. This is not only about physical health; a deep psychological crisis is also underway.”<sup>81</sup> Mental health is totally neglected and many witnesses described how after suddenly being forced to stay at home, isolated, impoverished, with no chance to an education and work, many women have fallen into despair and depression. “These are things that affect us women deeply,” a witness said: “I lost the job I had in the health sector. I couldn't advance in the judiciary, nor could I continue working in the health sector, and this has had a major psychological impact on me.”<sup>82</sup> Psychotherapy, where it was available, was also banned. “Self-harm and suicide among women have increased alarmingly, especially since the Taliban's return” added another witness.<sup>83</sup>

### **3.4. Denial of the right to work**

Women “were teachers, worked in government institutions and offices. But where are they today? All are confined to their homes” a witness said. “And by denying us the right to study and work, they deny us all autonomy and even dignity.” In fact, by denying them education,

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<sup>77</sup> Witness testimony 9.

<sup>78</sup> *Ibid.*

<sup>79</sup> Witness testimony 9.

<sup>80</sup> Jelena Bjelica, “Is maternal mortality on the rise in Afghanistan? No official data, but much cause for concern,” *Afghanistan Analysis Network* (2025), <https://www.afghanistan-analysts.org/en/reports/rights-freedom/is-maternal-mortality-on-the-rise-in-afghanistan-no-official-data-but-much-cause-for-concern/>.

<sup>81</sup> Witness testimony 8.

<sup>82</sup> Witness testimony 9.

<sup>83</sup> Witness testimony 8.

women are condemned to a future of economic exclusion, she added: “They have become dependent on the meagre incomes of men and on charitable organizations.”<sup>84</sup>

Excluded from most workplaces, condemned to the “solitary confinement” of their homes, as one witness put it, women are denied independence as well as self-respect and dignity. “Our right to education, our civil rights, and our right to movement have also been taken away. We have no right to ownership and no right to be present in society or to travel alone; we are fundamentally deprived of all our rights.”<sup>85</sup>

For those women who were the only breadwinners for their families, being dismissed from their jobs meant falling into acute poverty. The few women who could retain their jobs now need to be accompanied by a *Mahram* when going to work.

### **3.5. Denial of freedom of movement**

Afghan women and girls are denied freedom of movement. This affects their ability to work and their access to healthcare, and in general their rights and dignity. Traveling alone is almost impossible for unaccompanied women. Though the Taliban decree stipulates that a *Mahram* is needed for journeys of more than 72 kilometres,<sup>86</sup> the practice has been more restrictive. According to many witnesses, public transport and taxi drivers often turn unaccompanied women away for fear of retribution. One witness recounted what happened in an emergency when she had to travel alone with her two small children. The bus driver was beaten by the Taliban at a checkpoint; she was reprimanded and humiliated; and eventually she was allowed to continue her journey after signing a written pledge that she would never again travel without her *Mahram*.<sup>87</sup>

“There are families with no men, and the woman absolutely needs to go out to work; where will she find a *Mahram*?” asked another witness.<sup>88</sup>

### **3.6. Exclusion and discrimination in the media**

It is estimated that there were around 700 women journalists in the years before the Taliban capture of Afghanistan in 2021. Today, according to a report by Reporters Without Borders<sup>89</sup> there are less than a hundred. Furthermore, in one of the over 100 edicts passed by the Taliban since 2021, women are not allowed to appear on television drama serials and shows.<sup>90</sup> They are allowed, with restrictions, to be television presenters and reporters – but the option of a career in the media for women is very limited today in Afghanistan.

This was reiterated by a woman journalist, who was working for a private news agency in Afghanistan. “Before the Taliban came, our work was going very well, and we were happy with our lives, even though there were suicide attacks and insecurity in the country. We

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<sup>84</sup> Witness testimony 14.

<sup>85</sup> *Ibid.*

<sup>86</sup> Al Jazeera, “No long-distance travel for women without male relative: Taliban,” (2021), <https://www.aljazeera.com/news/2021/12/26/afghanistan-long-distance-travel-women-without-male-escort-taliban>.

<sup>87</sup> Witness testimony 4.

<sup>88</sup> Witness testimony 11.

<sup>89</sup> Reporters Without Borders, “Fewer than 100 of Kabul’s 700 women journalists still working,” (2021), <https://rsf.org/en/fewer-100-kabul-s-700-women-journalists-still-working>.

<sup>90</sup> Ehsan Popalzai, “Women banned from Afghan television dramas under new Taliban media rules,” *CNN World*, (2022), <https://edition.cnn.com/2021/11/22/asia/taliban-women-banned-tv-drama-afghanistan-intl/index.html>.

conveyed the voices of the Afghan people to the world through the media.” She testified that even after the Taliban took *de facto* control in August 2021, she and other women journalists continued working. She said the Taliban told them that they had changed and that the women could continue working. “We became a little hopeful that the Taliban had indeed changed and were not the Taliban of 20 or 25 years ago,” she said.<sup>91</sup>

However, many women journalists lost their jobs at the media organisations as several media organisations closed down, others could not pay salaries, or they restricted what women journalists could do. A journalist noted that “Gradually the Taliban took control of the media and no longer allowed us entry.” The women journalists held internal meetings and tried to convey to the world their plight. They decided to hold a press conference in January 2022 to speak about their situation. However, the Taliban did not permit them to hold the press conference and detained those that turned up. She testified that “an armed Taliban member stood over each of us, as if we were very dangerous criminals. One of the Taliban spoke to us with vulgar and abusive language and said, ‘We have come to make the country Islamic and to make you Muslims, but you want to make us look terrible.’ We explained that this was not the case and that we only wanted to show the situation of the media. He cursed me and said, ‘How dare you come among non-*Mahrams*?’ and he threatened me.” An hour later the journalists were told that there would be no meeting, and they were told not to say anything about it to anyone.<sup>92</sup>

A colleague advised this journalist not to go back to her home as she had been identified by the Taliban. However, even as she took refuge elsewhere, the Taliban raided her house two days later, searched it, beat up her husband and left after not finding anything incriminating. She said, “one of our children fainted from the intensity of the fear and horror.” For five months, she could not return to her home. She finally managed to get Pakistani visas and left the country with her family. She and her family are still traumatised. “Today, my husband is severely ill because he was tortured and beaten. The mental state of all of us is very bad; from my husband and me to the youngest member of the family. Our child is in shock from the severe beating and still does not have a suitable mental state; he loses bladder control at night, and I myself have nightmares at night and think that the Taliban have come after us again.”<sup>93</sup>

### **3.7. Denial of the right of assembly**

In the months following the Taliban takeover, many women and girls came out on the streets to protest. Several witnesses, who were a part of such protests, described being assaulted and beaten while out demonstrating, detained without warrants, subjected to torture and harassment and made to give forced confessions before they were released. One activist said that when they took to the streets and were beaten by the Taliban, doctors refused to treat them as they were afraid that they would lose their clinics.<sup>94</sup>

A human rights activist, who had received letters of appreciation for her work, described how the Taliban raided her house in 2022, beat her and arrested her without a warrant. She was taken to a prison where she was kept in solitary confinement for a week, given a small amount of food and water and was not told why she was detained. She stated, “While in prison, I suffered both physical and psychological torture. I was repeatedly insulted, humiliated, and

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<sup>91</sup> Witness testimony 19.

<sup>92</sup> *Ibid.*

<sup>93</sup> Witness testimony 19.

<sup>94</sup> Witness testimony 20.

threatened by the Taliban guards. At that time, I was two months pregnant. Every moment I feared for my life. Because of the torture, I suffered severe bleeding and miscarried my child.” She was released a week later when tribal elders stood guarantee on condition she did not speak to the media or tell anyone what had happened. “Outwardly, it seemed like I had been freed, but in reality, I was living in fear for my life” she said.<sup>95</sup>

Another witness, who said she was a teacher with 28 years of experience, protested after the Taliban takeover. She recounted how she “wrote slogans against every Taliban decree and shouted them with all my being on the streets of Kabul: ‘Education, work, freedom, the path to prosperity,’ ‘We women are awake and fed up with discrimination,’ and ‘Justice, justice, we are tired of ignorance and captivity’.” The Taliban, she said, “branded the protestors as rebels in the media, issued a *fatwa* for their killing, and sought to silence the voices of the protestors by any means necessary.” She was marked as the head of the protest movement. On August 20, 2023, she was arrested along with her two daughters and team members. She testified that she was “tortured in their dreaded torture chambers in the worst ways. Due to their savage beating, my brain was damaged, and my neck was severely injured; my ears bled for a full month. After a while, we were released through the mediation of local elders, who made commitments on our behalf. But my daughters, family members, and I still suffer from the trauma and nightmares of those days.”<sup>96</sup>

Another human rights activist, who had participated in many public protests, said she was arrested while on the way from the hospital to her home. She said more than ten members of the Taliban surrounded the car, and her brother-in-law who was with them was beaten up. She was beaten and tortured in the car, then blindfolded and taken out at gunpoint. She testified that she could hear her brother-in-law being tortured. She was told that she was being punished for protesting at the behest of international agencies, that she was not a Muslim, and that she was projecting foreign ideas. They would not let her get in touch with her family and finally released her on bail on condition that she stayed at home and did not talk to anyone about the Taliban. They recorded her reading out a statement given to her by her captors. “I had no choice,” she said. “As a result, I was released from the prison cell of Taliban but was confined to another prison cell: that of my home.”<sup>97</sup>

Even women who continued to find ways to protest by meeting in their homes were identified and detained. One such woman, a trained midwife, described how the Taliban tracked her down, broke down the door of her house where she was hiding with her sisters, and detained all of them, including a 16-year-old and a 14-year-old. She spent 27 days in prison and described the torture in detail including beatings and being deprived of food. After they were released, their passports were seized, and they were not allowed to leave the country. She says somehow, they managed to get out of Afghanistan but that until today she cannot forget “the sound of the breaking of the door, the sounds in the prison, their injured bodies, and the women who were sexually assaulted.”<sup>98</sup>

### **3.8. Denial of right of access to justice**

The testimonies illustrate the denial of basic human rights to women in Afghanistan who want to peacefully protest the policies of the *de facto* authorities that impose restrictions on all

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<sup>95</sup> Witness testimony 2.

<sup>96</sup> Witness testimony 13.

<sup>97</sup> Witness testimony 22.

<sup>98</sup> Witness testimony 1.

women and girls. In the words of one of the witnesses: “Under the Taliban government, there is nowhere for women to go and raise their voices for their rights.”<sup>99</sup>

Witness testimonies underlined the reality that for women in Afghanistan, there is no path to seek justice if they are tortured, harassed or detained without warrants. There is no court of law where they can appeal; there is no official record of their detentions as there are no warrants issued; they have no avenue to appeal against the denial of basic rights like the right to education, or to healthcare, and their exclusion from practically all professions or avenues to work. Justice forums and mechanisms have been foreclosed. Repeatedly, witnesses stressed that even if they were released from prisons, they were imprisoned in their homes because of rules that restrict women’s movements and their access to services and opportunities.

Every witness who testified appealed to the international community to take note of the dire conditions under which all Afghan women live and said that their only hope for this to change was if there was pressure from outside the country as any form of protest within the country had been stifled.

### **3.9. Women and girls with disabilities**

Women and girls with disabilities have been denied all rights. A young woman explained that she could graduate in a private university, even though her family could not afford the tuition, because “under the previous government, universities were obliged by law to support and provide educational access to persons with disabilities. My employment rights were also protected under the same law.” Such laws do not exist any longer and women with disabilities are facing a systematic exclusion from public life. “I had a job, I was active, I could go outside, I had motivation and hope. But after 2021, everything changed. We could no longer work, go out, or live normal lives. My mental and physical health began to deteriorate rapidly.”<sup>100</sup>

“Everyday women with disabilities face new restrictions. We are invisible in society, deprived of dignity, and our voices are silenced” added a young woman recalling her achievements in sports. Her dream of participating in the Paralympics was shattered when the Taliban came to power, as she was warned not to engage in sports or she might face arrest: “Since then, I have been living like a prisoner inside my own home.”<sup>101</sup>

A witness spoke of the organization she helped to set up to support women with disabilities like herself. After the Taliban took Kabul, her office closed and she lost her job. “Once I was an active woman, always helping others, standing among people, giving encouragement and solidarity. But now I sit alone, overwhelmed by silence and sorrow” she said.<sup>102</sup>

### **Conclusion**

These testimonies are proof of a state of institutionalized discrimination against women and girls in Afghanistan. They have systematically been denied the right to education; the right to health, including physical and mental health; the right to freedom of movement and bodily autonomy; the right to assembly; the right to expression and civic participation; and the rights to which women and girls with disabilities are entitled. Women are systematically subject to

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<sup>99</sup> Witness testimony 3.

<sup>100</sup> Witness testimony 16.

<sup>101</sup> Witness testimony 6.

<sup>102</sup> Witness testimony 1.

arbitrary detentions, ill-treatment and torture, while no path to justice is open for them. This amounts to the basic denial of fundamental human rights to all the women and girls of Afghanistan.

## 4. TOOLS, TACTICS AND IMPACTS

### **4.1. Overarching analysis of the tools and tactics utilized by the Taliban**

Since the August 15, 2021 takeover, the Taliban have utilized a series of tools and tactics that the prosecution describe as follows: “the Taliban has enacted a coordinated and institutionalized campaign of repression”<sup>103</sup> These include a sweeping series of at least 157 decrees and edicts affecting women and girls<sup>104</sup>; the Law on the Promotion of Virtue and the Prevention of Vice (PVPV Law), which codifies many of the aforementioned decrees and edicts<sup>105</sup>; the High Directorate of Supervision and Prosecution of Decrees and Edicts, which was created to replace the Office of the Attorney General and which is responsible for overseeing the implementation of the Taliban’s decrees and edicts; the Ministry for the Propagation of Virtue and the Prevention of Vice and its associated morality police which monitor and surveil the population and enforce the aforementioned decrees and edicts; the General Directorate of Intelligence, which plays a role in many of the arrests and cases brought against women and girls<sup>106</sup>; and public statements by the Taliban on women and girls.<sup>107</sup>

The Taliban’s edicts and decrees have infringed on the rights of women and girls across a multitude of different spaces and across all aspects of daily life, be it schools and universities; access to the judicial and legal system; employment in the NGO and international sectors, in UN agencies, in government, and in business more generally; the presence and participation of women in the media; women’s participation in sports; women’s presence in public spaces; and women’s travel inside and outside of the country.<sup>108</sup>

One of the first actions taken by the Taliban in September 2021 shortly after the takeover was the decision to ban girls from secondary education.<sup>109</sup> Over a period of months, these restrictions would only intensify and by December 2022, the Taliban imposed bans on female students from attending public and private universities.<sup>110</sup> Also early on, the Taliban placed a ban on female humanitarian aid workers, affecting the work of national and international NGOs operating in the country<sup>111</sup>, as well as women working for the UN.<sup>112</sup> What began as an order for female presenters to cover their faces on television also expanded over time, leading to a ban on women’s participation in radio shows where men were the presenters and verbal

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<sup>103</sup> Indictment para 195.

<sup>104</sup> United Nations, Taliban Must Uphold International Obligations, Restore Women’s ‘Non-Negotiable’ Rights, Security Council Told, 10 March 2025, <https://press.un.org/en/2025/sc16015.doc.htm>.

<sup>105</sup> Report of the Special Rapporteur on the Situation of Human Rights in Afghanistan. A/HRC/58/74, “Study on the so-called ‘Law on the Promotion of Virtue and the Prevention of Vice’,” (2025).

<sup>106</sup> Report of the Special Rapporteur on the Situation of Human Rights in Afghanistan and the Working Group on Discrimination Against Women and Girls, Document A/HRC/53/21.

<sup>107</sup> United States Institute of Peace (USIP), “Tracking the Taliban’s (Mis)Treatment of Women,” <https://www.usip.org/tracking-talibans-mistreatment-women>.

<sup>108</sup> *Ibid.*

<sup>109</sup> Emma Graham-Harrison, “Taliban ban girls from secondary education in Afghanistan,” *The Guardian*, 17 September 2021, <https://www.theguardian.com/world/2021/sep/17/taliban-ban-girls-from-secondary-education-in-afghanistan>.

<sup>110</sup> Al-Jazeera, “Taliban says women banned from universities in Afghanistan,” 20 December 2022, <https://www.aljazeera.com/news/2022/12/20/taliban-says-women-banned-from-universities-in-afghanistan>.

<sup>111</sup> Ayaz Gul, “Taliban Hold Firm to Ban on Afghan Female Aid Workers,” *Voice of America News South and Central Asia*, 30 December 2022, <https://www.voanews.com/a/taliban-hold-firm-to-ban-on-afghan-female-aid-workers-/6898315.html>.

<sup>112</sup> UN News, “Afghanistan: New restrictions on women nationals working for UN, put aid efforts at risk,” (2025), <https://news.un.org/en/story/2025/09/1165823>.

instructions in at least some provinces to refrain from airing women's voices on the radio entirely.<sup>113</sup> In May 2022, the Taliban stopped issuing driver's licenses to women, affecting their movement across the country.<sup>114</sup> Coupled with restrictions on women's movement and travel without a *Mahram*, including their ability to use public transportation,<sup>115</sup> their ability to place orders in restaurants, and their access to health centres, these decrees and edicts have had consequential effects.<sup>116</sup> Decrees and edicts have also been issued to ban women's participation in sports,<sup>117</sup> to prohibit women from presence in gyms and parks,<sup>118</sup> and to place restrictions on women's ability to leave the country without a *Mahram*.<sup>119</sup> Furthermore, the *de facto* authorities have actively used the judicial system to target women; for example, invalidating thousands of divorce cases that had been decided during the Afghan Republic<sup>120</sup> and opting to enforce the public stoning of women accused of adultery cases.<sup>121</sup>

As the prosecution describes in its Indictment, the Taliban leadership relies on a strict interpretation of Islam and Sharia, to justify its decrees, edicts, and statements. This has been contested by other Muslim countries and scholars.<sup>122</sup> The *de facto* authorities also rely on violence and coercion to reinforce their "deliberate State policy" targeting women and girls. The tactics used by the Taliban are extensive.<sup>123</sup> They have violently dispersed peaceful protests, including by assaulting and beating the journalists and photographers covering these protests; they have arrested, detained and tortured the protestors; they have raided the homes of those who have been critical of its regime, violating the sanctity of the home and the privacy of its occupants; and they have conducted surveillance to monitor the actions and activities of those who have organized to challenge its decrees and edicts, thereby creating an environment of fear, coercion, and intimidation. The Taliban has defamed and weaponized the reputation of women and girls perceived to be critical. Women and girls have been assaulted for their alleged violation of decrees and edicts, and at times, even beaten in the streets and in front of their own children for said violations. In other cases, their male relatives have also been punished for these violations. The *de facto* authorities have conducted arbitrary arrests and abductions of

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<sup>113</sup> Simon Fraser, "Afghanistan's female TV presenters must cover their faces, say Taliban," *BBC News*, 19 May 2022, <https://www.bbc.com/news/world-asia-61508072>.

<sup>114</sup> Sravasti Dasgupta, "Taliban regime stops issuing driving licenses to women, reports say," *The Independent*, 5 May 2022, <https://www.independent.co.uk/asia/south-asia/taliban-driving-licence-afghan-women-b2072058.html>.

<sup>115</sup> Supra note 107 United States Institute of Peace.

<sup>116</sup> UN Women, "Afghanistan: Taliban orders women to stay home; cover up in public," 7 May 2022, <https://news.un.org/en/story/2022/05/1117762>.

<sup>117</sup> Cyrielle Cabot, "Sports ban, segregated education: Afghanistan women worried by first Taliban measures," *France 24*, 11 September 2021, <https://www.france24.com/en/asia-pacific/20210911-sports-ban-segregated-education-afghanistan-women-worried-by-first-taliban-measures>.

<sup>118</sup> NBC News, "Taliban ban women from parks and gyms in Afghanistan," 10 November 2022, <https://www.nbcnews.com/news/world/taliban-ban-women-parks-gyms-afghanistan-rcna56539>.

<sup>119</sup> Emma Graham-Harrison, "'I daren't go far': Taliban rules trap Afghan women with no male guardian," *The Guardian*, 15 August 2022, <https://www.theguardian.com/world/2022/aug/15/taliban-rules-trap-afghan-women-no-male-guardian>.

<sup>120</sup> Washington Post, "Afghan women who were divorced under prior government fear for their status," 7 March 2023, <https://www.washingtonpost.com/world/2023/03/04/afghanistan-taliban-women-marriage-divorce/>.

<sup>121</sup> Ruchi Kumar, Taliban affirms that stoning will be punishment for adulterers — especially women, NPR, 8 May 2024, <https://www.npr.org/sections/goatsandsoda/2024/05/08/1242306960/taliban-affirms-that-stoning-will-be-punishment-for-adulterers-especially-women>.

<sup>122</sup> USIP, "Religious Leaders, Civil Society Oppose Taliban's Vice and Virtue Law," 3 October 2024, <https://www.usip.org/publications/2024/10/religious-leaders-civil-society-oppose-talibans-vice-and-virtue-law>.

<sup>123</sup> Armed Conflict Location and Event Data Project (ACLED), "Two Years of Repression: Mapping Taliban Violence Targeting Civilians in Afghanistan," 11 August 2023, <https://acleddata.com/report/two-years-repression-mapping-taliban-violence-targeting-civilians-afghanistan>.



women and girls, often taking those detained to inhumane holding cells and detention facilities that lack the necessary medical care. In custody, those detained have been subject to torture, sexual assault and rape, and cruel, inhumane, and degrading treatment.<sup>124</sup> The Taliban has inflicted severe and excessive corporal punishments against women and girls without due process or proper recourse to the legal system. Verdicts issued by the *de facto* authorities include punishments such as stoning, flogging, and even executions.<sup>125</sup> In cases concerning women, it is most frequently as a punishment for failing to wear Islamic *hijab* as interpreted by the *de facto* authorities and for leaving the house without a *Mahram*. For instance, in Badakhshan province, the *de facto* District Governor ordered and implemented the stoning of a woman and man accused of adultery.<sup>126</sup>

Through the above acts, the *de facto* authorities have carried out “an active weaponization of the legal, judicial, and social order to oppress women and girls (...) denying them their rights, dignity, safety and agency. The result is the creation of a Taliban-controlled legal and justice system designed to enforce, entrench and sustain the group’s repressive and misogynistic ideology.”<sup>127</sup> These actions institutionalize the dehumanization of women by using policies that create hyper-segregation, physical isolation, and an underclass.<sup>128</sup> “The *de facto* authorities claim to be “protecting” the rights and dignity of women and girls, but their version of protection serves as a mechanism for subjugation rather than safety, one that asserts male dominance and effectively erases women and girls from public life. As such, justice and protection under the Taliban have become instruments of domination, designed to entrench power, silence opposition and control the lives of Afghans through fear and repression.”<sup>129</sup> As the following sections will demonstrate, “the effects in the short and long term are and will be profound, felt not only by individuals, but also in families, in communities and across generations.”<sup>130</sup>

Though the Taliban’s edicts and decrees apply to all women and girls across the country, experts have documented a compounded impact on particular groups of women and girls depending on a series of different factors.<sup>131</sup> These include particular ethnic identity (including Hazara, Tajiks, and Uzbeks), religion (including Shia Muslims), and whether the women and girls in question are disabled. These intersectional identities accumulate intersectional oppressions and leave certain women and girls particularly vulnerable to the impacts demonstrated herein.

#### **4.2. Physical impacts**

As a result of the Taliban’s actions, the women and girls of Afghanistan have experienced numerous forms of physical harm.

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<sup>124</sup> Report of the Special Rapporteur on the Situation of Human Rights in Afghanistan, A/HRC/56/25, “The phenomenon of an institutionalized system of discrimination, segregation, disrespect for human dignity and exclusion of women and girls,” (2024).

<sup>125</sup> Report of the Special Rapporteur on the Situation of Human Rights in Afghanistan, A/HRC/59/25, 16 June 2025.

<sup>126</sup> United Nations Assistance Mission in Afghanistan (UNAMA), “Brief on Corporal Punishment and Death Penalty,” 10 Dec. 2024, [unama.unmissions.org/unama-brief-corporal-punishment-and-death-penalty](https://unama.unmissions.org/unama-brief-corporal-punishment-and-death-penalty).

<sup>127</sup> Supra note 125 Special Rapporteur on the Situation of Human Rights in Afghanistan Report.

<sup>128</sup> Douglas S. Massey, Nancy A. Denton, *American apartheid: Segregation and the making of the underclass* (Cambridge, MA: Harvard University Press, 1993).

<sup>129</sup> Supra note 125 Special Rapporteur on the Situation of Human Rights in Afghanistan Report.

<sup>130</sup> *Ibid.*

<sup>131</sup> *Ibid.*

When women and girls have participated in peaceful protests to demonstrate against the Taliban's conduct, they have been met with violence. The Taliban has used teargas, pepper spray, and carried out "savage beatings," including the beatings of journalists covering the demonstrations in question.<sup>132</sup> The Taliban has also raided the homes of those organizing for girls' right to education and those organizing against forced marriage<sup>133</sup>. Women whose homes have been raided have described material loss. One spoke of damage to the home, describing how the Taliban broke windows and doors throughout one raid<sup>134</sup>; while another recalled that they took her family's money and belongings without recourse.<sup>135</sup>

The Taliban has arbitrarily detained, and at times abducted and forcibly disappeared, women and girls participating in peaceful protests and organizing peacefully in support of their rights. In custody, these women and girls have been subject to torture and cruel, inhumane, and degrading treatment. When one witness was arrested by the Taliban, she was kicked, beaten, and injured to the point of paralysis. One night in custody, that same witness was attacked to the point that her ribs were broken. She was assaulted with a machete, and the incident was so intense that she recalls not being able to even catch her breath to say, 'please stop.'<sup>136</sup> Women have experienced lasting physical impacts because of this torture. One witness said: "I was tortured in their dreaded torture chambers in the worst ways. Due to their savage beating, my brain was damaged, and my neck was severely injured; my ears bled for a full month."<sup>137</sup> Another lost her child. "At that time, I was two months pregnant. Every moment I feared for my life. Because of the torture, I suffered severe bleeding and miscarried my child."<sup>138</sup> Reference to rape and sexual violence in custody is subtle among survivors of the Taliban regime, due to shame and stigma. One witness said: "Even our colleagues and friends in Taliban prisons were raped, oppressed, and tortured."<sup>139</sup> In custody, women are systematically denied medical care as well. When one witness attempted to make a medical request in custody, she was told by the guards: "Don't order something, it's a prison, not a hospital."<sup>140</sup> In addition to mistreatment during custody, women have also been subject to official punishments in sentences handed down by the Taliban, with the *de facto* Supreme Court stating that at least 225 women have been subject to corporal punishment.<sup>141</sup>

As a result of the Taliban's failure to provide a safe, responsive, and accessible facility for women and girls to come forward when they have experienced violence and abuse, women and girls have been subject to forced marriage and have been made to return to or remain in environments where domestic violence is being committed against them without recourse. One witness explained: "We faced domestic violence and were forced into marriage at the age of ten. Unfortunately, the cruelty and crimes against me intensified with the arrival of the Taliban. My husband used to tell me, 'I will murder you; I will kill you. Where are your human rights? Where will you raise your voice? I'll kill you. I'll tell the Taliban you were a bad woman, and they will give me a reward. If he tells the Taliban she was a bad woman who did bad things, the Taliban will say, "You are honourable" and reward him.'" When that same witness later attempted to run away from her abuser, she said: "My husband's family came, and in front of

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<sup>132</sup> Witness testimonies 3, 13, and 19.

<sup>133</sup> Witness testimony 3.

<sup>134</sup> Witness testimony 23.

<sup>135</sup> Witness testimony 15.

<sup>136</sup> Witness testimony 21.

<sup>137</sup> Witness testimony 13.

<sup>138</sup> Witness testimony 2.

<sup>139</sup> Witness testimony 3.

<sup>140</sup> Witness testimony 1.

<sup>141</sup> Supra note 125 Special Rapporteur on the Situation of Human Rights in Afghanistan Report.

the Taliban, they hit my head and the heads of my two children with stones, and the Taliban said nothing. Where is the law? Where can Afghan women raise their voices?”<sup>142</sup> This environment results in underreporting of violence and abuse as women feel they have no place to go: “There are very few women serving in the *de facto* police, and specialized police units to address gender-based violence are no longer in existence, further limiting safe channels for women and girls to report abuse or seek legal protection.”<sup>143</sup>

### **4.3. Psychosocial impact**

As a result of the Taliban’s conduct, a general climate of fear has taken hold across the country; it extends even among those who are now in exile. This fear has been intensified through threats made in and outside of custody toward women and girls, through threats made to or delivered through family members, and through oppressive tactics like forced confessions. This fear has become pervasive. One witness described her own experience: “After a week, my tribal elders intervened and guaranteed my release on the condition that I would not speak to the media or share what had happened. Outwardly, it seemed like I had been freed, but in reality, I was living in fear for my life. That same night, terrified for my safety, I escaped Kabul under the cover of darkness. I later lived secretly in another part of the city for some time, but the Taliban kept contacting my guarantors, demanding that I return. As the threats and dangers increased, I had no choice but to leave Afghanistan entirely. I now live in a refugee camp in Germany.”<sup>144</sup>

In this climate of fear, women and girls have developed insomnia and other manifestations of anxiety and hopelessness. Many can no longer sleep throughout the night and others have nightmares, particularly involving a fear of re-arrest or re-assault by the Taliban.<sup>145</sup> Limited or no access to counselling and psychosocial support has meant a severe deterioration in mental health across the population. One witness described: “These services have become very limited, and in remote areas, they don’t exist at all. Even in the cities, working conditions have become increasingly difficult for women who specialize in this field. I specialize in psychotherapy and used to help women. However, first they stipulated that we could only work with a male guardian (*Mahram*), and now we are not even allowed to work with a *Mahram*. Previously, we offered mental health services in public settings, [referring to services provided by NGOs] but now we are only allowed to work in *de facto* authorised clinics, and even then, it is restricted. Unfortunately, many of these clinics do not even have female psychotherapy specialists present.”<sup>146</sup> The UN Special Rapporteur adds: “The lack of services has devastating consequences. Survivors are left to endure mental health issues such as depression, anxiety, post-traumatic stress disorder, and suicidal ideation. The lack of comprehensive care and opportunities to report, not only violates human rights, but it also reinforces a culture of impunity.”<sup>147</sup>

As a result, women and girls report high levels of depression and an increase in suicides and attempted suicides across the country.<sup>148</sup> A March 2023 survey of 2,112 women across 17

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<sup>142</sup> Witness testimony 3.

<sup>143</sup> Supra note 125 Special Rapporteur on the Situation of Human Rights in Afghanistan Report.

<sup>144</sup> Witness testimony 2.

<sup>145</sup> Witness testimonies 3, 8, and 19.

<sup>146</sup> Witness testimony 8.

<sup>147</sup> Supra note 125 Special Rapporteur on the Situation of Human Rights in Afghanistan Report.

<sup>148</sup> Witness testimony 13. Zahra Nader and Zan Times Reporters, “Despair is settling in’: female suicides on rise in Taliban’s Afghanistan,” *The Guardian*, 28 August 2023,

provinces in Afghanistan found that 68 percent of respondents reported knowing women and girls in their community who suffered from depression or anxiety. In the survey, seven percent indicated knowledge of individuals who self-harmed and six percent were aware of someone who resorted to medication.<sup>149</sup> One witness explained how it plays out in practice: “The result is that women suffer in silence or even lose their lives from treatable illnesses. Self-harm and suicide among women have increased alarmingly, especially since the Taliban’s return to power. Girls who once had dreams for their future - who wanted to be teachers, doctors, or nurses - are now sitting at home, disillusioned and silent, with no access to psychological support. We have directly seen cases of women who committed suicide or made unsuccessful attempts but are still living with those same thoughts.”<sup>150</sup> Another witness who experienced depression because of not being able to pursue her graduate degree said: “Approximately four to four and a half years of my career were ruined. The plan I had made for my future and my career was destroyed. It was ruined because I was in my Master’s year, a time when I should have started my PhD or completed my six-month law course. Everything was ruined. I suffered from depression for about two years because my plan was ruined. My psychological state was completely disrupted, and I went into depression. I endured many hardships.”<sup>151</sup> When the Taliban raided the home of another witness, she described how she jumped from her apartment in an attempt to end her life; however, she fell and sustained injuries: “Even death did not give me refuge that night,” she said.<sup>152</sup> The diverse and multiple traumas experienced by women and girls affect not only the women and girls themselves, but their children, their families, and their loved ones, resulting in transgenerational trauma.

The Taliban’s statements and actions toward women and girls, particularly those who have been outspoken and critical, have contributed to stigmatization and led to their defamation. One witness highlighted how the relationships of women detained by the Taliban have been broken: “The Taliban spared no shameful act to discredit the protesting women. The negative propaganda against the protestors, the defaming of our sacred goals and objectives, and the portrayal of protestors as bad people in the minds of the public intensified so much that many protestors stopped participating due to pressure from their families. The relationships, engagements, and marriages of many were severed. We protestors were rejected by our families and society.”<sup>153</sup> Another witness who was critical of the Taliban was described to be a “prostitute” and her husband as a “person lacking honour.”<sup>154</sup> These insults were common in witness testimonies describing interactions with the Taliban. In doing so, the Taliban has sought to take away the credibility of women and girls who have been critical and outspoken, to weaponize their loved ones against them, and to turn outspoken women into societal pariahs, further alienating them and their ideas. Meanwhile, support networks have either been dismantled or forced to go underground.<sup>155</sup> This has contributed to feelings of guilt, shame, and isolation among many women.

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<https://www.theguardian.com/world/2023/aug/28/despair-is-settling-in-female-suicides-on-rise-in-talibans-afghanistan>.

<sup>149</sup> Bishnaw Survey (DROPS), “Impact of Taliban Restrictions on Afghan Women’s Economic Conditions and Mental Health,” 9 March 2023, <https://bishnaw.com/impact-of-taliban-restrictions-on-afghan-womens-economic-conditions-and-mental-health/>.

<sup>150</sup> Witness testimony 8.

<sup>151</sup> Witness testimony 18.

<sup>152</sup> Witness testimony 1.

<sup>153</sup> Witness testimony 13.

<sup>154</sup> Witness testimony 23.

<sup>155</sup> Supra note 125 Special Rapporteur on the Situation of Human Rights in Afghanistan Report.

#### **4.4. Societal impacts**

The Taliban's conduct has severely impacted both the place of women and girls in Afghan society, as well as the nature of Afghan society itself. This is most visible in the erasure of women and girls from the public space, including from social life and politics; "I currently live in a society where the presence of women has been minimized."<sup>156</sup> Women are literally being erased from public view. For example, women are allowed to appear in broadcast media, but they have to cover their faces - as the faces of women journalists can no longer be shown<sup>157</sup> as deemed by the Taliban.<sup>158</sup> Across numerous witness testimonies, women were told that they have "no alternative except the home"; and that "women are either for the home or the grave."<sup>159</sup> One witness described this feeling of exclusion: "Now, I am confined to my home, and every day I feel the walls closing in on me."<sup>160</sup> But as one witness aptly stated, the erasure of women and girls will not end with women and girls: "If this trend continues, Afghanistan will quickly head towards misery. Women are an integral part of society. Women are the reason men exist; if there were no women, where would men come from? Women establish this society; without them, how would society have been built?"<sup>161</sup> The numbers present a clear picture demonstrating this erasure as well; the gender index, which considers five dimensions (life and good health; education, skill building and knowledge; labour and financial inclusion; participation in decision making; and freedom from violence), places Afghanistan as second to last after Yemen. The gender gap in Afghanistan is calculated to be 76.3 percent.<sup>162</sup>

As the *de facto* authorities further target women's engagement in the public sphere, space for civil society, peaceful demonstration, and political organizing has also severely shrunk. Women journalists, lawyers, and human rights defenders have been particularly vulnerable to Taliban targeting.<sup>163</sup> The Taliban have placed restrictions and bans on women NGO workers and have made it a requirement that NGOs must replace women leaders with males in their place.<sup>164</sup> Meanwhile, funding cuts threaten what remains of civil society, and particularly organizations that serve women. "Nearly 40 percent of the 207 organizations surveyed by the UN in March 2025 reported that all donor-dependent projects were on hold."<sup>165</sup>

As a result of the conduct of the Taliban, a severe tightening of access to opportunities and services for women and girls is being witnessed. This is most visible across employment, education, and healthcare, but it extends beyond these spaces as well. As of 2024, the rate of women currently not in education, employment, or training in Afghanistan had reached 78 percent, compared to 20 percent of men. As the UN Women Gender Index states, "These findings highlight a gender gap in education and livelihoods that is expected to widen as women are increasingly excluded from opportunities to build skills and acquire knowledge essential to

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<sup>156</sup> Witness testimony 14.

<sup>157</sup> Supra note 113 Simon Fraser.

<sup>158</sup> Supra note 107 USIP.

<sup>159</sup> Witness testimonies 17 and 18.

<sup>160</sup> Witness testimony 6.

<sup>161</sup> Witness testimony 11.

<sup>162</sup> UN Women, "Gender Index: Afghanistan (2024),"

<https://www.unwomen.org/en/digital-library/publications/2025/06/afghanistan-gender-index-2024>.

<sup>163</sup> Working Group on Women, "Peace, and Security, Afghanistan,"

<https://www.womenpeacesecurity.org/region/asia/southern-asia/afghanistan/>.

<sup>164</sup> Supra note 111 Voice of America.

<sup>165</sup> UN Women, "Afghanistan: Ten facts about the world's most severe women's rights crisis," 14 August 2025, <https://www.unwomen.org/en/news-stories/press-release/2025/08/afghanistan-ten-facts-about-the-worlds-most-severe-womens-rights-crisis>.

participating in the economy and assuming leadership roles. Educational barriers limit individual growth and fulfilment and perpetuate cycles of poverty and dependency.”<sup>166</sup>

On the systemic level, the UN Special Rapporteur on the Situation of Human Rights in Afghanistan explains that “these widespread and systematic deprivations form an institutionalized system of discrimination, oppression, and domination amounting to crimes against humanity.”<sup>167</sup> In January 2024, a Bishnaw survey of 3,640 women in 24 provinces across Afghanistan on the restrictions imposed by the Taliban on women and girls helps drive home what the Taliban’s conduct results in. The survey found that 67 percent of respondents agreed that the restrictions imposed by the Taliban amount to systemic oppression and domination of women and girls; and 61 percent of respondents agreed that creating a society where women and girls are subordinate to men and boys is the intention of the Taliban when enacting their restrictions. To describe the situation, 64 percent of survey respondents said elements of gender apartheid fully or “somewhat” accurately describe the current situation in Afghanistan, and 60 percent of respondents said they want the UN to use the term “gender apartheid” to describe it.<sup>168</sup>

The requirement that women travel with a *Mahram* has also meant limitations on the ability of women to move inside and outside of the country. This in turn, again affects their access to services, education, and employment. “The Taliban wouldn’t even allow me to travel. They said, ‘You are a woman alone. Where is your brother?’ I told them my brother was killed in a suicide bombing, and my father was killed in a suicide bombing. They asked, ‘Where is your uncle? Where is your grandfather? We won’t let a woman travel alone.’”<sup>169</sup> Driving home the severity of the impact of these restrictions, one witness explains the pain of these restrictions: “Even when I need to go somewhere, I cannot find a *Mahram* to accompany me, as required by Taliban rules. This dependency is deeply painful. The emotional wound of being treated as helpless is worse than my physical disability, and there is no cure for that pain.”<sup>170</sup>

With the restrictions and bans currently in place by the Taliban, the education system for women and girls has largely been dismantled and the ability of women and girls to formally acquire skills and knowledge is quickly disappearing. “The academic talents of women and girls have significantly declined; it has been four years since they have had a place to work or study. The situation of women in the current state of our country is very bad.”<sup>171</sup> The impact is further compounded for women and girls experiencing disability. In the rare times that education is available for women and girls in the first place, disabled persons have had no access to interpreters, braille, and the provision of inclusive services. One witness described how she wanted to study in the faculty of law as a disabled person, but she could not continue due to access issues. She was ultimately forced to take a gap year and later went to private school. In the long term, she was confined to the home and unable to secure employment.<sup>172</sup> “All the opportunities that once existed for persons with disabilities have disappeared. There are no support programs, no educational opportunities, and no safe spaces left for us.”<sup>173</sup> A survey conducted by the Rahyab Initiative examining the situation of persons with disabilities in Afghanistan confirms that: “individuals with disabilities in Afghanistan are subjected to

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<sup>166</sup> Supra note 162 UN Women.

<sup>167</sup> Supra note 125 Special Rapporteur on the Situation of Human Rights in Afghanistan Report.

<sup>168</sup> Supra note 149 Bishnaw Survey (DROPS).

<sup>169</sup> Witness testimony 3.

<sup>170</sup> Witness testimony 6.

<sup>171</sup> Witness testimony 14.

<sup>172</sup> Witness testimony 16.

<sup>173</sup> Witness testimony 6.

multifaceted deprivation. This deprivation encompasses structural discrimination, restrictive Taliban policies, pervasive poverty, social stigma, and fragile State institutions.”<sup>174</sup>

As women and girls face widespread restrictions, economic exclusion becomes a certainty. On the individual level, women and girls have identified numerous lost opportunities for educational and professional growth, as well as financial benefits. UN Women estimates that just one in four women are working or seeking work, contrasted with 90 percent of men in the same situation.<sup>175</sup> “I graduated from the judiciary and prosecutor's office, and I completed a legal clinic. However, with the arrival of the Taliban, my dreams were shattered. I couldn't work in the judicial and legal sectors, even though I was very interested in working in my field. Unfortunately, that path was closed to me. Since women were initially allowed to work in the health sector, I studied midwifery and took a job there. I worked for a while, but the Taliban closed that down too. Despite that sector being vital for all Afghan people, I was removed from that job, and even private projects were shut down.”<sup>176</sup> Another witness shared: “If they hadn't stopped my work, I was a prosecutor then and would have made significant progress by now. I would be a director now, but unfortunately, since they banned us from working, I've forgotten what I learned. A person progresses in a work environment. I would have earned my Master's and Doctorate degrees and significantly advanced myself. Now, my situation is terrible; I can't even properly raise my own children, or I've forgotten things. When I remember what I was and what I've become, I weep heavily and ask why this happened to us and what sin we committed.”<sup>177</sup> Disabled women and girls have faced a compounded impact here: “My employment rights were also protected under the law - the Law on the Rights and Privileges of Persons with Disabilities. But today, no law exists to protect me or others like me.”<sup>178</sup> Meanwhile, women have also been isolated from the banking sphere with less than seven percent of Afghan women having a bank account or using a mobile money service.<sup>179</sup>

A 2022 analysis by UNICEF found that keeping girls out of secondary education costs Afghanistan 2.5 percent of its GDP.<sup>180</sup> In turn, economic loss is experienced disproportionately in families without male family members. “There are families without any men, forcing the woman to become both the man and woman of the household. She must work, and if she lacks an education, how can she find employment?”<sup>181</sup> As women's salaries get taken away, families in Afghanistan have become further impoverished. “These restrictions and violations of rights have caused women to lose their income. They have become dependent on the meagre incomes of men and on charitable organizations, while women could and still can work and earn an income. I am the youngest member of a ten-person family. My father is sick and cannot work; only my two brothers work. It is very difficult for these two brothers to meet their own needs, their wives' needs, their children's needs, and the needs of my mother and me.”<sup>182</sup>

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<sup>174</sup> Rahyab Initiative, “RAHYAB Summary Report on Disability Rights in Afghanistan,” 16 October 2025, <https://therahyabinitiative.org/news-and-events/f/rahyab-report-on-disability-rights-in-afghanistan-2021-2025>.

<sup>175</sup> Supra note 165 UN Women.

<sup>176</sup> Witness testimony 9.

<sup>177</sup> Witness testimony 11.

<sup>178</sup> Witness testimony 16.

<sup>179</sup> UN Women, “FAQs: What it's like to be a woman in Afghanistan in 2025,” 7 August 2025, <https://www.unwomen.org/en/articles/faqs/faqs-afghanistan>.

<sup>180</sup> UNICEF, “Depriving girls of secondary education translates to a loss of at least US\$500 million for Afghan economy in last 12 months,” 15 August 2022, <https://www.unicef.org/rosa/press-releases/depriving-girls-secondary-education-translates-loss-least-us500-million-afghan>.

<sup>181</sup> Witness testimony 11.

<sup>182</sup> Witness testimony 14.

The country's children and its future generations are bearing the brunt. Numerous witnesses raised questions on how a woman without access to education would be able to help raise her children. One witness questioned: "If a mother isn't educated, how will she raise her children? This paves the way for violence and misery. An educated woman can distinguish between good and bad, and she knows what is lawful and unlawful. If a mother raises and educates her child well, that child will also benefit society. However, if her child remains uneducated, how will they manage a home, a province, or a country? This will lead to very bad consequences."<sup>183</sup> Another said: "They should only look at this: the next generation is being destroyed. The future children are being born into darkness. Look at the children whose parents are educated and literate, they are ahead in schools, in first or second place. This is because they have encouragement at home. This encouragement doesn't only come from the father, who leaves to work and earn money in the morning. It is the mother who is at home with them, helping them with their lessons, homework, and everything. If this wasn't available, look at the students who fall behind in school. They fall far behind. Whether boys or girls, if they fall behind, they reach the eighth or ninth grade and either leave school, run away from school, or lose interest and go to work. Their future is ruined. They fail their early classes, they get discouraged, and when they reach the higher grades, they cannot move forward out of shame of their peers."<sup>184</sup> In this context, rates of early, forced, and child marriages are high and continue to rise. In 2023, data showed that 9.6 percent of women ages 20-24 were married under the age of 15 and 28.7 percent of women ages 20-24 were married under the age of 18.<sup>185</sup> By 2026, the restrictions and bans on education for women and girls are expected to increase child marriage by 25 percent, thus increasing childbearing among adolescent girls by 45 percent, and increasing maternal mortality by at least 50 percent.<sup>186</sup>

The role of men in society is also evolving in a negative manner. The UN Special Rapporteur on the Situation of Human Rights in Afghanistan observes: "While women and girls bear the brunt of Taliban oppression, men and boys are also required to adhere to the groups' binary, discriminatory, and patriarchal gender roles and responsibilities. They are increasingly being forced into coerced compliance with the Taliban's diktats if they fail to enforce Taliban edicts on their female relatives."<sup>187</sup> Men and boys are pushed to serve in masculine gender roles, and they are weaponized to keep women and girls in their place. The numerous examples of men and boys being shamed and insulted when their female relatives have been outspoken and being asked to sign commitments on behalf of female relatives to refrain from future offenses are demonstrative of this societal change.<sup>188</sup>

As a result of the *de facto* authorities' restrictions, women are finding it difficult to secure health services for themselves. Without a *Mahram*, "Even visiting a doctor is a challenge, because taxi drivers often refuse to pick up unaccompanied women, fearing punishment from the Taliban."<sup>189</sup> One witness described that when she saw a male doctor, the morality police insisted on attending the appointment with her so as not to leave her unaccompanied with a

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<sup>183</sup> Witness testimony 11.

<sup>184</sup> Witness testimony 18.

<sup>185</sup> UN Women, "Key Facts and Figures: Afghanistan Gender Country Profile," <https://www.unwomen.org/sites/default/files/2024-06/Gender-country-profile-Afghanistan-Key-facts-and-figures-en.pdf>.

<sup>186</sup> Supra note 165 UN Women.

<sup>187</sup> Supra note 125 Special Rapporteur on the Situation of Human Rights in Afghanistan Report.

<sup>188</sup> Zahra Joya, Annie Kelly and Rukhshana reporters, "How ordinary men became unpaid Taliban enforcers in their own homes," *The Guardian*, 9 June 2025, <https://www.theguardian.com/global-development/ng-interactive/2025/jun/09/ordinary-men-unpaid-taliban-enforcers-homes-afghanistan-women>.

<sup>189</sup> Witness testimony 6.



male non-guardian, violating her right to privacy and impacting her ability to receive proper medical care in the process.<sup>190</sup> Once again, the impact is not only experienced by individual women and girls whose access to proper healthcare is deteriorating, but on the quality of the health sector and its robustness for the country as a whole. Civil society organizations have documented a shortage of women first responders in moments of emergency, a shortage of women doctors, and a shortage of women psychologists following the Taliban's decrees, edicts, and actions more generally.<sup>191</sup> Women are disappearing from the health sector as professionals. Commenting on this erasure, one witness said: "Their policy is that women shouldn't even play a role in the health sector."<sup>192</sup>

As women and girls have been assaulted and targeted by the Taliban in front of their children, transgenerational trauma and its resulting damaging impacts are already evident. One witness who had a harrowing experience with the Taliban when pregnant explained: "Doctors said that the severe psychological pressure I experienced during my pregnancy had most likely affected the foetus. Now that my child is four years old, her psychological state and temperament are unfortunately still not normal. She is often depressed, doesn't interact with other children, and is withdrawn. I cannot afford her treatment costs, but I truly believe that the main reason for all my child's physical and psychological problems are the same pressures, fears, and cruel treatments I experienced after the Taliban came."<sup>193</sup> Another witness whose children were at the scene when the Taliban came searching for her stated: "Some of our friends who worked with me and had my home address were the ones who told me that the Taliban ranger vehicle came to our doorstep within fifteen or twenty minutes of my leaving, asking, 'Where is Sumaya? We came to arrest her'. This profoundly affected my children psychologically. I suffered immensely for my children after I learned what had happened (they didn't tell me immediately). I haven't been able to see my children for four years now. They couldn't even come to Kabul during that sensitive time."<sup>194</sup> Another witness's child continued to wet the bed for at least four years after an incident involving the Taliban.<sup>195</sup> Thus, the psychosocial harm experienced by women and girls extends to their family members and to society more broadly.

## **Conclusion**

Taken as a whole, the Taliban's conduct toward women and girls creates an environment in which justice cannot be served and in which a productive vision for the future that centres the needs and realities of women and girls seems far out of reach. One witness said it painfully well: "Depriving us women of these rights means depriving all of Afghanistan of justice and a bright future."<sup>196</sup> As a result, some women and girls have also had to flee their homes and leave Afghanistan for a life in exile. At times, they have had to do so while leaving their children and family members behind.<sup>197</sup> But exile does not always deliver safety, security, and a future: "Even now that I have come abroad, I have no peace", said one witness.<sup>198</sup>

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<sup>190</sup> Witness testimony 6.

<sup>191</sup> Witness testimony 8.

<sup>192</sup> Witness testimony 9.

<sup>193</sup> Witness testimony 7.

<sup>194</sup> Witness testimony 10.

<sup>195</sup> Witness testimony 19.

<sup>196</sup> Witness testimony 14.

<sup>197</sup> Witness testimony 3.

<sup>198</sup> Witness testimony 13.

## 5. THE LEGAL ASPECTS

### Overview of International Criminal Law, International Human Rights Law and Current Approaches to Justice and Accountability regarding State Obligations

#### 5.1. International Criminal law

##### 5.1.1. Crime against humanity of gender persecution

###### *Legal and policy analysis*

To determine the existence of a crime against humanity, the conduct must be part of a widespread or systematic attack directed against a civilian population and the perpetrator must know that the conduct was part of, or intended the conduct to be part of, a widespread or systematic attack directed against a civilian population.<sup>199</sup> In terms of Article 7(1) of the Rome Statute of the International Criminal Court (ICC), crimes against humanity includes: murder, extermination, enslavement, deportation or forcible transfer of population, imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law, torture, rape (...) or any other form of sexual violence of comparable gravity, persecution, enforced disappearance of persons, the crime of apartheid, and other inhumane acts of a similar character intentionally causing great suffering or serious injury to body or to mental or physical health.

Article 7(1)(h) addresses the crime against humanity of persecution “against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court.” Persecution “means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity.”<sup>200</sup>

Gender persecution is committed against persons because of sex characteristics and/or because of the social constructs and criteria used to define gender.”<sup>201</sup> Under Article 7(3) “gender” is understood as two sexes, male and female, within the context of society. Accordingly, gender refers to sex characteristics and social constructs and criteria used to define maleness and femaleness, including roles, behaviours, activities and attributes.<sup>202</sup>

The crime of gender persecution must be committed in connection with any act referred to in Article 7(1) or any other crime within the jurisdiction of the ICC and, when contextual elements of crimes against humanity are met. Therefore, the crime of gender persecution as a crime against humanity does not stand alone but must be perpetrated in connection with other crimes under the jurisdiction of the Court. The Taliban’s policies and actions can be linked to acts under Article 7(1) including murder; imprisonment or other severe deprivation of physical liberty; torture; and other inhumane acts of a similar character intentionally causing great suffering or serious injury to body or to mental or physical health. These acts, taken

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<sup>199</sup> International Criminal Court (ICC), *Elements of Crimes* (2013), Article 7(1)(h) – Persecution.

<sup>200</sup> Rome Statute of the International Criminal Court (1998), Article 7(2)(g).

<sup>201</sup> ICC Office of the Prosecutor, *Policy on the Crime of Gender Persecution* (2022).

<sup>202</sup> *Ibid.*

together, demonstrate a coordinated and systematic attack directed against Afghan women and girls as part of a broader State policy of institutionalized oppression and domination.

Article 7(1)(h) of the Elements of Crimes assists the ICC in the interpretation and application of the crimes included in the Rome Statute.<sup>203</sup> The elements that will be considered by the Court to determine whether the crime of gender persecution is being committed by the *de facto* authorities against women and girls include: the severe deprivation of fundamental human rights; the targeting of the group on gender grounds; the conduct is deemed unlawful in terms of other crimes referred to in Article 7(1) of the Rome Statute; the existence of discriminatory intent; and that the conduct is part of a widespread and systematic attack against the civilian population.<sup>204</sup>

The ICC Policy on the Crime of Gender Persecution notes that persons may be targeted for gender persecution “because of sex characteristics and/or because of the social constructs and criteria used to define roles, behaviours, activities and attributes.”<sup>205</sup> Persecution may occur through laws, decrees, and practices that systematically deny equal participation in public life, restrict freedom of movement, education and employment, or enforce discriminatory moral or social norms. It underscores that persecution can manifest not only through physical violence but also through structural and institutionalized exclusion.<sup>206</sup> Gender-based crimes such as gender persecution are used by perpetrators to regulate or punish “those who are perceived to transgress gender criteria that define “accepted” forms of gender expressions manifest in, for example, roles, behaviours, activities, or attributes.”<sup>207</sup> These measures typically regulate every aspect of life, such as how individuals can exercise their freedom of movement, where they can work, the establishment of a dress code and whether they are “simply allowed to exist”.<sup>208</sup>

There is no need to prove a policy or a plan to commit gender-based crimes to determine the commission of gender persecution under the Rome Statute.<sup>209</sup> The interpretation of persecution as encompassing gender-based discrimination has been recognized in international jurisprudence. This is established in the jurisprudence of the ICC and International Criminal Tribunal for the former Yugoslavia (ICTY) in which persecution is defined as the intentional and organized denial of fundamental rights within a framework of discriminatory governance.<sup>210</sup> The ICTY confirmed that persecution includes the deprivation of fundamental rights (such as liberty, security, and dignity) committed with discriminatory intent in the *Prosecutor v. Krstić* case.<sup>211</sup> In the *Prosecutor v. Kunarac et al.* case, the ICTY held that systematic sexual slavery and the imposition of discriminatory regimes can qualify as persecution when they are used to subjugate women based on their gender.<sup>212</sup> The ICC, in the *Prosecutor v. Katanga* case, affirmed that persecution entails the intentional denial of

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<sup>203</sup> Article 9 of the Rome Statute of the International Criminal Court.

<sup>204</sup> ICC, *Elements of Crimes* (2013), Article 7(1)(h) – Persecution.

<sup>205</sup> ICC Office of the Prosecutor, *Policy on the Crime of Gender Persecution* (2022), para. 42.

<sup>206</sup> *Ibid.*

<sup>207</sup> *Ibid* p. 4.

<sup>208</sup> *Ibid.*

<sup>209</sup> *Ibid* para. 61.

<sup>210</sup> *Prosecutor v. Germain Katanga*, Judgement, ICC-01/04-01/07 (Trial Chamber II, 7 March 2014);

*Prosecutor v. Radislav Krstić*, Judgement, IT-98-33 (ICTY, Appeals Chamber, 19 April 2004).

<sup>211</sup> ICTY, *Prosecutor v. Krstić*, Judgement, IT-98-33 (ICTY, Appeals Chamber, 19 April 2004).

<sup>212</sup> *Prosecutor v. Kunarac et al.*, Judgement, IT-96-23-T & IT-96-23/1-T (ICTY, Appeals Chamber, 12 June 2002).

fundamental rights motivated by discriminatory intent.<sup>213</sup> In the *Prosecutor v. Al Hassan* case, the first ICC case to confirm charges of persecution on grounds of gender, the Trial Chamber observed that “Under Article 7(1)(h), an act of persecution encompasses discriminatory measures, [that] infringe on basic rights and reach the necessary level of gravity, such as the right to education.”<sup>214</sup> The Chamber noted that “a broad range of acts such as restrictions on movement to certain places and times, exclusion from professions, denial of access to public services and restrictions on family life have been found to constitute acts of persecution.”<sup>215</sup>

## **Conclusion**

The prosecutorial team argued that the Taliban's systematic, systemic and institutionalized discrimination against women amounts to gender persecution, considering their policies and practices toward women and girls of Afghanistan since August 2021. Drawing upon survivor testimonies, corroborated documentation, and the findings of international bodies, it was argued that the Taliban's policies of exclusion, repression, and erasure (grounded in misogyny and enforced through mechanisms of state-like control), constitute crimes against humanity under Article 7(1)(h) of the Rome Statute, particularly the crime of gender persecution. The policies and actions of the *de facto* authorities, as discussed in previous sections, is constitutive of crimes against humanity, particularly the crime of gender persecution. The Taliban's sustained and deliberate campaign of gender-based persecution, carried out through edicts, institutional decrees, and systemic violence, constitutes a direct and egregious violation of international criminal law. Under Article 7 of the Rome Statute, acts of persecution, torture, imprisonment, and other inhumane treatment, when committed as part of a widespread or systematic attack against a civilian population, qualify as crimes against humanity. Based on the legal and policy analysis, and the facts and evidence presented, the policies and practices of the *de facto* authorities constitute crimes against humanity of persecution on gender or other grounds that are universally recognised as impermissible under international law, which includes the ground of sex, as defined in Article 7(1)(h) of the Rome Statute. The Taliban, as the *de facto* governing authority, bears responsibility under international criminal law for a policy of gender-based persecution constituting crimes against humanity.

### **5.1.2. Other inhumane acts**

#### ***Legal analysis***

The Prosecutors have included among the charges against the Taliban, the “crime of gender apartheid” within the category of “other inhumane acts” of the Rome Statute.<sup>216</sup> They argue that gender apartheid may be considered as constituting other inhumane acts as set out in Article 7(1)(k). Under this article “other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health” can also

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<sup>213</sup> *Prosecutor v. Germain Katanga*, Judgement, ICC-01/04-01/07 (Trial Chamber II, 7 March 2014).

<sup>214</sup> *The Prosecutor v. Al Hassan*, Confirmation of Charges, ICC-01/12-01/18.

See also Gauld, Kate, “How Is the Crime against Humanity of Gender Persecution Being Litigated before the International Criminal Court, and What Are Its Implications?,” 24 *Melbourn Journal of International Law* 162 (2023).

<sup>215</sup> *The Prosecutor V. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Judgement, No. ICC-01/12-01/18, 26 June 2024, para. 1202.

<sup>216</sup> Indictment, para. 107.

constitute crimes against humanity. In addition, the elements include that the perpetrator was aware of the factual circumstances that established the character of the act; and the perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

The “other inhumane acts” is a catch-all clause included in international criminal tribunal statutes to make sure that any crime with sufficient gravity fulfilling the other conditions of a crime against humanity would not go unpunished. The “other inhumane acts” was first included in the Nuremberg Statute (Article 6 (c)) and the Tokyo Statute (Article 5 (c)) and it was later codified in the statutes of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). In the *Akayesu* case, the ICTR found the defendant guilty of other inhumane acts as crime against humanity for acts constituting sexual violence.<sup>217</sup> The ICTR Statute only referred to the act of rape, but no other forms of sexual violence were explicitly mentioned. In the *Kupreskic* case, the ICTY found that “forcible transfer of people” constitutes an inhumane act as a crime against humanity. The ICTY only referred to “deportation”.<sup>218</sup> Now both crimes are listed as crimes against humanity in the Rome Statute.

The Prosecutors argued that the institutionalization of a system of discrimination and repression based on gender by the *de facto* authorities can be considered “gender apartheid” within the category of crimes against humanity of “other inhumane acts” due to its similar character of intentionally causing great suffering or serious harm to the body or to mental or physical health” according to Article 7(1)(k). The crime of apartheid is recognized as a crime against humanity in the Rome Statute in Article 2(h) and means “inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime.” It is also codified in the 1973 International Convention on the Suppression and Punishment of the Crime of Apartheid.<sup>219</sup> In addition, the prohibition of apartheid has been considered by the UN International Law Commission as a peremptory norm (*jus cogens*).

Regarding the inclusion of gender apartheid within the category of “other inhumane acts” of the Rome Statute, it must be noted that gender apartheid is not recognized as a crime against humanity, in and of itself, or under the category of other inhumane acts in the Rome Statute, nor is it recognized in any other law as a specific crime. A crime that does not exist as such in law, cannot be used to prosecute individuals. As noted above, international criminal tribunals, such as the ICTY and the ICTR, have expanded the interpretation and application of the applicable statutes to include certain crimes within the category of crimes against humanity of “other inhumane acts” (which had not been specifically codified in the Statute). The evolving interpretation in jurisprudence is based on a case-by-case approach and there is no precedent *de jure* yet on the *de facto* understanding of gender apartheid.

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<sup>217</sup> *Prosecutor v. Akayesu*, Judgement, Case No. ICTR-96-4-T, 2 September 1998, para. 688.

<sup>218</sup> *Prosecutor v. Kupreskic*, Judgement, IT-95-16-T, 14 January 2000, para. 566.

<sup>219</sup> International Convention on the Suppression and Punishment of the Crime of Apartheid, General Assembly, Resolution 3068 (XXVIII).

## **Conclusion**

The prosecutorial team argued that the Taliban's conduct toward the women and girls of Afghanistan since August 2021, constitutes "other inhumane acts" under Article 7(1)(k) of the Rome Statute within the enumerated category of crimes against humanity. They argued that the institutionalization of a system of discrimination and repression based on gender by the *de facto* authorities can be considered "gender apartheid" within the category of crimes against humanity of "other inhumane acts" due to its similar character of intentionally causing great suffering or serious harm to the body or to mental or physical health." However, the Prosecutors acknowledged that crime of gender apartheid is not yet codified in international law - but they argued that the term "crimes against humanity" can evolve to meet new international needs whereby unenumerated acts may be crimes against humanity. The situation in Afghanistan meets the constitutive elements of an apartheid-like system, an institutionalized regime of segregation, exclusion, and domination. However, because the discrimination is grounded in gender rather than race, it falls outside the codified definition of apartheid in international law, which has yet to formally recognize gender apartheid as a distinct crime.

### **5.2. International Human Rights Law**

The prosecutorial team further argued that the Taliban's conduct toward the women and girls of Afghanistan since August 15, 2021, constitutes violations of numerous binding international human rights treaties to which Afghanistan is a State Party, including: the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights (ICESCR); the Convention against Discrimination in Education (CADE); the Convention on the Political Rights of Women (CPRW); the Convention on the Rights of the Child (CRC); the Convention against Torture and other Cruel, Inhumane, Degrading Treatment or Punishment (CAT); and the Convention on the Rights of Persons with Disabilities (CRPD). In addition, the Universal Declaration of Human Rights (UDHR) articulates norms and standards that are also considered as guiding human rights principles. The UN Human Rights Committee has affirmed that international treaty obligations remain binding upon successor authorities, regardless of political or regime changes. As a result, the Taliban, as the *de facto* governing entity in Afghanistan, is obligated to uphold these legal commitments.

#### **5.2.1. Right to life**

The right to life is a fundamental and inalienable human right and is the foundation of other human rights. Under Article 3 of the UDHR, "everyone has the right to life, liberty and security of the person." Additionally, under Article 6 of the ICCPR, "every human being has the inherent right to life (...) and [this right] "shall be protected by law" [and nobody] "shall be arbitrarily deprived of his life". The right to life cannot be derogated under any circumstances, even in case of emergency, according to Article 4 of the ICCPR. As the *de facto* authority, the Taliban have legal obligations under international human rights law, including the duty to protect the right to life by establishing a legal framework to ensure the full enjoyment of the right to life by all individuals. The failure to take adequate measures to prevent deaths, including of women who are self-harming, constitute a clear violation of the right to life.

Since 2021, the *de facto* authorities have been carrying out targeted extrajudicial killings, arbitrary executions, enforced disappearance, killings of former members of the security forces, and have been targeting women, girls and ethnic and religious minorities.<sup>220</sup> The increase in self-harm and suicide among women indicate that among others, social pressures, domestic violence, forced marriages, prohibitions on work and education, and other restrictions, have severely undermined the conditions necessary for a life of dignity, equality and safety.<sup>221</sup> Available data suggests Afghanistan has become one of very few countries worldwide where more women than men die by suicide.<sup>222</sup> In 2024, 64 percent of women indicated feeling “not at all” safe leaving home by themselves, compared to two percent of men in a survey conducted by the UN.<sup>223</sup> Harassment, threats, and targeted violence perpetrated by the Taliban particularly affects women - with unlawful deaths of women and girls occurring in a range of situations, such as their own homes, in public spaces or in Taliban-run detention facilities.<sup>224</sup>

### 5.2.2. Right to equality and the prohibition of discrimination

The right to equality and the prohibition of discrimination based on sex are basic principles of human rights law, enshrined in foundational international instruments such as the UDHR, ICCPR, ICESCR, CRC, CADE, CRPD, CPRW, and CEDAW. Broadly, these treaties address the deprivation of fundamental rights linked to civil, political, economic, social and cultural rights, based on numerous grounds including sex, ethnicity, religion, language, race, disability or political opinion, among others. The interpretation and application of the principles of the right to equality and non-discrimination has now evolved to include the ground of gender. States Parties to treaties are obliged to respect, protect and ensure all rights without distinction, exclusion or restriction of any kind. The prosecutorial team submitted “that the Taliban’s systematic exclusion and subjugation of women and girls constitute a grave and institutionalized form of discrimination based solely on sex, in violation of Afghanistan’s obligations under core international human rights treaties.”<sup>225</sup>

The Indictment, testimonies and other documents reflect a broad range of violations of the principles of equality and non-discrimination including among others: the denial of the right to education; work; health; freedom of movement and bodily autonomy; freedom of expression, assembly and association; freedom from arbitrary detention, ill-treatment and torture; broad violations of civil and political rights; and denial of access to justice and to justice itself. Such violations are expanded on in the relevant sections below.

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<sup>220</sup> Indictment, para. 209 and 210.

<sup>221</sup> *Ibid.*

<sup>222</sup> The Guardian, “Despair is settling in’: female suicides on rise in Taliban’s Afghanistan,” (2023), <https://www.theguardian.com/world/2023/aug/28/despair-is-settling-in-female-suicides-on-rise-in-talibans-afghanistan>.

<sup>223</sup> UNAMA, *Summary report of countrywide women’s consultations* (2024), [https://unama.unmissions.org/sites/default/files/situation\\_of\\_afghan\\_women\\_april\\_english.pdf](https://unama.unmissions.org/sites/default/files/situation_of_afghan_women_april_english.pdf).

<sup>224</sup> Report of the Special Rapporteur on the Situation of Human Rights in Afghanistan and the Working Group on Discrimination Against Women and Girls, UN Doc. A/HRC/53/21, 15 June 2023, para. 77.

<sup>225</sup> Indictment, para 236.

### 5.2.3. Right to education

The right to education is recognized in various international instruments including in Article 26 of the UDHR; Articles 13 and 14 of the ICESCR; Articles 28 and 29 of the CRC; Article 10 of CEDAW; and Article 24 of the CRPD. The right to education is a fundamental right which is necessary for the full development of human personality and a sense of dignity. This right implies universal and non-discriminatory access to basic education, as well as the State's obligation to ensure compulsory and free primary education, to promote the development of secondary and higher education, and to make it accessible to all on an equal basis. It also requires the elimination of any gender stereotypes in curricula, teaching materials or pedagogical methods, and ensures equal access to scholarships, vocational training programs and sports activities. The right obliges States Parties to establish an inclusive, accessible education system geared towards human and social development. In addition, it requires reasonable support and appropriate accommodations be provided to ensure that people with disabilities can participate fully at all levels of education.

Numerous edicts and decrees issued by the *de facto* authority reflects the Taliban policy of systematic discrimination against women and girls in the sphere of education. Edicts include: restricting girls' education beyond 6<sup>th</sup> grade; an edict providing that all girls between 4<sup>th</sup> and 6<sup>th</sup> grade must cover their faces when they go to school;<sup>226</sup> exclusion of women and girls from most educational institutions; the obligation for female students to attend university in the company of *Mahrams*, followed by segregation on the basis of sex and, finally, the denial of access to universities for women entirely. The testimonies referred to in sections 3 and 4 of this Judgement reflect further examples of discrimination and abusive interactions with authorities when attempting to exercise their right to education. The violation of the right to education, as reflected in its denial as experienced by women and girls, constitutes sex and gender-based exclusion and is in clear violation of Afghanistan's international obligations.

### 5.2.4. Right to health

The right to health includes the right to control one's own health and body, including sexual and reproductive freedom, and the right to a health protection system that guarantees equal opportunities for people to enjoy the highest attainable standard of health. Article 25 of the UDHR provides that "everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control." Article 25(2) also highlights that "motherhood and childhood are entitled to special care and assistance." Article 12 of the ICESCR provides for "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health." Under Article 12 of the CEDAW, State Parties "shall take all appropriate measures to eliminate discrimination against women in the field of healthcare in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning." Also, within CEDAW, specific reference is made to rural women in Article 14(2)(b), while Article 12(2) addresses the obligation to provide appropriate services in connection with pregnancy, confinement and the post-natal period. Under Article 24 of the CRC, States Parties "recognize the right of the child to the enjoyment of the highest attainable standard of health and to

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<sup>226</sup>Sahar Fetrat, "Taliban's Attack on Girls' Education Harming Afghanistan's Future," available at <https://www.hrw.org/news/2024/09/17/talibans-attack-girls-education-harming-afghanistans-future>.



facilities for the treatment of illness and rehabilitation of health” and must ensure that “no child is deprived of his or her right of access to such healthcare services.” Article 25 of the CRDP recognizes that “persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability” and “shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation.”

Since 2021, the *de facto* authorities have imposed systematic restrictive and discriminatory measures that have drastically impeded women and girls’ access to medical care, leading to an increase in maternal mortality and affecting women’s physical and mental health with high levels of anxiety and depression, as well as suicidal thoughts and suicide attempts. Women have been banned from entering health centres without a *Mahram*,<sup>227</sup> restrictions are placed on the ability of female health workers to work; instructions have been issued requiring medical universities to bar women from studying medicine; and women are discouraged from enrolling in institutes that offer degrees in midwifery, nursing, radiology and dentistry.<sup>228</sup> Prohibitions have been imposed on programs related to public awareness, women’s health, social behaviour, and mental health that are offered by NGOs – if based outside of government-run health centres.<sup>229</sup>

The ban on universities offering medical education and the restrictions in accessing employment in the sector, has intensified shortages of female doctors, nurses, pharmacists, and other healthcare professionals broadly, particularly negatively affecting rural areas.<sup>230</sup> The number of healthcare facilities has been reduced by half and only 297 of the approximately 400 districts in Afghanistan’s 34 provinces have health facilities.<sup>231</sup> Recent cuts in international aid have resulted in the closing of more than 200 health facilities run by the World Health Organization affecting life-saving medical care, including vaccinations, and maternal and child health services.<sup>232</sup> Some testimonies note women were suffering and dying from preventable diseases, including in one case a pregnant woman who was in labour being turned away from a hospital as she did not have a *Mahram* present with her.<sup>233</sup> The exclusion of female doctors is having a serious impact on mortality rates among women and infants. By April 2025 it was estimated that there were 620 maternal deaths per 100,000 live births, representing a 19 percent increase in maternal mortality.<sup>234</sup> UN Women estimates that barriers to receiving healthcare for women in Afghanistan will increase maternal mortality by 50 percent by 2026.<sup>235</sup>

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<sup>227</sup> Zahara Nader, Nargis Amini, “The Taliban Are Harming Afghan Women’s Health,” *Foreign Policy Magazine* (2022), <https://foreignpolicy.com/2022/03/02/the-taliban-are-harming-afghan-womens-health/>.

<sup>228</sup> Siyar Sirat, “Taliban close medical institutes to women in latest restriction,” *Amu TV*, <https://amu.tv/141078/>

<sup>229</sup> Witness testimony 8.

<sup>230</sup> Human Rights Watch, *A disaster for the Foreseeable Future* (2024), <https://www.hrw.org/report/2024/02/12/disaster-foreseeable-future/afghanistans-healthcare-crisis>.

<sup>231</sup> Jelena Bielica, *Is maternal mortality on the rise in Afghanistan? No official data, but much cause for concern*, Afghanistan Analysis Network (2025), <https://www.afghanistan-analysts.org/en/reports/rights-freedom/is-maternal-mortality-on-the-rise-in-afghanistan-no-official-data-but-much-cause-for-concern/>.

<sup>232</sup> Ruchi Kumar, Zuhail Ahad, “Millions of Afghans lose access to healthcare services as USAID cuts shut clinics,” *The Guardian* (2025), <https://www.theguardian.com/global-development/2025/apr/03/millions-afghans-left-without-healthcare-usaid-cuts-shut-clinics-malnutrition-measles-malaria-polio-world-health-organization>.

<sup>233</sup> Indictment, para 136.

<sup>234</sup> Supranote 231 Bielica.

<sup>235</sup> United Nations UN News, “Four years on, here’s what total exclusion of women in Afghanistan looks like,” (2025), <https://news.un.org/en/story/2025/08/1165622>.

Young girls who are deprived of education, are more vulnerable to forced marriage, domestic violence and early pregnancy, posing a serious threat to their health.<sup>236</sup> Additionally, Afghan women and girls face a severe mental health crisis with high levels of anxiety and depression, as well as suicidal thoughts and suicides.<sup>237</sup> Around 70 percent of Afghan women describe their mental health as “poor” or “very poor”, and 80 percent of them reported suicide attempts in 2023.<sup>238</sup> As counselling centres have closed across the country, women who need mental health services are told to: “Be patient and surrender to your destiny.”<sup>239</sup>

The Taliban’s systematic restriction of Afghan women’s healthcare access breaches the State obligation to guarantee that “health facilities, goods and services [are] accessible to all, especially the most vulnerable or marginalized sections of the population, in law and in fact, without discrimination on any of the prohibited grounds.”<sup>240</sup> The restrictions constitute direct discrimination based on sex and gender, and amount to a systematic denial of the right to the highest attainable standard of physical and mental health, in breach of Afghanistan’s binding international obligations.

### 5.2.5. Right to freedom of movement and bodily autonomy

According to Article 13 of the UDHR, “everyone has the right to freedom of movement and residence within the borders of each State.” Under Article 12 of the ICCPR, every person has “the right to liberty of movement and freedom to choose his residence” in his own country. This right shall not be subjected to restrictions unless it is “provided by law, are necessary to protect national security, public order, public health or morals (...)”. Freedom of movement is an essential condition for the free development of a person and limitations that may be imposed “must not nullify the principle of liberty of movement (...)”<sup>241</sup> The restrictions to the freedom of movement must not undermine the essence of the right and need to be consistent with the fundamental principles of equality and non-discrimination. Article 15 of CEDAW notes that “States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.”

The extreme restrictions on the freedom of movement of women, by prohibiting them from work, education, accessing public baths, parks and gyms, along with the *Mahram* and *hijab* policies imposed by the Taliban, makes it difficult for them to leave their homes. The restrictions imposed on drivers of taxis and other modes of transport requires them not offering transport to women unaccompanied by a *Mahram*.<sup>242</sup> In certain provinces, inspectors have been instructing health clinics, shops, markets, and government offices to deny services to women not accompanied by a *Mahram*.<sup>243</sup> Afghan women are threatened with imprisonment if they

<sup>236</sup> Indictment, para. 220.

<sup>237</sup> United Nations UN Women, *Afghanistan Gender Index 2024* (2025), <https://www.unwomen.org/sites/default/files/2025-06/gender-index-2024-afghanistan-en.pdf>.

<sup>238</sup> United Nations Committee on the Elimination of Discrimination against Women, *Concluding observations on the fourth periodic report of Afghanistan* (2025), para. 35, <https://docs.un.org/en/CEDAW/C/AFG/CO/4>.

<sup>239</sup> Witness testimony 8.

<sup>240</sup> General Comment No. 14, *The right to the highest attainable standard of health* (Article 12 of the International Covenant on Economic, Social and Cultural Rights), UN Doc. E/C.12/2000/4, 11 August 2000, para. 12.

<sup>241</sup> 39 General Comment 27 on Freedom of Movement, UN doc. CCPR/C/21/Rev.1/Add.9 (1999) para. 2.

<sup>242</sup> Article 20 of the Law for the Propagation of Virtue and Prevention of Vice.

<sup>243</sup> UNAMA, *Update on the human rights situation in Afghanistan*, June 2025, [https://unama.unmissions.org/sites/default/files/english\\_unama\\_hrs\\_update\\_on\\_human\\_rights\\_in\\_afghanistan\\_april-june\\_2025\\_final.pdf](https://unama.unmissions.org/sites/default/files/english_unama_hrs_update_on_human_rights_in_afghanistan_april-june_2025_final.pdf).

leave their home without a *Mahram* and the requirement is enforced at checkpoints. Women without a *Mahram* are denied passage irrespective of the urgency of their journey or whether they are traveling with other women.<sup>244</sup> Such restrictions on the freedom of movement have caused Afghan women to largely disappear from public life. Due to restrictions imposed by the Taliban, women are being confined to their homes, unable to leave without a *Mahram*.

The right to bodily autonomy is violated by the *hijab* decree,<sup>245</sup> which requires women to cover their entire bodies, except their eyes, thereby breaching women's right to freedom of movement, freedom to choose their clothing, and human dignity. The *de facto* authorities exercise oversight of compliance and this has intensified in some parts of the country. Punishment for non-compliance includes arrests, verbal reprimands, public humiliation, fines and, at times, physical violence.<sup>246</sup> The perpetuation of gender stereotypes by defining the *hijab* as "the privilege of Muslim and honourable women", thus implying that Afghan women who do not comply are neither Muslim nor honourable.<sup>247</sup>

The restriction of freedom of movement of women is based on the interpretation of the Taliban of the *Sharī'a* law and not on the grounds of protection of national security, public order or public health.<sup>248</sup> The Taliban's imposition of a *Mahram* system curtails women's full capacity to participate in public and political life, also affecting economic, social and cultural rights such as access to education, healthcare and work.

#### 5.2.6. Freedom of expression

The right to freedom of expression is a fundamental human right that encompasses not only the freedom to express opinions and ideas without interference, but also the right to seek, receive and disseminate information and thoughts through any means of communication, either orally, in writing or in print, in the form of art, or through any other media - without arbitrary restrictions or censorship (except for necessary limitations imposed by law). Freedom of expression protects both the expression of ideas and freedom of thought, conscience and opinion, and includes other forms of expression. It is also an indispensable pillar for the exercise of other rights, such as political participation, freedom of assembly and religious freedom. This right is recognized in Article 19 of the UDHR; Article 19 of the ICCPR; and Articles 12, 13 and 14 of the CRC.

Since the Taliban takeover in 2021, the *de facto* authorities have imposed sweeping restrictions, to silence women's voices. Restrictions include: the prohibition of television stations to broadcast programs featuring actresses;<sup>249</sup> targeting women who were working in the media, including forcing women to cover their faces while on air, and further bans that removed a

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<sup>244</sup> Report of the Special Rapporteur on the Situation of Human Rights in Afghanistan and the Working Group on Discrimination Against Women and Girls, UN Doc. A/HRC/53/21, 15 June 2023, para. 54.

<sup>245</sup> Belquis Ahmadi, Mohammad Osman Tariq, "How the Taliban's Hijab Decree Defies Islam," United States Institute of Peace (2022), <https://www.usip.org/publications/2022/05/how-talibans-hijab-decree-defies-islam#:~:text=Publication%20Type:%20Analysis,they%20ruled%20in%20the%201990s>.

<sup>246</sup> Report of the Special Rapporteur on the Situation of Human Rights in Afghanistan, UN Doc. A/80/432 (2025), para. 15.

<sup>247</sup> United Nations Committee on the Elimination of Discrimination against Women, *Concluding observations on the fourth periodic report of Afghanistan* (2025), para. 17, <https://docs.un.org/en/CEDAW/C/AFG/CO/4>.

<sup>248</sup> Saeed, Lutforahman, "Women's Right to Freedom of Movement in Islamic Law and Under Taliban-Ruled Afghanistan," *Fordham International Law Journal* 49 (2025-2026), <https://ssrn.com/abstract=5749184>.

<sup>249</sup> European Parliament resolution on the situation in Afghanistan, in particular with regard to women's rights, Document 2022/2571(RSP), Recital H.

large number of women from television, radio and other media roles.<sup>250</sup> These restrictive measures have escalated to directly prohibiting women's voices in any format in public.<sup>251</sup> By forcing them to cover their faces and excluding them from public spaces and all forms of public communication, the *de facto* authorities silence women by preventing their active participation in cultural, social and political life.

The restrictions imposed on women and girls by the Taliban suppress not only individual expression, but also the collective visibility and social recognition of women as full subjects of rights, violating their autonomy, dignity and equality. Such restrictions cannot be justified under the limited exceptions provided for in international law, as they are neither necessary nor proportionate to the protection of any legitimate interest. The implementation of measures, including the imposition of restrictive dress codes through edicts prescribing women and girls clothing (adequate *hijab*, chador);<sup>252</sup> the prohibition of women's presence and voice in the media, and the censorship of their public expression – constitutes a direct violation of the right to freedom of expression of women and girls. The restrictions that have been imposed, serve the purpose of deliberately suppressing of the female voice and presence in society.

### 5.2.7. Freedom of assembly and association

The right to freedom of assembly and association is a fundamental right closely related to other fundamental rights, such as the right to freedom of expression. It allows people to meet; participate in peaceful protests and demonstrations; exchange ideas; and organize collectively to defend their interests or promote their political, social or cultural causes, provided that their purpose is lawful and peaceful. This right is one of the pillars of any democratic society, as it enables the existence of civic organizations, trade unions, professional associations, social movements and political parties. At the international level, this right is recognized in Article 20 of the UDHR and Article 21 of ICCPR (with some limitations prescribed by law).

The right to protest peacefully for women's rights to equality and non-discrimination are being violated in Afghanistan. The Taliban's institutionalized system of gender oppression is evident in the attacks on women protesters, including being subjected to beatings, excessive use of force, detentions, arbitrary deprivation of liberty, verbal and written threats, inhumane treatment, torture and enforced disappearances. The suppression of women's gatherings, targeting their right to assembly, has become a systematic strategy by the Taliban to eliminate women's civic presence. The Taliban's suppression of protests violates basic human rights and has far-reaching consequences for women's mental health and social participation. The violations strike at the core of civic freedom and democratic engagement, being incompatible with the right to freedom of assembly and association of women and girls. The actions taken by the *de facto* authorities, consisting of the violent dissolution of peaceful demonstrations, arbitrary arrests and excessive use of force against women and girls participating in demonstrations, constitute a direct violation of rights and the *de facto* authorities are responsible for the violation of women and girl's right to freedom of assembly and association.

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<sup>250</sup> Fewer than 100 of Kabul's 700 women journalists still working. Reporters Without Borders (31 August 2021), <https://rsf.org/en/fewer-100-kabul-s-700-women-journalists-still-working>.

<sup>251</sup> Christina Goldbaum and Najim Rahim, "With New Taliban Manifesto, Afghan Women Fear the Worst," *New York Times*, 4 September 2024, <https://www.nytimes.com/2024/09/04/world/asia/women-taliban-prohibitions-afghanistan.html>.

<sup>252</sup> Report of the Special Rapporteur on the Situation of Human Rights in Afghanistan and the Working Group on Discrimination Against Women and Girls, Document A/HRC/53/21, para. 52 and 53.

### **5.2.8. Civil and political rights and civic participation**

The right to political and public participation includes: the right of every person to participate in the government of their country, directly or through freely chosen representatives; the right to vote and be elected in periodic, genuine elections held by universal and equal suffrage; and the right to have access, on equal terms, to public service and public office. Its purpose is to guarantee the effective involvement of citizens in public affairs and to ensure that political power is exercised in accordance with the democratic principles of representation, equality and freedom. This set of rights is recognized in Article 21 of the UDHR; Article 25 of the ICCPR. Articles 1 to 3 of CPRW and Article 7 of CEDAW which imposes on States Parties the obligation to take appropriate measures to eliminate discrimination against women in the political and public life of the country, guaranteeing their right to vote, their right to participate in the formulation and implementation of government policies, and their right to hold public office at all levels of government.

In 2021 the *de facto* authorities announced that no woman would hold senior leadership positions in a Taliban government and currently, women are excluded from political and public life, with only a small number of women remaining in the civil service, such as primary school teachers and women employed in some public hospitals. The diminishing number of females working in State institutions; the ongoing violations of the right to political and public participation of women and girls; and the exclusion, marginalization and dissolution of women's institutional and civic spaces violate the international obligations of Afghanistan.

The Taliban's total prohibition of the right to vote and also to hold public office is denied to everyone. There are no elected public offices and there is no parliament in Afghanistan. The public office leadership positions previously held by women, and the elimination of their institutional representation – constitutes a systematic violation of the right to political and public participation. The exclusion of women from exercising these rights violates the democratic principles of representation, equality and legitimacy. The measures adopted by the *de facto* authorities constitute institutional and structural discrimination on the basis of sex and gender, denying women and girls their status as citizens and rights holders, in violation of the fundamental principles of equality, participation and non-discrimination.

### **5.2.9. Right to work**

The recognition of the right to work as a fundamental right is based on the idea that every person has the right to decent living conditions, and for the realization of this right, it is necessary to respect the right to work that provides decent living conditions. The right to work includes the right to have the opportunity to earn a living through freely chosen or accepted work, as well as the right to enjoy fair and satisfactory working conditions, fair remuneration, occupational safety and professional advancement. This right is recognized in Article 23 of the UDHR; Articles 6 and 7 of the ICESCR; and Article 11 of CEDAW which obliges States Parties to eliminate all forms of discrimination against women in the field of employment, guaranteeing equal access to job opportunities, freedom of choice of profession, equal remuneration and protection against dismissal on grounds of maternity or marital status.

Women have been excluded from almost all areas of work including the prohibition on women working in government institutions, participating in radio and television programmes featuring

male broadcasters; women being prohibited from working in international organizations;<sup>253</sup> the banning of women's beauty salons and the services they offered - affecting around 60,000 women-owned businesses which had to shut down; the firing of 469 teachers, principals and other women preschool workers;<sup>254</sup> and the banning of women from working in NGOs, among others. Another factor affecting Afghan women's enjoyment of their right to work is the restriction on their right to freedom of movement, as this makes it difficult for them to maintain employment.<sup>255</sup> The violation of the right to work has devastating consequences for household economies and national development. In this regard, the employment restrictions imposed on women place them in a situation of extreme vulnerability, forcing them to depend economically on male relatives.<sup>256</sup>

The exclusion of women from some workplaces, solely based on their sex and gender, not only violates the right to work, but also constitutes economic discrimination, which is incompatible with the principle of equality, non-discrimination and human dignity. Furthermore, the UN Human Rights Committee has held that denying access to means of subsistence, including employment, may constitute a violation of the right to life, recognized in Article 6 of the ICCPR, when such measures lead to economic dependence and degrading living conditions.<sup>257</sup> The widespread ban on female employment imposed by the *de facto* authorities constitutes a direct and systematic violation of the right to work recognized in international human rights instruments.

#### **5.2.10. Freedom from arbitrary detention, torture and ill-treatment**

Everyone has the right to personal liberty and security. Deprivation of liberty must not be arbitrary and must be carried out with respect to the rule of law. Detentions or arrests that serve as punishment for the lawful exercise of rights guaranteed under international human rights instruments, including the ICCPR, are considered arbitrary. These rights include freedom of expression, assembly, association, religion and the right to privacy.<sup>258</sup> Additionally, arrest or detention on discriminatory grounds, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, are also arbitrary.

Article 9 of the UDHR notes, "No one shall be subjected to arbitrary arrest, detention or exile." The ICCPR in Article 9 establishes that every person has the right to liberty and security, shall not "be subjected to arbitrary arrest or detention" and shall not "be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law." The ICCPR in Article 9 (2) states that "anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him". Article 10 (1) of the ICCPR states that "all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

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<sup>253</sup> "Taliban Reaffirms Ban on Women Working for NGOs," CTR. INFO. RESILIENCE (16 January 2025), <https://www.infores.org/afghan-witness/reports/taliban-reaffirms-ban-on-women-working-for-ngos>.

<sup>254</sup> Report of the Special Rapporteur on the Situation of Human Rights in Afghanistan, Document A/78/338, para. 13.

<sup>255</sup> *Ibid*, para. 18.

<sup>256</sup> Witness testimony 14.

<sup>257</sup> General Comment No. 36 on Article 6: Right to Life, U.N. Doc. CCPR/C/GC/36, 3 September 2019, <https://docs.un.org/en/CCPR/C/GC/36>.

<sup>258</sup> General Comment No. 35, Article 9 (Liberty and security of person), UN Doc. CCPR/C/GC/35, 16 December 2014, para. 17.

The prohibition of torture or cruel, inhuman or degrading treatment or punishment is recognized in numerous international human rights instruments. Article 5 of the UDHR and Article 7 of the ICCPR establish that “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” The ICCPR protects both the dignity and the physical and mental integrity of every person and Article 10 provides that people deprived of liberty must be treated with humanity and with respect for the inherent dignity of the human person. The prohibition of torture and ill-treatment not only refers to acts that cause physical pain but also to acts that cause mental suffering to the victim.<sup>259</sup> This prohibition also applies to corporal punishment, including excessive chastisement ordered as punishment for a crime or as an educative or disciplinary measure. Under Articles 1, 2 and 16 the CAT defines torture and prohibits it under any circumstances. The treaty aims to prevent and punish acts of ill-treatment and torture, and it obliges State Parties to codify the crime of torture, investigate and prosecute the perpetrators and provide redress for the victims. The prohibition of torture is a peremptory norm (*jus cogens*) of international law which means that it is a norm that enjoys a higher rank in the international hierarchy than treaty law or customary law. The prohibition of torture or to cruel, inhuman or degrading treatment or punishment cannot be derogated under any circumstances according to Article 4 of the ICCPR.

The strict enforcement of discriminatory social norms against women and girls by the *de facto* authorities has increased the risk of gender-based violence, in public and private spaces. This includes violence against activists who are demanding their fundamental rights in peaceful demonstrations, arbitrarily arresting them and inflicting torture and ill-treatment, including the use of excessive force, and intimidation.<sup>260</sup> Women protesters have reported being victims of gender-based violence, including sexual violence, which often amounts to torture, at the hands of Taliban officers seeking information about the organizers of the demonstrations.<sup>261</sup> Many activists, after being arrested and arbitrarily detained by the Taliban, were later released through forced confessions and under the promise that they would cease their activism and remain silent about the treatment they received. Conditions in detention are reported to be poor, with overcrowding and inadequate access to medical care and menstrual hygiene. Former women detainees face social stigma and rejection by their families and report continued harassment and intimidation, including by the Taliban.<sup>262</sup>

The Taliban have detained women without specific charges, denying them access to legal counsel or family and carrying out physical and psychological torture.<sup>263</sup> The release of Afghan women and girls often depends on male family members and community elders, and they have to provide assurances that they will comply with the prescribed decrees and edicts in the future. Women and girls are also forcibly taken to police vehicles and accused of wearing an “inappropriate *hijab*,” and held incommunicado.<sup>264</sup> The detention and torture of women activists have been carried out by the Taliban as a form of punishment of women for alleged

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<sup>259</sup> General comment No. 20: Article 7, Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment, 1992, para. 5.

<sup>260</sup> Report of the Special Rapporteur on the Situation of Human Rights in Afghanistan and the Working Group on Discrimination Against Women and Girls, UN Doc. A/HRC/53/21, 15 June 2023, para. 29.

<sup>261</sup> *Ibid*, para. 30.

<sup>262</sup> Special Rapporteur on the Situation of Human Rights in Afghanistan, UN Doc. A/80/432, 8 October 2025, para. 21.

<sup>263</sup> Indictment, para. 307.

<sup>264</sup> United Nations Press Release, “Afghanistan: Taliban’s arbitrary arrests and detention of women and girls over dress code must end immediately, UN experts say,” 2024, <https://www.ohchr.org/en/press-releases/2024/02/afghanistan-talibans-arbitrary-arrests-and-detention-women-and-girls-over>.

moral crimes or for their participation in demonstrations against the Taliban's restrictions.<sup>265</sup> Women and girls are also subjected to forced marriages to Taliban officials as punishment for their offenses.<sup>266</sup>

The arbitrary detentions of women further restrict the already severely limited freedoms of expression and movement of women and girls, and violates their right of personal liberty and security, in breach of Afghanistan's international obligations. The physical and psychological torture including beatings, forced confessions, threats to harm family members, and incommunicado conditions described by women survivors amount to torture or to cruel, inhuman or degrading treatment or punishment. The systematic repression carried out by the *de facto* authorities of women who are arbitrarily detained and subjected to torture or cruel, inhuman or degrading treatment or punishment for protesting, for demanding their fundamental rights and for wearing an "inappropriate" *hijab*, constitutes a clear violation of the right to personal liberty and security - and the right not to be subjected to torture or to cruel, inhumane or degrading treatment or punishment.

### 5.2.11. Rights of the child

The CRC establishes a comprehensive legal framework that protects the rights of the child in the civil, political, economic, social and cultural spheres. It obliges States Parties to take positive measures to ensure their protection, participation and development in conditions of equality, non-discrimination and human dignity. The CRC recognizes all children under the age of 18, as full rights holders. Article 2 establishes the principle of non-discrimination, obliging States Parties to guarantee the exercise of all the rights recognized in the Convention without distinction and girls must enjoy the same rights and opportunities as boys in all areas of social, educational and family life. Article 3 introduces the principle of the best interests of the child, which must be respected in all public and private decisions and actions. Article 12 recognizes the right of every child to freely express their opinion in all matters affecting them and the right to be heard. Articles 28 and 29 recognize the right to education.

The systemic discrimination against girls includes prohibiting access to education after a certain age, requiring them to attend school with their faces covered, denying girls the right to express themselves freely in public, and denying them the right to express their views on decisions that fundamentally impact their futures. The increase in child and forced marriages deprives girls of their childhood, freedom, and bodily autonomy and is harmful to their health and is a form of violence against the girl child.

Through the discriminatory policies it has implemented, the Taliban government is responsible for violating girls' right to non-discrimination based on sex and gender, including their right to education, their right to freedom of expression, and their right to bodily integrity, among others. These actions by the *de facto* authorities are not only a grave violation of Afghanistan's obligations under the CRC, but also a direct assault on the very notion of childhood and human dignity, as it systematically removes girls from all spheres of society, erasing their presence, voices, and futures.

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<sup>265</sup> International Commission of Jurists, Amnesty International, *The Taliban's War on Women* (2023), <https://www.icj.org/wp-content/uploads/2023/05/The-Talibans-war-on-women-the-crime-against-humanity-of-gender-persecution-in-Afghanistan-FINAL-VERSION.pdf>.

<sup>266</sup> Le Monde, "Since 2021, the war that has been waged against women is gradually being won by the Taliban," (2025), [https://www.lemonde.fr/en/opinion/article/2025/08/16/since-2021-the-war-that-has-been-waged-against-women-is-gradually-being-won-by-the-taliban\\_6744415\\_23.html](https://www.lemonde.fr/en/opinion/article/2025/08/16/since-2021-the-war-that-has-been-waged-against-women-is-gradually-being-won-by-the-taliban_6744415_23.html).



### 5.2.12. Intersectional discrimination against women and girls with disabilities

Intersectional discrimination occurs when a person suffers multiple forms of discrimination simultaneously, for example, on the grounds of sex, age, disability, ethnicity or religion which reinforce and exacerbate each other, generating specific and more serious forms of exclusion, marginalization and vulnerability. Women and girls suffer systematic discrimination in multiple areas of their lives and are deprived of their fundamental rights solely based on sex and gender. This situation is exacerbated in the case of women and girls with disabilities, who face intersectional discrimination, as they are subject to multiple factors of exclusion including sex, gender and disability. The UDHR in Article 1 and 2 recognizes the equality of all people in dignity and rights and states that no one may be discriminated against based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The ICCPR reinforces this principle in Articles 2 and 26, which oblige States to guarantee equality before the law and effective protection against all forms of discrimination, including based on sex or any other status. The CEDAW obliges States to eliminate all forms of discrimination against women and to guarantee substantive equality in all areas of public and private life, with Article 3 imposing the duty to take all appropriate measures, including legislative measures, to ensure the full development and advancement of women, which would be applicable to women and girls with disabilities.

The CRPD recognizes that people with disabilities are entitled to multiple fundamental rights to ensure their equal participation in all aspects of life. Among these are the right to access the physical environment on an equal basis with others (Article 9); the right to live independently and be included in the community (Article 19); the right to education (Article 24); and the right to health (Article 25). The restrictions, conditions and discrimination experienced by women and girls with disabilities, constitute a systematic violation of international human rights law, in particular the obligations arising from the CRPD. The *de facto* authorities have failed to take specific measures to guarantee women and girls with disabilities the full and equal enjoyment of their fundamental rights. The ban imposed since 2021 on students with disabilities attending regular schools, coupled with the lack of alternatives, violates Article 24 of the CRPD, which guarantees the right to inclusive, equitable and accessible education at all levels. This exclusion prevents women and girls with disabilities from participating in academic and professional life, perpetuating their social isolation. Furthermore, restrictions on freedom of movement resulting from both the rules on a *Mahram* and the physical limitations of the environment, including the lack of accessibility, unsafe urban conditions, and the inability to move around in the imposed clothing, violate Articles 9 and 19 of the CRPD, relating to access to the physical environment and the right to live independently and be included in the community. Furthermore, the ban on most forms of employment has had a devastating impact on women with disabilities, eliminating essential sources of services and income. This measure also violates Article 19 of the CRPD by depriving women of independent livelihoods and community support networks.

Afghan women and girls with disabilities are subject to aggravated discrimination in public and private spaces. In the private sphere, they are more likely to be considered a burden on their families, considered unfit for marriage, and may be subjected to violence and rejection by families, giving rise to social and economic consequences. The restrictions imposed on education, health, work and mobility issues contribute to difficulties in accessing services and seeking legal protection against discrimination. The ban on women working in NGOs has drastically reduced the ability of women-led organizations providing rehabilitation and support services to people with disabilities, and to provide necessary services, as well as the ability to

earn an income.<sup>267</sup> The restrictions in women's clothing have adverse impacts on women with physical disabilities, including for women who utilise wheelchairs. Therefore, women with disabilities are forced to stay in their houses, unable to go outside, which prevents them from living in society. In addition, the conditions of the streets in some areas in Kabul, makes it almost impossible for a person in a wheelchair to move freely, because of the uneven surfaces, mud and open drains.<sup>268</sup>

Taken together, the policies and practices of the Taliban constitute a regime of intersectional discrimination, in which sex, gender and disability factors combine to create deeper exclusion in violation of the principles of equality, non-discrimination and dignity. These practices establish a structural system of exclusion, invisibility and forced dependency, in clear violation of the fundamental principles of dignity, personal autonomy and substantive equality.

## **Conclusion**

Under international human rights law, the Taliban have intentionally, and severely deprived women and girls of fundamental rights, including the right to life, the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment, the right to personal liberty and security, the right not to be subjected to arbitrary detention, the right to education, the right to work, the right to health, freedom of expression, freedom of movement, freedom of association, the right to bodily autonomy, and the civil and political rights of participation. These violations of fundamental human rights of women and girls are perpetrated by the *de facto* authorities through numerous decrees, bans and policies based on sex and gender discrimination and constitute a breach of human rights treaties to which Afghanistan is a State Party. The denial of human rights are not isolated incidents but form part of a State-organized structure of institutionalised discrimination and oppression that seeks to erase women as active participants in society. Consequently, the severe deprivation of women's and girl's fundamental human rights will have an intergenerational impact, directly affect Afghan society, but also have implications globally for other societies where the violation of the rights of women and girls is normalised – with impunity as the norm.

## **5.3. Current approaches to justice and accountability regarding State obligations**

### **5.3.1. Introduction**

This legal sub-section examines some of the approaches to justice and accountability that exists in the context of the Afghanistan situation. The importance of State responsibility and the obligations of States, domestically and internationally, provides additional tools in the quest for justice and accountability in light of the widespread and institutionalised violations of human rights generally, and in particular the violations being experienced by women in Afghanistan. The applicability of principles of *erga omnes*, *erga omnes partes* and *jus cogens* govern the framing of State obligations. *Erga omnes* means “towards everyone” and it refers to obligations that a State owes to the international community as a whole. *Erga omnes partes* refers to obligations that a State Party to a treaty owes to all other State Parties to that treaty.<sup>269</sup>

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<sup>267</sup> Witness testimony 15.

<sup>268</sup> Witness testimony 6.

<sup>269</sup> Ilias Bantekas and Lutz Oette *International Human Rights Law and Practice*, 4<sup>th</sup> Edition (Cambridge University Press, 2024), 72-3.

*Jus cogens* refers to norms that are legally applicable to all States, and includes the prohibition on torture, genocide, acts of aggression, protection from slavery and racial discrimination, and the right to self-determination, among others. No derogation is permitted as *jus cogens* norms are regarded as obligations inherently owed to the international community as a whole.<sup>270</sup> Human rights strategic engagement, whether through advocacy, research or litigation, demands a shift away from accepting symbolic change and demanding transformative change which has emancipatory outcomes. This requires utilising the abovementioned principles to articulate State responsibility of the international community as a whole, including States Parties to relevant human rights treaties, due to the violations being perpetuated by the *de facto* authorities in Afghanistan.

In the context of Afghanistan, this section includes information about the critical work emanating from civil society broadly which serves to inform dialogues on justice and accountability. International criminal law developments arising from individual criminal investigations by the International Criminal Court and also through domestic prosecutions utilising the principle of Universal Jurisdiction is highlighted. The section also examines the possibility of a contentious case being filed in the International Court of Justice regarding the numerous violations of State obligations, including those linked to the Convention on the Elimination of all Forms of Discrimination against Women. The work of United Nations mechanisms and agencies regarding the human rights situation in Afghanistan, as well as the most recent Human Rights Council resolution on creating a new independent investigative mechanism, provides further information on the work of the UN system. This sub-section concludes by briefly addressing the demands, especially by civil society organisations, to address the normative gap in international law, on the issue of “gender apartheid”, and the gaps and/or limitations of existing frameworks to comprehensively address all manifestations of gendered harms, in the quest for justice and accountability.

### **5.3.2. Contributions of civil society**

The research, advocacy, activism and publications of the Requesting Organisations<sup>271</sup> and other civil society individuals and organizations have informed the Panel of Judges understanding and knowledge of the situation of women and girls in Afghanistan. The evidence (testimonies) heard during the Tribunal session and the information contained in the Indictment produced by the Prosecutors, further reinforced information on the factual situation and also the violations under International Criminal Law and International Human Rights Law. Among others, many of the publications serve as educative tools for civil society and others, including to demystify the functioning of international laws and institutions; providing information on the legal and judicial system in Taliban-controlled Afghanistan, including on the Law of the Promotion of Virtue and the Prevention of Vice; sharing survey results on the mental health crisis among Afghan women and girls; and, highlighting violations of treaty obligation by the *de facto* authorities.<sup>272</sup> The Panel of Judges benefited from the numerous publications during their deliberations and reflections when preparing the Judgement. In the quest for justice and

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<sup>270</sup> International Law Commission, *Report on Peremptory Norms of General International Law*, U.N. Doc. A/74/10 (2019).

<sup>271</sup> The Requesting Organisations are Rawadari, the Afghanistan Human Rights and Democracy Organisations (AHRDO), the Organisation for Policy Research and Development Studies (DROPS) and Human Rights Defender Plus.

<sup>272</sup> Some reports include Rawadari, *Avenues for Justice for Afghan Victims of Human Rights Violations*, May 2024; DROPS, *The Mental Health Crisis among Afghan Women and Girls*, December 2023; *Women’s Access to Justice under Taliban Governance*, in Women’s Peace Brief – April and June 2025.

accountability, the advocacy, research and publications of civil society continue to inform and shape the work of national level activists, and also international institutions, mechanisms and agencies. The need for continuing efforts and substantial financial, legal and political support for such work is crucial.

### 5.3.3. The International Criminal Court

The ICC has the focus of addressing individual criminal responsibility for alleged violations in response to the deliberate, systematic, and institutionalized campaign of gender-based persecution carried out by the Taliban *de facto* authorities against women and girls in Afghanistan since 15 August 2021.<sup>273</sup> The Office of the Prosecutor (OTP) of the ICC has faced criticisms regarding its work on gender justice, including on sex and gender-based discrimination and violence broadly, despite the codification of persecution as a crime against humanity in the Rome Statute of the ICC.<sup>274</sup> The work of civil society stands as testimony to rendering visible the gendered harms, and the violations of legally binding norms, as experienced by women, girls, non-binary persons and other diverse constituencies of persons. Such initiatives have also led to the questioning of the limitations of certain provisions of the Rome Statute, including the inability of the gender persecution provision to prosecute the widespread, systematic, systemic and institutionalized nature of harms being experienced by women. This has led to the OTP rethinking gender-justice accountability issues. One relevant development has been the adoption of policies, including one on the crime of gender persecution in 2022<sup>275</sup> and an updated policy on gender-based crimes in 2023, to help shape its work going forward.<sup>276</sup> This positive development bodes well for the investigation and prosecution of cases emanating from the Afghanistan situation.

With regard to individual criminal responsibility, Afghanistan acceded to the Rome Statute in 2003 and the situation in Afghanistan has been under the examination of the OTP since 2017, with some challenges within the court system regarding progress towards investigations and prosecutions. In November 2024, six countries referred the Afghan situation to the OTP and the response received was that an active investigation was continuing.<sup>277</sup> In January 2025, the OTP requested two warrants of arrest which were granted by ICC Pre-Trial chamber II in July 2025, against two senior Taliban leaders, including the supreme leader of the Taliban and the chief justice, for Crimes Against Humanity.<sup>278</sup> The crime alleged is Persecution as a Crime Against Humanity affecting women, girls, persons whom the Taliban perceived as not conforming with their ideological expectations of gender identity and expression, and persons whom the Taliban perceived as allies of girls and women, contrary to Article 7(1)h of the Rome Statute.<sup>279</sup>

The Prosecutor argued that the arrests are necessary to ensure that these individuals appear at trial, and also to prevent the further commission of crimes.<sup>280</sup> Paragraph 14 refers to there being

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<sup>273</sup> ICC Pre-Trial Chamber II, *Situation in the Islamic Republic of Afghanistan Prosecution's application under article 58 for a warrant of arrest against Abdul Hakim HAQQANI and Haibatullah AKHUNDZADA*, No.: ICC-02/17, 23 January 2025.

<sup>274</sup> Rome Statute of the International Criminal Court, 2187 UNTS 90, UN Doc. A/CONF 183/9.

<sup>275</sup> ICC – The Office of the Prosecutor, *Policy on the Crime of Gender Persecution*, 7 December 2022.

<sup>276</sup> ICC – The Office of the Prosecutor, *Policy on Gender-Based Crimes*, December 2023.

<sup>277</sup> The countries include Chile, Costa Rica, Spain, France, Mexico and Luxembourg.

<sup>278</sup> Supra note 269 ICC Pre-Trial Chamber II.

<sup>279</sup> *Ibid*, ICC Pre-Trial Chamber 16.

<sup>280</sup> *Ibid*, ICC Pre-Trial Chamber II, para 1 and 70.

reasonable grounds to believe that the Taliban carried out numerous acts of persecution on grounds of gender, connected with Article 7(1) acts, and that this conduct took place as part of a widespread and systematic attack on the civilian population of Afghanistan, pursuant to a State or organisational policy, through the use of decrees and edicts to institutionalise systematic forms of harms and the imposition of rights violations. The acts that are connected to persecution of women include murder, imprisonment, torture, rape and other forms of sexual violence, enforced disappearances, and other inhumane acts.<sup>281</sup> Both warrants of arrest note that no domestic proceedings are taking place or are inactive. Also, that currently there is no indication that any other State with jurisdiction is investigating these individuals for the conduct described in the application (i.e. no pending prosecutions under the Universal Jurisdiction principle).<sup>282</sup> The Prosecutor's public announcement in September 2021 of a revised focus of the investigation, and the deprioritisation of other crimes and thus potential perpetrators, raises concerns about justice and accountability for all crimes perpetrated by the *de facto* authorities – including the community of harms experienced by women due to individual crimes perpetrated against family members.

Considering the failure of some UN Member States regarding the upholding of their obligations in terms of the Rome Statute, the President of the ICC recently urged for global cooperation to enforce and execute arrest warrants that are issued by the Court. She notified the UN General Assembly that 33 publicly known arrest warrants remain unexecuted.<sup>283</sup>

### 5.3.4. Universal Jurisdiction

Universal Jurisdiction is a legal principle which empowers national courts to prosecute cases involving serious violations of international law, which affects the international community as a whole, regardless of where these crimes were committed or the nationality of the perpetrator. The principle must be incorporated into the national legal framework of a country, thereby granting national courts the authority to investigate and prosecute international crimes committed on foreign territory and by foreign nationals. The foundation of the principle rests on the shared interests of all nations to apprehend alleged perpetrators, including for crimes against humanity broadly. As an extraterritorial accountability mechanism, the principle was enshrined in the 1949 Geneva Convention.<sup>284</sup> In terms of Article 63 of the Statute of the International Court of Justice any country can legally intervene to stop crimes against humanity.<sup>285</sup>

There is substantial literature on the topic of Universal Jurisdiction and how it has been utilised in different contexts and what the outcome of litigation has been.<sup>286</sup> For example, an article in The New Yorker magazine cites statistics and views from different organisations, including a 2023 report by Trial International highlighting that Universal Jurisdiction processes had occurred in eight countries with 36 new cases opened that year, and concludes that such processes are a powerful tool to fight international law crimes. Citing the research of the Clooney Foundation for Justice which reflects that 148 countries have domestic legislation that

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<sup>281</sup> *Ibid*, ICC Pre-Trial Chamber II, para 77.

<sup>282</sup> *Ibid*, ICC Pre-Trial Chamber II, para 164 and 165.

<sup>283</sup> "ICC President urges global cooperation to enforce arrest warrants," *Middle east Monitor*, 13 November 2025, <https://www.middleeastmonitor.com>.

<sup>284</sup> 1949 Geneva Convention 1125 UNTS 3.

<sup>285</sup> Statute of the International Court of Justice, UNTS XVI art 63.

<sup>286</sup> Lachezar Yanev and Harmen Van der Wilt (eds.), *Universal Jurisdiction over core international crimes: Law and Practice* (Elgar International Law and Practice series, EE Elgar online, 2025).

allows for cases to be brought using the Universal Jurisdiction principle. Further citing the European Centre for Constitutional and Human Rights which has noted that Universal Jurisdiction cases are crucial for establishing a historical account of atrocities and capturing information that may otherwise go undocumented – thereby creating a legal record.<sup>287</sup> Some concerns exist about legal hurdles and defences used in Universal Jurisdiction cases, including the doctrine of immunity, the challenges of gathering evidence, the political will by States to prosecute, and diplomatic and trade priorities which can take precedence over prosecutions, among others.

In the case of Afghanistan, the Universal Jurisdiction principle can be used to investigate and prosecute individuals for crimes that fall within international law frameworks, including crimes against humanity of persecution, particularly gender persecution. As noted by the Prosecutor of the ICC, in the application for warrants of arrest for two Taliban leaders, there is no pending legal action against these two leaders, or any other Taliban leaders, since their return to power in 2021, either domestically or by Member States using the principle.<sup>288</sup>

The Universal Jurisdiction principle has not been used to investigate and prosecute individuals for the crime of gendered harms broadly, including gender persecution as a crime against humanity. However, in a recent groundbreaking case in Germany, using the Universal Jurisdiction principle, a Syrian national who worked as a civilian doctor was found guilty of among others, crimes against humanity of killing and torture in conjunction with attempted enforced sterilization, and the war crimes of murder and torture. As noted in a blog, the addressing of reproductive justice was a first in a Universal Jurisdiction case and importantly it “disentangled the often conflated concepts of sexual violence and reproductive violence”.<sup>289</sup> In the absence of cases related to gendered harms and violations being investigated and prosecuted, using the Universal Jurisdiction principle, one can hope that future attention will focus on the Afghanistan situation and the systematic, systemic and institutionalised gender persecution aspects in particular.

### 5.3.5. International Court of Justice

In terms of Article 36(2)(a)(b) of the Statute of the International Court of Justice (ICJ)<sup>290</sup> it has wide and general subject matter jurisdiction in respect of international human rights enforcement. It can adjudicate disputes concerning any question of international law and the existence of any fact which, if established, would constitute a breach of an international obligation. Some of the contentious cases that have been considered include unlawful arrest, detention and expulsion, consular rights, failure to extradite and prosecute, racial discrimination and mass violations of human rights during conflicts.<sup>291</sup>

In respect of the Afghanistan situation, the ICJ may possibly be used for the first time ever to bring a case relating to gender discrimination issues, particularly the violation of the obligations emanating from the CEDAW.<sup>292</sup> Article 29 of CEDAW is the compromissory clause

<sup>287</sup> Annie Hylton, “Could other countries prosecute soldiers in Gaza,” *The New Yorker*, 11 January 2025, <https://www.newyorker.com>.

<sup>288</sup> Supra note 273 ICC Pre-Trial Chamber II.

<sup>289</sup> Susann Aboueldahab, “At the nexus of reproductive crimes and torture – insights from the Alaa M trial on gendered and age-specific abuses in Syrian Detention Facilities,” 7 August 2025, <https://voelkerrechtsblog.org/>.

<sup>290</sup> Statute of the International Court of Justice UNTS XVI art 63.

<sup>291</sup> Carla Ferstman, *International organisations and the fight for accountability: the remedies and reparations gap* (Oxford University Press 2017), 158.

<sup>292</sup> Convention on the Elimination of all Forms of Discrimination against Women, 1249 UNTS 13.

(jurisdictional clause) which allows one party to refer a dispute over the interpretation or application of the treaty to the ICJ. State Parties to CEDAW with standing can invoke the responsibility of Afghanistan for the breach, regardless of whether their own nationals have suffered direct harm within Afghanistan. The lack of adherence to CEDAW obligations are considered obligations owed by the State of Afghanistan to all other State Parties to CEDAW (obligations *erga omnes partes*). Article 29 requires State Parties to any dispute not settled by negotiation within six months, to resort to arbitration at the request of one of them. If within six months from the date of the request for arbitration, the parties are unable to agree on the organisation of the arbitration, they may refer the dispute to the ICJ, in an attempt to pursue State accountability. Once the case is accepted by the ICJ, the court can order provisional measures to prevent further harm while proceedings are ongoing.<sup>293</sup>

In September 2024, in the margins of the UN General Assembly, a formal request was made by Australia, Canada, Germany and the Netherlands addressed to the Taliban *de facto* authorities to comply with Afghanistan's CEDAW obligations. This action was soon supported by 22 other States. The allegations broadly included egregious human rights breaches against women and girls by the Taliban since 2021. The German Federal Foreign Office in a public statement noted that "We have repeatedly and urgently requested the *de facto* Taliban authorities to meet all of Afghanistan's obligations under international law and to lift all legal restrictions on women and girls (...). Unfortunately, the situation has not improved, on the contrary it is growing even worse, in a most alarming way."<sup>294</sup>

A joint civil society statement, by members of Afghan and international civil society, commended the initiative taken by the four countries and welcomed the convening of virtual and in-person consultations with the Afghan human rights communities and called for continuing, inclusive and meaningful discussion. They acknowledged the legal initiative as a significant step towards holding Afghanistan accountable for its obligations under international law, and they encouraged the States undertaking this initiative to seek to centre Afghani legal professionals where possible, including in decision-making, litigation strategies, and where possible, for them to lead oral arguments and litigation. This is an important message which reminds States and the international community that meaningful and safe consultations, inclusive participation, transparency and building broad-based support for the processes are necessary in the quest for justice and accountability.<sup>295</sup>

There is no publicly available information regarding the negotiation and arbitration measures that have been undertaken by the four States, despite the passage of 14 months since the intervention was announced. In addition, no referral has been made to the ICJ.

Concerns have been raised about whether the intention to initiate procedures before the ICJ against Afghanistan implies legal recognition of the Taliban as the government of Afghanistan. The participating States assert that they are not politically or legally recognising the Taliban as the government of Afghanistan. They consider the Taliban as the *de facto* authority, with the

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<sup>293</sup> Hannah Sweeney, 'Gender Equality and State Responsibility: Enforcing CEDAW through the ICJ', *Harvard Human Rights Journal*, 38 (2025): 287-323. See also Alice Johnson, "Afghanistan: Potential ICJ case, a step towards justice for Afghan women," 24 October 2024, <https://www.ibanet.org/afghanistan/icj>.

<sup>294</sup> German Federal Foreign Office, "Initiative on accountability for Afghanistan's violation of the UN CEDAW," statement, 13 January 2025. <https://www.auswaertiges-amt.de/en/aussenpolitik/regionaleschwerpunkte/asien/cedaw-2694096>.

<sup>295</sup> *Joint civil society statement on the legal initiative to hold Afghanistan accountable for violations of the CEDAW*, 4 March 2025, <https://hrw.org/news>.

State of Afghanistan remaining the perpetual legal entity, despite the change in governance (principle of state continuity).

### 5.3.6. United Nations mechanisms and agencies

The substantial and substantive work of UN mechanisms and agencies provides a comprehensive documentation database that can be utilised in dialogues within the Security Council, The General Assembly, The Human Rights Council, the Secretary-General's office and the office of the High Commissioner for Human Rights. The logical conclusion is that member States have access to credible information on the widespread and pervasive human rights violations occurring in Afghanistan, thereby necessitating responses regarding the violation of obligations owed to the international community as a whole. Unfortunately, some of the testimonies presented during the hearings reflect concerns about the slow or non-existent actions by Member States regarding justice, accountability and transformative change, for the women of Afghanistan.

*The Secretary-General's Special Representative for Afghanistan* reported in September 2025 to the Security Council that while the country has seen a relative decline in armed conflict since the Taliban takeover in 2021, the humanitarian, economic and human rights situation has deteriorated significantly. She further noted that it is an open question of whether there is sufficient pragmatism among the *de facto* authorities to manage the perfect storm of crises, or whether decisions driven by ideology will prevent sustainable solutions. She acknowledged that central to the crisis are the sweeping restrictions on Afghan women and girls, and that international funding cuts by nearly 50 percent this year are partly due to the anti-women policies of the Taliban.<sup>296</sup>

*The United Nations Assistance Mission in Afghanistan* (UNAMA) provides regular updates to the Secretary-General on broader concerns, including on the human rights situation, with a specific focus on the rights of women and girls. In the August 2025 report, UNAMA confirmed that its Afghan female staff working in the sector have received death threats, and the report highlighted other issues affecting women's personal freedoms and safety, including the arrests of women in Herat by inspectors from the Vice and Virtue Ministry for not wearing the *chador* (a full-body cloak that covers the head and body).<sup>297</sup> The Taliban has denied the findings of the report and stated that their cadres were not responsible for the threats. A spokesperson from the Interior Ministry noted that the Ministry has an independent department with a strategic plan for protection and security, and that there is no threat to women in any areas and that no one can threaten them.<sup>298</sup>

*UN Women* is an operational agency within the UN system with a focus on the rights of women globally. In its Gender Alert released in August 2025, it acknowledged the scale and severity of the women's rights crisis in Afghanistan that remains a protracted humanitarian crisis in which systemic and institutionalised gendered restrictions are exacerbating existing needs. The Gender Alert compiles an overview of ten key issues which underpin the most severe women's rights crisis in the world affecting 21 million women living in Afghanistan and highlights how these issues are contributing to the normalization of restrictions since the Taliban takeover. Despite identifying issues which negatively impact the rights of women, one insight notes that

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<sup>296</sup> Vibhu Mishra, "Afghanistan faces 'perfect storm' of crises," *UN warns' Peace and Security News*, 17 September 2025, <https://news.un.org/en/story/2025/09/1165870>.

<sup>297</sup> United Nations Assistance Mission in Afghanistan, *Update on the human rights situation in Afghanistan: April-June 2025*.

<sup>298</sup> WUNRN 'Afghanistan,' "UN Report says its female Afghan staff have received death threats," 10 August 2025 [www.wunrn.com](http://www.wunrn.com).



hope endures amidst a women's rights crisis and women still envision a future where change and equality is possible. Further, that Afghan women remain the country's foremost agents of change and that the persistence of resistance is visible in everyday acts, including women serving as frontline humanitarian workers, as teachers and medical professionals, and entrepreneurs. Women also document violations of rights, build solidarity networks and advocate for peace in their communities. Such findings underscore that for Afghan women "hope is a political response and a lifeline, and this should not be met with silence [and complicity] by the international community."<sup>299</sup>

*The committee monitoring the Convention on the Elimination of all Forms of Discrimination against Women* has again raised its concern during the 4<sup>th</sup> periodic report session presentation in June 2025, regarding the serious violations of women's rights in Afghanistan, which nullify its commitment to protect human rights, particularly the rights of women and girls under the Convention. The ratification of CEDAW without any reservations, occurred in 2003, and the institutionalised regressive laws, policies and edicts since 2021 reflect a negation of women's enjoyment of civil, political, economic, social and cultural rights. The Committee noted that the practices reflect a system that is tantamount to a form of apartheid based on gender segregation. The participation of former Afghan officials and activists during the reporting session provided a forum for robust dialogues on the situation pre-Taliban and also the current situation. At the presentation of the summary record of the Committee in July 2025, the Afghan delegate to the UN urged, among others, that the international community must take coordinated and principled action to address the situation in Afghanistan, rather than simply condemning the situation. In conclusion, the Chair of the Committee noted that the Committee has a limited authority and mandate, including the conveying of the delegation's message to persons and agencies who can take action to protect the rights of women. She noted that it would be for other bodies such as the Human Rights Council and the General Assembly to take action to tackle the problems.<sup>300</sup>

In his reports, the *Special Rapporteur on the Situation of Human Rights in Afghanistan* continues to build on the joint report produced in 2023 with the Working Group on Discrimination against Women. The joint report determined that the pattern of large scale systematic violations of women's and girls' fundamental rights, abetted by the Taliban's discriminatory and misogynist policies and harsh enforcement methods, constitute gender persecution and an institutionalised framework of gender apartheid.<sup>301</sup> In the May 2024 comprehensive report to the Human Rights Council, the Special Rapporteur provides an intersectional analysis of the phenomenon of an institutionalised system of discrimination, segregation, subjugation, disrespect for human dignity and exclusion of Afghan women and girls from the public, political, economic, social and cultural life.<sup>302</sup> The report focuses on the way in which the denial of five fundamental rights - i.e. rights to education, employment, freedom of movement, health and access to justice – establish and enforce an architecture of oppression.<sup>303</sup> The legal analysis expands on gross human rights abuses; crimes against humanity (including gender persecution, murder, enforced disappearances, torture, rape and other acts of sexual violence, enslavement and other inhumane acts); gender apartheid; and trafficking in persons. The 2025 report of the Special Rapporteur to the Human Rights Council

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<sup>299</sup> UN Women Gender Alert, "Four years of Taliban Rule: Afghan women resist as restrictions tighten," August 2025.

<sup>300</sup> Committee on the Elimination of Discrimination against Women, Summary record of the 2161<sup>st</sup> meeting, *Fourth periodic report of Afghanistan* (continued). CEDAW/C/SR.2161 including para 30 on Chair's comments.

<sup>301</sup> Report of the Special Rapporteur on the Situation of Human Rights in Afghanistan, A/HRC/53/21, para 2.

<sup>302</sup> *Ibid.*, A/HRC/56/25, para 4.

<sup>303</sup> *Ibid.*, A/HRC/56/25, para 20.

provides a general overview of the situation of human rights with a specific focus on women and girls, civic spaces and minorities. Importantly, the report is supplemented by a separate study on the Law on the Promotion of Virtue and the Prevention of Vice.<sup>304</sup>

In the June 2025 report to the Human Rights Council, the *Special Rapporteur on Violence against Women and Girls*, on emerging forms of sex-based violence, identifies the practice of femi-genocide and includes information on the Taliban's treatment of Afghan women and girls. The report notes that the system is one of the most oppressive in the world due to its systematic, widespread and draconian erasure of the fundamental rights of women. She calls for recognition of the Taliban's current treatment of females as constituting genocidal acts against women in accordance with Article 2(b-d) of the Genocide Convention.<sup>305</sup>

The *Human Rights Council* in September 2025, adopted a resolution mandating the creation of an Independent Investigative Mechanism for Afghanistan<sup>306</sup> as an additional tool to advance justice and accountability for gross and systematic human rights violations occurring in Afghanistan. Prior to this development, in 2024 the Human Rights Council had adopted a resolution affirming the need to give consideration to ensuring the capacity for collecting, preserving and analysing evidence of the most serious international crimes and violations of international law in a way that could be used to facilitate future accountability and transitional justice processes.<sup>307</sup> The General Assembly also adopted a resolution in 2025 emphasising the necessity of investigating allegations of current and past human rights abuses and violations of international humanitarian law, in Afghanistan.<sup>308</sup> The resolution stressed the importance of facilitating the provision of efficient and effective remedies to the victims and survivors, and bringing those responsible to justice in accordance with national and international law. These resolutions reflect the robust advocacy by civil society in their continuous demands for action by the UN standard-setting and monitoring mechanisms in the quest for justice and accountability. In the context of massive funding cuts to the UN human rights mechanisms, concerns have been raised by individuals in civil society about the institutionalisation of the provisions of the current resolution.<sup>309</sup> As noted in a recent analysis of the resolution "Delivery will be shaped by real world constraints including limited access inside Afghanistan, political pushback on cooperation, lean staffing and restricted funding. The two funding sources include initial support from the UN to establish a start-up team and a Trust Fund for voluntary State contributions that will provide long term support."<sup>310</sup>

### **5.3.7. Normativity with legality regarding the issue of gender apartheid**

The experiences of Afghan women are currently shaping the discourse on the issue of gender apartheid. With the emergence of the Taliban regime from 1996 to 2001 in Afghanistan, and their subsequent takeover of the entire country in 2021, experiences of discrimination and persecution of women, resonated with many women, noting the universality of aspects of the struggles against pervasive, systematic and institutionalised gendered harms. The necessity for

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<sup>304</sup> Report of the Special Rapporteur on the Situation of Human Rights in Afghanistan, A/HRC/58/80.

<sup>305</sup> Report of the Special Rapporteur on Violence against Women and Girls, A/HRC/59/47, para 42.

<sup>306</sup> Human Rights Council Resolution, A/HRC/60/L.9.

<sup>307</sup> Human Rights Council Resolution, A/HRC/RES/57/3 OP21.

<sup>308</sup> General Assembly, "Press release," GA/12694, 7 July 2025. See also General Assembly Resolution A/79/L.100.

<sup>309</sup> Private communication with civil society advocates.

<sup>310</sup> Ehaan Qaane, "A new accountability mechanism for Afghanistan: what the IIM-A can (and cannot) do," 5 November 2025, <https://www.afghanistan-analysis.org>.

international and domestic law recognition of the crime of gender apartheid has reignited discussions and campaigns to end gender apartheid.

Since March 2023, the End Gender Apartheid Campaign has united Afghan and Iranian women in advocacy for the recognition of gender apartheid as a specific crime in international and domestic law.<sup>311</sup> In addition, there are many individuals and organisations that are currently involved in research, publications and advocacy on this issue<sup>312</sup>. Analysing the provisions of the Apartheid Convention<sup>313</sup> and the Crimes Against Humanity of Persecution in the Rome Statute<sup>314</sup> has led to further discussions on the inadequacy of existing legal frameworks to address the systematic, systemic and institutionalised nature of gendered oppression, subjugation and discrimination, as well as the specific intent to maintain such a regime - as visible in the experiences of women in some parts of the world, more especially in Afghanistan and Iran currently. The description of such experiences as qualifying in form and content as gender apartheid is an attempt to advocate for the closing of the protection gap in international and domestic law, through the codification of such a crime.

Subsequent to the 2022 report of the International Law Commission, a resolution was adopted by the UN General Assembly allowing for the drafting of a comprehensive treaty on crimes against humanity.<sup>315</sup> This has provided an opportunity for civil society organizations to advocate for the inclusion of gender apartheid as a crime in the proposed treaty. During the General Assembly Sixth Committee meeting held in April 2024, ten Member States expressed their openness to exploring the codification of the crime of gender apartheid in the proposed treaty.<sup>316</sup> The codification of the crime of gender apartheid - whether in the proposed Crimes Against Humanity treaty; or through an amendment to the Rome Statute; or through an optional protocol to the Apartheid Convention; or through a new specific treaty – remains an important advocacy and standard-setting initiative.

## **Conclusion**

This legal sub-section concludes that there exist numerous initiatives with a focus on the situation in Afghanistan broadly and on the human rights of women in particular. Research, publications, advocacy, litigation and other forms of engagement are often linked to the work of civil society, and this must be acknowledged and supported. The need for international institutions and mechanisms, and Member States to move beyond rhetorical statements, to meaningful action, is crucial in the quest for transformative change, justice and accountability. States have duties and responsibilities for respecting, protecting, upholding, and complying with human rights obligations. Domestic implementation of international legal obligations implicates compliance, enforcement and accountability aspects. Consequently, failure at the domestic level, requires action by the international community to uphold responsibilities linked

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<sup>311</sup> See End Gender Apartheid Campaign, <https://endgenderapartheid.today>.

<sup>312</sup> United Nations Economic and Social Council, Report submitted by Mr. Abdelfattah Amor, Special Rapporteur, in accordance with Commission on Human Rights resolution 1998/18, (1999).

<sup>313</sup> International Convention on the Suppression and Punishment of the Crime of Apartheid, General Assembly Resolution 3068 (XXVIII).

<sup>314</sup> Rome Statute of the International Criminal Court, 2187 UNTS 90UN Doc A/CONF 183/9.

<sup>315</sup> UNGA Resolution A/RES/77/249.

<sup>316</sup> Countries include Afghanistan, Austria, Australia, Brazil, Chile, Iceland, Malta, Mexico, The Philippines and the United Kingdom.

to them based on principles of *erga omnes*, *erga omnes partes* and *jus cogens* which govern the framing of State obligations.

## 6. FINDINGS OF RESPONSIBILITY

### 6.1. Introduction

The situation of women of Afghanistan, as presented by the Requesting Organisations, was recognised by the Permanent Peoples' Tribunal Presidency and the General Secretariat as a matter of urgent competence for the Tribunal. The PPT was established as a bottom-up tribune of visibility, legitimacy and recognised justice for those people who requested its competence with documented evidence of violations of their right to live with dignity. By documenting the type and severity of the violations through testimonies and factual/doctrinal data, people are assumed to be the real subjects of the process, with the independent Panel of Judges translating the submitted evidence into a Judgement of the causes and responsibilities.<sup>317</sup> The Tribunal has jurisdiction under the long-established moral and juridical mandate of the PPT, which has served as an independent forum for cases of grave violations of human and peoples' rights where formal legal systems have failed to act. Its authority is grounded in the conscience of humanity and guided by internationally recognized legal norms, including international criminal law, international humanitarian law, customary international law, and the fundamental principles enshrined in international human rights treaties.<sup>318</sup>

The Indictment notes the purpose of this Tribunal as follows: "to restore visibility and dignity to Afghan women and girls, those whose rights have been erased, and whose voices have been silenced; to pursue accountability through people's justice, where formal systems of justice remain absent, slow, inaccessible; or ineffective; and to contribute to the development of jurisprudence on gender persecution and gender apartheid, thereby addressing urgent legal and normative gaps in the global accountability framework."<sup>319</sup> It was asserted that the Tribunal is not an exercise in politics, but is a court of conscience, and an opportunity to establish accountability for violations, as well as a moral reckoning and a platform of conscience and justice.<sup>320</sup> Furthermore, the "Tribunal stands as a necessary venue for truth-telling, recognition and public Judgement (...) it will help to restore voices where silence has been imposed, to recognise the dignity of women and girls whose rights have been erased, and to assert that justice is not the privilege of power, but the shared inheritance of all people."<sup>321</sup>

The opening speech at the hearings, by a representative of the Requesting Organisations, captures the essence of what the expectations are of the Tribunal. To quote "We are here to honour the unwavering courage of the women of Afghanistan, to illustrate once again their relentless pursuit for justice, dignity and equal rights. Today we will bear witness, seek accountability, and challenge tyranny and its normalisation. We are here to raise awareness and demand solidarity from women and men around the world, for we know that the true power lies with the people." Further, "the women of Afghanistan continue to face increasing restrictions, and the *de facto* authorities are being normalised at the regional and international level. The international response to the relentless attacks on Afghan women's rights has been marked by an abject lack of meaningful global action." It is asserted that the coalition

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<sup>317</sup> See Section 1 of this Judgement.

<sup>318</sup> Indictment, para 6.

<sup>319</sup> Indictment, para 3.

<sup>320</sup> Indictment, para 5.

<sup>321</sup> Indictment, para 9.

approached the PPT to “stop the crime of silence. It resists the crime of silence. It makes visible the invisible. It puts victims and survivors centre stage and at the heart of the process (...)”<sup>322</sup>.

Considering the statements asserted above by the different constituencies, the responsibility of the Panel of Judges was to ensure that our work is guided by the Indictment, the testimonies and other documentation that is relevant to the issue of women and girls of Afghanistan. This Judgement is guided by internationally recognized legal norms, including among others, the right to equality, dignity and the prohibition of discrimination on numerous grounds including sex and gender. In the drafting of this Judgement, the Panel of Judges was deeply cognisant of the need to be guided by the imperatives of recognition, representation, voice, agency, justice and accountability. The different sections of this Judgement reflect these imperatives, and we are grateful for the contribution of witnesses, the Prosecutors, the Requesting Organisations, and other sources of information, that have assisted us in our work.

## **6.2. The accused, the charges and responsibility**

### **6.2.1. The accused**

The Indictment provides comprehensive information on the accused, including ten individual persons; the Taliban as a group; and the State of Afghanistan under the Taliban’s *de facto* control. The accused include the following individual Taliban leaders: (i) Hibatullah Akhundzada; (ii) Sirajuddin Haqqani; (iii) Mullah Mohammad Yaqoob; (iv) Abdul Ghani Baradar; (v) Noor Mohammad Saqib; (vi) Sheikh Mohammad Khalid Hanafi; (vii) Sheikh Abdul Hakim Haqqani; (viii) Neda Mohammad Nadeem; (ix) Habibullah Agha; and (x) Abdul Haq Wasiq.<sup>323</sup>

The Prosecutors identified the Taliban and its individual leaders as the principal perpetrators of a pattern of persecution that meets the threshold of the crime against humanity of gender persecution under Article 7(1)(h) of the Rome Statute of the International Criminal Court.<sup>324</sup> It was further elaborated that the Taliban is not merely a *de facto* governing authority, but a perpetrator of a coordinated, State-level campaign of gender persecution, carried out with the intent to erase women from public life and to restructure Afghan society around male supremacy. Also, the Taliban’s campaign is enforced through violence, coercion, and alleged religious justification based solely on the Taliban leadership’s perception of Islam and *Shari’a*. The prosecutorial team submitted that the Taliban’s actions amounted to gender persecution as a crime against humanity, and they called for recognition, accountability, and international response to this crime.<sup>325</sup>

The listing of the State of Afghanistan as an accused party is premised on the Taliban *de facto* authorities engagement in a deliberate, systematic, and institutionalized campaign of repression targeting women, girls, and other marginalized groups in Afghanistan. Such conduct is underpinned by a discriminatory ideology and is enforced through coercion and violence, thereby constituting multiple, serious violations of binding international human rights treaties to which Afghanistan remains a State Party.<sup>326</sup>

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<sup>322</sup> Opening address document on file with the Panel of Judges.

<sup>323</sup> Indictment, para 11, 14 and 47.

<sup>324</sup> Indictment, para 10.

<sup>325</sup> Indictment, para 47 and 48.

<sup>326</sup> Indictment, para 72.

### 6.2.2. The charges and responsibility

#### **Count 1: The Taliban's institutionalised discrimination against women amounts to gender persecution**

The Prosecution submitted that the Taliban's systematic persecution of women and girls in Afghanistan constitutes grave violations of international criminal law, amounting to crimes against humanity, particularly gender persecution under Article 7(1)(h) of the Rome Statute.<sup>327</sup> It was argued that the Taliban's actions 'systematically excludes women and girls from education, employment, public life, and freedom of movement' and this constitutes gender persecution. Also, these acts have been committed with discriminatory intent, enforced through State mechanisms and under official policy.<sup>328</sup> As such, they meet the threshold of a crime against humanity under Article 7(1)(h) of the Rome Statute, which prohibits persecution "*against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender (...) grounds that are universally recognized as impermissible under international law*" [which includes the ground of sex].<sup>329</sup>

Based on the legal and policy analysis, and the facts and evidence, the policies and practices of the *de facto* Taliban authorities, since their takeover in August 2021, constitute crimes against humanity of persecution on gender or other grounds that are universally recognised as impermissible under international law, which includes the ground of sex, as defined in Article 7(1)(h) of the Rome Statute. The methods employed by the *de facto* authorities reinforce the intentional and systematic nature of the persecution. The Taliban's actions are driven by a discriminatory intent based on sex and gender, fulfilling the mental element (*mens rea*) of the crime of persecution. The systematic exclusion of women and girls from education, employment, healthcare, freedom of expression, public life and freedom of movement constitute gender persecution. These acts constitute an intentional and serious deprivation of the fundamental rights of women and girls, contrary to international human rights law, and form part of a widespread or systematic attack against a civilian population with knowledge of such attack. These crimes are committed in connection with other crimes against humanity, including murder (Article 7(1)(a)), imprisonment (Article 7(1)(e)), torture (Article 7(1)(f)), and other inhumane acts (Article 7(1)(k)), which collectively form part of a widespread and systematic attack against the civilian population of Afghanistan.

The Taliban have issued numerous decrees, edicts, and directives specifically targeting women and girls which institutionalize discriminatory norms.<sup>330</sup> Statements from Taliban leaders explicitly justify their decrees and bans through an ideological framework that prioritizes male dominance and defines women as subordinate under a restrictive interpretation of *Shari'a*. Such persecution extends beyond physical abuse to encompass psychological, social and economic harm. The system is not the result of isolated or spontaneous acts but rather a State-organized and systematic policy designed to exclude women and girls from all aspects of public life, restrict their freedoms, and subordinate them to male authority. The persecution of Afghan women and girls is intentional, coordinated, and directed by the Taliban leadership, rather than accidental or driven by religion, culture, or other actors. The implemented policies systematically deprive women and girls of their fundamental human rights, including the rights to education, health, work, freedom of movement, expression, and association, among others. These measures collectively undermine women's autonomy, self-sufficiency, and capacity to

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<sup>327</sup> Indictment, para 197. See Section 5.1 for a discussion of the legal aspects.

<sup>328</sup> Indictment, para 81.

<sup>329</sup> Rome Statute of the International Criminal Court art. 7(1)(h), July 17, 1998, 2187 U.N.T.S. 90.

<sup>330</sup> Indictment, para 122.

participate in society, thereby confining them to the private sphere. The measures are applied and enforced by administrative structures, security forces, and religious committees, evidencing the existence of a State-level policy of exclusion and control.<sup>331</sup>

The overlapping restrictions form a comprehensive governance system designed to silence, exclude, and control women, denying them legal personhood and autonomy. Such policies satisfy the legal definition of gender persecution under the Rome Statute. Individual leaders and the Taliban as a group, as the *de facto* governing authority, bears responsibility under international criminal law for a policy of gender-based persecution constituting crimes against humanity, under Article 7(1)(h) of the Rome Statute of the International Criminal Court.

The Panel determines that the policies and actions of the Taliban's *de facto* authorities constitute Crimes Against Humanity, particularly the crime of Gender Persecution under Article 7 of the Rome Statute.

## **Count 2: The Taliban's actions amount to "other inhumane acts" under the Rome Statute**

The "other inhumane acts" is a catch-all clause included in International Criminal Tribunal Statutes to make sure that any crime with sufficient gravity fulfilling the other conditions of a crime against humanity would not go unpunished. The prosecution argued that "gender apartheid" qualifies as "other inhumane acts" under Article 7(1)(k) of the Rome Statute within the crimes against humanity category. It was acknowledged that "gender apartheid" is a currently uncodified act. However, it was argued that the category can evolve to meet new international needs whereby unenumerated acts may be crimes against humanity if they are "*of a similar character intentionally causing great suffering, serious injury to body or mental or physical health.*"<sup>332</sup>

The crime of apartheid is recognized in the Rome Statute in Article 7(1)(j) and only includes segregation on racial grounds and not on gender grounds. Therefore, the crime of "gender apartheid" which is used to describe the situation of segregation of Afghan women and girls on gender grounds is not recognized as a crime against humanity in the Rome Statute as a separate crime, nor within the category of "other inhumane acts".

The situation in Afghanistan meets the constitutive elements of an apartheid-like system, an institutionalized regime of segregation, exclusion, and domination. However, the Panel of Judges determines that because the discrimination is grounded in gender rather than race, it falls outside the codified definition of apartheid in international law, which has yet to formally recognize gender apartheid as a distinct crime. It will be necessary for this crime to be developed through the jurisprudence of international criminal courts and tribunals, as well as, to the extent possible, codified in international instruments, in order to prevent, prosecute and punish this type of conduct.

## **Count 3: The State of Afghanistan, under the Taliban's *de facto* control, has violated the core human rights of women and girls in Afghanistan**

The prosecution has included the State of Afghanistan which is under the Taliban's *de facto* control, with ongoing violations of Afghanistan's obligations under the Convention on the Elimination of All Forms of Discrimination Against Women,<sup>333</sup> the International Covenant on

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<sup>331</sup> Report of the Special Rapporteur on the Situation of Human Rights in Afghanistan, A/HRC/56/25, June 2024.

<sup>332</sup> Indictment, para 106, 107 and 108.

<sup>333</sup> Convention on the Elimination of All Forms of Discrimination Against Women, 1249 U.N.T.S. 13 (Dec. 18, 1979).



Civil and Political Rights,<sup>334</sup> the International Covenant on Economic, Social and Cultural Rights,<sup>335</sup> the Convention Against Discrimination in Education,<sup>336</sup> the Convention on the Political Rights of Women,<sup>337</sup> the Convention on the Rights of the Child,<sup>338</sup> the Convention against Torture and other Cruel, Inhumane, Degrading Treatment or Punishment,<sup>339</sup> and the Convention on the Rights of Persons with Disabilities.<sup>340</sup>

Paragraph 84 of the Indictment notes that “through 126 edicts and decrees,<sup>341</sup> the Taliban have severely deprived the women of Afghanistan of various fundamental rights, including their rights to: education, work, bodily integrity freedom of movement, speech, assembly, public participation, access to justice and healthcare.” The bans, decrees and policies adopted by the *de facto* Taliban authorities target women and girls by prohibiting and limiting their fundamental rights in almost all sphere of public and private life. The discriminatory measures imposed are not neutral but instead explicitly target women because of their status.<sup>342</sup> The Taliban has perpetrated this deprivation of fundamental rights through violent enforcement mechanisms, including the feared Ministry for the Promotion of Virtue and the Prevention of Vice (the “Ministry of Vice and Virtue”),<sup>343</sup> and with tools such as arbitrary detention, imprisonment, torture and other inhumane acts, rape and sexual violence, and enforced disappearances.<sup>344</sup>

Witnesses testified that women were detained for participating in peaceful protests, not wearing the mandatory veil, or posting critical content on social media. Such detentions are often arbitrary and accompanied by torture, sexual violence, and forced confessions.<sup>345</sup> The gender-based persecution perpetrated by the *de facto* authorities has an intersectional impact on women from different ethnic and religious minorities and also women and girls with disabilities. The Taliban have deliberately targeted areas in which the Hazara, Uzbek and Tajik population are predominant.<sup>346</sup> In respect of women and girls with disabilities, intersectional factors including violence, denial of healthcare, education, work and isolation, constitute a form of structural violence aimed at removing agency and autonomy from an already marginalised and vulnerable group.<sup>347</sup> Leveraging sweeping edicts and decrees, implementation and enforcement bodies, public statements, a strict interpretation of Islam and *Shari‘a*, and coercion and violence, the Taliban have activated a series of tools and tactics to severely diminish the rights of women and girls. This has increased impoverishment and caused severe psychological harm in many

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<sup>334</sup> International Covenant on Civil and Political Rights, 16 December 1966, 999 U.N.T.S. 171.

<sup>335</sup> International Covenant on Economic, Social and Cultural Rights, 16 December 1966, 993 U.N.T.S. 3.

<sup>336</sup> Convention Against Discrimination in Education, 14 December 1960, 429 U.N.T.S. 93.

<sup>337</sup> Convention on the Political Rights of Women, 31 March 1953, 193 U.N.T.S. 135.

<sup>338</sup> Convention on the Rights of the Child, 20 November 1989, 1577 U.N.T.S. 3.

<sup>339</sup> Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984, 1465 U.N.T.S. 85.

<sup>340</sup> Convention on the Rights of Persons with Disabilities, 13 December 2006, 2515 U.N.T.S. 3.

<sup>341</sup> “Taliban Must Uphold International Obligations, Restore Women’s ‘Non-Negotiable’ Rights, Security Council Told,” *U.N. NEWS*, 10 March 2025, <https://press.un.org/en/2025/sc16015.doc.htm>.

<sup>342</sup> Report of the Special Rapporteur on the Situation of Human Rights in Afghanistan and the Working Group on Discrimination Against Women and Girls, UN Doc. A/HRC/53/21, 15 June 2023, para. 77.

<sup>343</sup> Heather Barr, *For Afghan Women, the Return of Frightening Return of ‘Vice and Virtue’*, Human Rights Watch,

29 September 2021, <https://www.hrw.org/news/2021/09/29/afghan-women-frightening-return-vice-and-virtue>.

<sup>344</sup> Amnesty International, *Afghanistan: The Taliban’s War on Women: The Crime against Humanity of Gender Persecution in Afghanistan*, 25 May 2023, <https://www.amnesty.org/en/documents/asa11/6789/2023/en/>.

<sup>345</sup> Rawadari, *Arbitrary and Illegal Detentions in Taliban-Ruled Afghanistan* (2023).

<sup>346</sup> Indictment, para. 94.

<sup>347</sup> Indictment, para 330.

families, self-harm attempts in women and girls, forcing those who were able, to leave the country. The Taliban has also instrumentalized the men and boys of Afghanistan as tools of repression, turning them from ordinary, equal citizens into vehicles through which to enforce their restrictive decrees and edicts against the country's women and girls.

In paragraph 127 of the Indictment, the most recent developments are highlighted, including “that in the first half of 2025, the Taliban not only continued the path of restriction, but also integrated it into the government structure. New Sharia bills are being prepared that aim to organise the family based on Islamic principles, but in practice are tools for legalizing greater control over women. In some provinces, decrees have even been issued holding men responsible for the moral behaviour of their female family members, with penalties for violations.”<sup>348</sup> The Taliban have also created institutions to monitor women's dress, behaviour, and communications. These actions mark a shift from tactical restrictions to widespread social engineering; a shift that seeks to reduce women's roles to mere domesticity and absolute subjugation.”<sup>349</sup>

Under international human rights law, the Taliban have intentionally, and severely deprived women and girls of fundamental rights, including the right to life, the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment, the right to personal liberty and security, the right not to be subjected to arbitrary detention, the right to education, the right to work, the right to health, freedom of expression, freedom of movement, freedom of association, the right to bodily autonomy, and the civil and political rights of participation. These violations of fundamental human rights of women and girls are perpetrated by the *de facto* authorities through numerous decrees, bans and policies based on sex and gender discrimination and constitute a violation of binding obligations.

The panel acknowledges that the ongoing, unpunished human rights violations in Afghanistan have far-reaching implications beyond national borders, undermining the universality of human rights and the integrity of the international legal order. It determines that the *de facto* Taliban authorities have violated Afghanistan's binding obligations under international human rights treaties, including CEDAW, ICCPR, ICESCR, CRC, CRPD, CADE, CRPW and CAT – treaties to which Afghanistan is a State Party.

## **Conclusion**

The importance of State responsibility and the obligations of States, domestically and internationally, provides additional tools in the quest for justice and accountability in light of the widespread and institutionalised violations of human rights generally, and in particular the violations being experienced by women in Afghanistan. The applicability of principles of *erga omnes*, *erga omnes partes* and *jus cogens* govern the framing of State obligations. *Erga omnes* means “towards everyone” and it refers to obligations that a State owes to the international community as a whole. *Erga omnes partes* refers to obligations that a State Party to a treaty owes to all other State Parties to that treaty.<sup>350</sup> *Jus cogens* refers to norms that are legally applicable to all States, and includes the prohibition on torture, genocide, acts of aggression,

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<sup>348</sup> UN Assistance Mission in Afghanistan (UNAMA), *Report on the Human Rights Situation in Afghanistan: January–June 2025* (UNAMA, July 2025).

<sup>349</sup> See generally Felicity Nneoma Ike et al., “Closing Gender Equality Gaps in Taliban-Ruled Afghanistan,” *Discover Public Health*, 8 May 2025, <https://link.springer.com/article/10.1186/s12982-025-00636-0>.

<sup>350</sup> Ilias Bantekas and Lutz Oette, *International Human Rights Law and Practice*, 4<sup>th</sup> Edition (Cambridge University Press, 2024), 72-73.

protection from slavery and racial discrimination, among others. No derogation is permitted as *jus cogens* norms are regarded as obligations inherently owed to the international community as a whole.<sup>351</sup> Human rights strategic engagement, whether through advocacy, research or litigation, demands a shift away from accepting symbolic change and demanding transformative change which has emancipatory outcomes. This requires utilising the abovementioned principles to articulate State responsibility of the international community as a whole, including States Parties to relevant human rights treaties, due to the violations being perpetuated by the *de facto* authorities in Afghanistan.<sup>352</sup>

## CONCERNS ABOUT NORMALISATION

Despite the widespread repression since August 2021, the international community is increasingly changing its policies in ways that risk legitimizing the Taliban's authority.<sup>353</sup> Diplomatic engagement, the reopening of technical cooperation channels, and softened positions on recognition indicate that institutionalized oppression of women and girls is no longer seen as a barrier to international legitimacy. Geopolitical interests have allowed States to ignore the Taliban's systemic discrimination, treating their rule as an unfortunate but acceptable reality rather than a regime built on the deliberate persecution of women.

In 2018, the United States began direct talks with the Taliban, sidelined the then-Afghan government, and eventually signed a deal with the Taliban that led to an irresponsible and rushed withdrawal of international forces. This strategy empowered the Taliban to intensify their attacks and ultimately contributed to the collapse of the Afghan government.<sup>354</sup> At the time, Afghan women warned that the gains of the previous two decades were in jeopardy, recalling the Taliban's record of atrocities during their first regime and their years of insurgency.<sup>355</sup> However, their concerns were largely disregarded. Instead, the international community repeatedly insisted the Taliban had changed, assurances that proved disastrously wrong. Today, Afghan women's warnings are more critical because they are once again experiencing the most severe violation of rights under the Taliban's rule firsthand. Their insights show that unconditional engagement will only deepen the Taliban's repression and expand their impunity.

Although no country apart from Russia has formally recognized the *de facto* Afghan government so far, a sort of "new normal" has emerged, marked by a rise in diplomatic presence in Kabul and the appointment of Taliban officials to key diplomatic missions abroad.<sup>356</sup> The world is once again, not only divided in the case of Afghanistan, but many States are now openly or quietly engaging the Taliban. China has accepted a Taliban-appointed envoy and advanced mining and Belt and Road negotiations.<sup>357</sup> Germany accepted two Taliban

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<sup>351</sup> International Law Commission, *Report on Peremptory Norms of General International Law*, U.N. Doc. A/74/10 (2019).

<sup>352</sup> See section 5.2 and 5.3.

<sup>353</sup> Report of the Special Rapporteur on the Situation of Human Rights in Afghanistan, A/HRC/55/80 (2024).

<sup>354</sup> Kate Clark, "The Taleban's Rise to Power: As the US Prepared for Peace, the Taleban Prepared for War," *Afghanistan Analysts Network*, 21 August 2021.

<sup>355</sup> Fatima Faizi and David Zucchini, "700 Afghan Women Have a Message: Don't Sell Us Out to the Taliban," *World, The New York Times*, 28 February 2019.

<sup>356</sup> Nikita Smagin, "Russia Is the First Country to Recognize Afghanistan's Taliban Government. Why?," *Carnegie Endowment for International Peace*, July 2025.

<sup>357</sup> Ruchi Kumar, "Why Has China Recognised Taliban's Envoy to Beijing?," *Al Jazeera*, 14 February 2024.

nominees as accredited diplomats in July 2025<sup>358</sup> and is pursuing deportation agreements that treat the Taliban as legitimate governance partners.<sup>359</sup> This trend repeats a familiar pattern in which flawed international strategies and miscalculations resulted in severe and lasting harm for women, while enabling the Taliban's consolidation of power. Uzbekistan has maintained steady diplomatic communication and deepened its collaboration with the Taliban on rail and water projects.<sup>360</sup> India hosted a landmark visit by the Taliban's foreign minister, announced the reopening of its embassy in Kabul, and emphasized the need for expanded diplomatic and economic talks.<sup>361</sup> During the visit, despite India extending a warm and high-profile welcome, the Taliban foreign minister held a press conference that barred all female journalists. Following public criticism from women in India, the delegation quickly convened a second session to allow female journalists to participate.<sup>362</sup>

These developments are challenging and dangerous for many reasons. First, the immediate political impact is that it will embolden the Taliban while simultaneously diminishing international leverage. The exclusion of female journalists from the Taliban's press briefing in India illustrates this risk: when States overlook the Taliban's gender-based repression, they enable the group to demand and enforce gender segregation, not just domestically, but even within sovereign and democratic countries like India. Second, the normative and human rights impact of normalization is profound. It risks undermining the universality of women's rights by signalling that women's freedoms can once again be sacrificed for political convenience. Third, the effect on global norms and precedents is deeply troubling. It erodes the longstanding taboo against normalizing regimes of institutionalized oppression. It suggests that governments responsible for mass violations of women's and girls' rights can nonetheless enjoy international diplomatic and economic relations. Fourth, the consequences for accountability systems are severe. Normalization will weaken mechanisms such as the ICC and the ICJ that took the international community decades to build and that Afghan women have spent years struggling to secure. These structures were established precisely to prevent the kind of impunity the Taliban now enjoys. Finally, normalization will severely harm Afghan women and girls. When the international community chooses to accept the Taliban rather than support Afghan women, many will lose faith in human rights and international accountability, shifting from active resistance to mere survival. This shift erodes hope, weakens advocacy, and ultimately reinforces the Taliban's control over society, prolonging their oppressive rule.

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<sup>358</sup> Consulate General of the Islamic Republic of Afghanistan, Bonn, "Official Statement of the Consulate General of the Islamic Republic of Afghanistan in Bonn Regarding the Acceptance of Taliban's Envoy by the Federal Republic of Germany and the Handover of the Consulate General to a Representative of This Group," 29 September 2025, [https://www.afghanconsulatebonn.de/public\\_docs/Press-Release-English.pdf](https://www.afghanconsulatebonn.de/public_docs/Press-Release-English.pdf).

<sup>359</sup> Nette Nöstlinger and Milka Fijalkowska, "Germany Spearheads Drive to Legitimize Taliban in Exchange for Migrant Deportations," *POLITICO*.

<sup>360</sup> Joe Luc Barnes, "Rail, Water, and Helicopters - Uzbekistan's 'Limited Recognition' of the Taliban," *The Times Of Central Asia*, 17 September 2025, <https://timesca.com/rail-water-and-helicopters-uzbekistans-limited-recognition-of-the-taliban/>.

<sup>361</sup> Dawood Azami and Cherylann Mollan, "Taliban Foreign Minister Makes Groundbreaking Visit to India," *BBC*, 10 October 2025, <https://www.bbc.com/news/articles/c8exzzz5dp5o>.

<sup>362</sup> Helen Regan, "Taliban Minister Confronted by Rare Challenge on Trip Abroad: Women Journalists," *CNN*, 14 October 2025, <https://www.cnn.com/2025/10/14/india/india-afghanistan-muttaqi-women-journalists-intl-hnk>.

## 7. RECOMMENDATIONS

According to the tradition of the Permanent Peoples' Tribunal whose primary objective is to formulate elements of a judgement; to produce doctrinal tools and to construct instruments for the recognition and concrete restoration of the fundamental rights of peoples, the recommendations are an essential platform for present and future actions. The Judgement as a whole, and the recommendations in particular, aim to counter what Jean-Paul Sartre denounced as the "crime of silence" in the face of systematic, systemic and institutionalised persecution being experienced by women and girls in Afghanistan, due to the policies and practices of the *de facto* Taliban authorities. The Tribunal is a forum for visibility and the right to speak; and the imperative on those who listen is to act, to take the messages conveyed in our recommendations to those with the power to act on them. In this way, the evidence produced by the PPT in this session could become an instrument of information, education and consciousness for all peace-loving civil societies. From inside its long history of struggles and research with the Peoples of the world, the PPT acknowledges the critical role of Afghan women who, with their lives and substantial history of resistance - and also as representatives of all women in similar conditions - whose experiences reflect the most fundamental test of the credibility of international law. At the crossroad of the profound geopolitical conflicts of the region, the activation of a process of visibility and recognition of their fundamental human and peoples' rights would certainly resonate and have an immense echo as the start of a wider, much needed process of peace for the women and Peoples of the region.

The recommendations of the Panel of Judges are as follows:

### **General**

The immense suffering and resilience of Afghan women, particularly those facing multiple layers of discrimination, such as women with disabilities, women of ethnic and religious minorities and women living in rural areas, must be acknowledged. The international community must recognize that all accountability processes are intended for Afghans, and therefore, their meaningful participation is imperative, not optional. Mechanisms aimed at addressing the subjugation and exclusion of Afghan women cannot, themselves, exclude those most impacted. Accountability processes, in particular, must guarantee that Afghan women are not treated merely as subjects of litigation and policy, but as key actors and contributors whose perspectives and leadership shape the solutions that will define their lives and futures.

### **To the Taliban**

The Taliban should immediately revoke all decrees restricting women's education, employment, mobility, public participation, dress, access to essential services, and any other decrees that provide any restrictions on women. Secondary schools, universities, and vocational institutions must be reopened to girls and women without conditions, ensuring equal and uninterrupted access to learning. Educational curricula and fields of study must be free from gender-based discrimination; girls and women must be permitted to study the full range of academic and professional disciplines, rather than being channelled into narrowly defined or gender-stereotyped tracks. Women must be free to work in every sector, including public administration, healthcare, education, civil society, media, humanitarian operations, and all other fields, without requiring a male guardian. Employment policies should guarantee equal opportunity, safety, and non-discrimination. All policies and services must ensure full accessibility, reasonable accommodations, and equal participation for women and girls with disabilities, whose rights require increased protection in the current context. To safeguard these

rights, independent courts, oversight bodies, and complaint mechanisms must be restored and empowered to investigate and remedy gender-based discrimination. The Taliban must publicly affirm women's equal legal status, dignity, and autonomy in line with Afghanistan's constitutional obligations and international human rights commitments. The Taliban must ensure women's full and equal access to justice, including the right to report violence, seek protection, and obtain remedies through independent courts and complaint mechanisms staffed by trained female and male professionals. Women and girls must be protected from retaliation when seeking justice, and gender-based violence must be investigated and prosecuted in accordance with international human rights standards. Women and girls must be guaranteed the right to peaceful assembly, protest, and public expression without intimidation, arrest, or violence. The Taliban should immediately end the criminalisation of peaceful dissent and release all women detained for exercising these rights.

### **To Organisation of Islamic Cooperation, Islamic countries, and Islamic institutions and scholars**

Islamic countries, institutions, and scholars have a moral and religious obligation toward Afghan women and must collectively take a firm and principled stance against the Taliban. They must issue authoritative *fatwas and legal opinions* publicly rejecting the regime's restrictions on women as having no basis in *Shari'a* and violating established Islamic principles of justice, dignity, and equality. They must call for the immediate and full reversal of the Taliban's laws and policies restricting women's human rights, including, but not limited to, education, work, free movement, and public participation.

### **To the United Nations**

The United Nations should formally recognize the Taliban's gender policies as constituting gender persecution and ensure that the recently established UN independent investigative mechanism for Afghanistan is swiftly operationalized in consultation with the victims and Afghan civil society and that it is sufficiently resourced, maintains a comprehensive scope, remains independent, and run by a diverse team, including with expertise in gender, and qualified Afghan professionals, to ensure effective outcomes. Declare solidarity with the voices and struggles of Afghan women by characterizing the situation as one of gender apartheid. The United Nations and its Member States should support the codification of gender apartheid as a crime against humanity in international law, strengthening the global accountability framework for women's rights and criminalizing the systematic oppression of women, whether in Afghanistan or anywhere else.

### **To International Criminal Court and other accountability bodies**

The International Criminal Court should expedite investigations into crimes against humanity on gender grounds in Afghanistan and ensure that charges fully capture the systemic exclusion of women from public life. It is imperative that States Parties to the Rome Statute fully cooperate with the ICC in executing arrest warrants and facilitating investigations related to the Afghanistan situation, as such collaboration is essential to uphold international justice and prevent impunity for gender-based crimes. Germany, Canada, the Netherlands, and Australia, which may pursue a contentious case against Afghanistan under CEDAW before the International Court of Justice, must recognize the gravity of the situation and take timely steps to advance proceedings in accordance with Article 29. They should also ensure full transparency with Afghan women by providing accessible updates on the status of the case, any responses received from the Taliban, and whether arbitration will be pursued.

**To the International Community/UN Member States**

States must avoid any action that legitimizes or normalizes the Taliban's system of gender-based persecution. The protection of women's rights must be a non-negotiable condition for any diplomatic, economic, or development engagement. Until there is verifiable progress with credible guarantees that such progress will be sustained, governments should suspend diplomatic relations and revoke accreditation of Taliban-appointed diplomats. States have an urgent responsibility to protect those most at risk. The international community should continue to provide humanitarian and development support directly to the Afghan people and communities without engaging the Taliban administration. Humanitarian corridors expanded asylum pathways, and expedited relocation programs must be established for Afghan women facing imminent danger, especially activists, journalists, educators, judges, and other public-facing professionals targeted for their work. Responses must centre the voices, rights, and needs of women and girls, integrating safety, justice, political, economic, and humanitarian dimensions. It is crucial to fully understand and assess the complex categories of persons targeted by the Taliban and the complex harms that they have experienced. To strengthen the accountability framework, governments should support universal jurisdiction prosecutions and adopt targeted sanctions against Taliban leaders and officials responsible for designing, ordering, or enforcing discriminatory decrees.

**To civil society, human rights organizations, and the media**

Civil society, human rights organizations, and global advocacy networks should centre Afghan women's expertise, testimony, and leadership in research, policymaking, and public discourse. Those most affected by the Taliban's gender persecution must shape the narratives, priorities, and strategies pursued internationally. At the same time, international organizations must support Afghan civil society and grassroots institutions by enabling them to gather evidence safely and preserve it, maintain robust documentation networks, and advance legal accountability efforts. International media should provide consistent and accurate coverage of Afghan women's situation, ensuring that the lived realities continue to reach a broad international audience and policymakers. They must ensure reporting, or lack thereof, does not normalize or downplay systemic gender oppression. Journalists and news outlets must prioritize Afghan women's voices, expertise, and lived experiences, and avoid giving a platform to Taliban propaganda without critical analysis.

# **ANNEXES**



**Annex 1**  
**PROGRAMME OF THE PUBLIC HEARINGS**

**Day 1: October 8<sup>th</sup>, 2025**

<b>Time</b>	<b>Session</b>	<b>Agenda</b>	<b>Responsible Person</b>
9:00 -9:15	Opening session	Welcome speech	ROs' representative Shaharзад Akbar, Rawadari
9:15- 9:30	Opening session	Introduction to the hearing and presentation of the Panel of Judges: Elisenda Calvet Martínez; Mai El-Sadany; Marina Forti; Araceli (Arancha) Garcia del Soto; Ghizal Haress; Rashida Manjoo; Emilio Ramírez Matos; Kalpana Sharma.	PPT General Secretary Dr. Gianni Tognoni
9:30- 10:15	Opening session	Prosecutors' statement	Moheb Mudessir Orzala Nemat Azadah Raz Mohammad Benafsha Yaqoobi

10:15- 10:45	Break	Coffee/ Tea	
10:45- 11:30	Session I	Gender persecution against women and girls of Afghanistan	Prosecutors
11:30- 12:15	Session I	Testimony of witnesses	Witnesses (W) <ul style="list-style-type: none"> <li>• W22 (in person)</li> <li>• W5 (in person)</li> </ul>
12:15- 12:30	Session I	Questioning of witnesses by the Judges	Judges/witnesses
12:30- 13:30	Break	Lunch	
13:30- 14:00	Session II	Other inhumane acts against women and girls in Afghanistan	Prosecutors
14:00-14:45	Session II	Testimony of witnesses	<ul style="list-style-type: none"> <li>• W3 (audio)</li> <li>• W7 (audio)</li> <li>• W21 (in person)</li> </ul>
14:45- 15:00	Session II	Questioning of witnesses by the Judges	Judges/witnesses
	Break	Coffee/Tea	

15:00- 15:30			
15:30-16:00	Session III	<ul style="list-style-type: none"> <li>• Denial of the right to education for women and girls in Afghanistan</li> <li>• Rights of the child</li> </ul>	Prosecutors
16:00- 16:45	Session III	Testimony of witnesses	<ul style="list-style-type: none"> <li>• W18 (audio)</li> <li>• W17 (in person)</li> <li>• W13 (audio)</li> </ul>
16:45- 17:00	Session III	Questioning of witnesses by the Judges	Judges/witnesses
17:00- 17:15		Announcements	

### Day 2: October 9<sup>th</sup>, 2025

Time	Session	Agenda	Responsible Person
9:00 -9:30	Session IV	<ul style="list-style-type: none"> <li>• Denial of the right to health for women and girls in Afghanistan</li> <li>• Treatment of women and girls with disabilities</li> <li>• The Taliban's discriminatory measures against</li> </ul>	Prosecutors

		women and girls in Afghanistan	
9:30- 10:30	Session IV	Testimony of witnesses	<ul style="list-style-type: none"> <li>• W8 (audio)</li> <li>• W20 (in person)</li> <li>• W9 (audio)</li> <li>• W6 (written)</li> <li>• W16 (written)</li> </ul>
10:30- 10:45	Session IV	Questioning of witnesses by the Judges	Judges/witnesses
10:45- 11:00	Break	Coffee/ Tea	
11:00- 11:30	Session V	<ul style="list-style-type: none"> <li>• Suppression of freedom of movement and bodily autonomy</li> <li>• Suppression of freedom of expression</li> <li>• Suppression of freedom of assembly</li> </ul>	Prosecutors
11:30- 12:00	Session V	Testimony of witnesses	<ul style="list-style-type: none"> <li>• W4 (written)</li> <li>• W23 (in person)</li> <li>• W12 (in person)</li> </ul>
12:00- 12:15	Session V	Questioning of witnesses by the Judges	Judges/witnesses

12:15- 13:15	Break	Lunch	
13:15- 13:45	Session VI	<ul style="list-style-type: none"> <li>● Denial of the right to work for women of Afghanistan</li> <li>● Denial of the civil and political rights</li> </ul>	Prosecutors
13:45-14:45	Session VI	Testimony of witnesses	<ul style="list-style-type: none"> <li>● W24 (in person)</li> <li>● W15 (written)</li> <li>● W10 (audio)</li> <li>● W11 (audio)</li> <li>● W14 (audio)</li> </ul>
14:45- 15:00	Session IV	Questioning of witnesses by the Judges	Judges/witnesses
15:00- 15:30	Break	Coffee/Tea	
15:30-16:00	Session VII	<p>Right to life</p> <p>Arbitrary detention, ill treatment, and torture of women and girls</p>	Prosecutors
16:00- 16:30	Session VII	Testimony of witnesses	<ul style="list-style-type: none"> <li>● W1 (in person)</li> <li>● W19 (in person)</li> <li>● W2 (written)</li> </ul>
16:30- 16:45	Session VII	Questioning of witnesses by the Judges	Judges/witnesses
16:45- 17:00	Closing Session	Expert opinion on Islamic rights	

			Dr. Nur Rofiah, Congress of Indonesian Women Ulama (KUPI)
17:00- 17:30	Closing Session	Closing statement by the Defense	Defense Council
17:30- 18:00	Closing Session	Closing statement by the Prosecutors	Moheb Mudessir Orzala Nemat Azadah Raz Mohammad Benafsha Yaqoobi

**Day 3: October 10<sup>th</sup>, 2025**

<b>Time</b>	<b>Session</b>	<b>Agenda</b>	<b>Responsible Person</b>
11:30 -13:00	Closing session	Preliminary statement of the Judges	The Judges

## **Annex 2**

### **PANEL OF JUDGES**

#### **ELISENDA CALVET MARTÍNEZ (SPAIN)**

Elisenda Calvet-Martínez is an Associate Professor of International Law and Associate Vice-Dean for Research and International Relations at the University of Barcelona. She co-directs the Legal Clinic for the Fight against Impunity and Human Rights. Calvet-Martínez has worked for the Spanish Red Cross, the Inter-American Court of Human Rights, and the United Nations Human Rights Office of the High Commission. She is Second Vice President of the International Association of Genocide Scholars (IAGS). Her research interests include transitional justice, enforced disappearances, genocide, human rights, international humanitarian law, and international criminal law. Calvet-Martínez is also involved in the Ukraine Peace Settlement Project at the Lauterpacht Centre for International Law, University of Cambridge. In addition, she has trained Spanish judges and prosecutors on topics such as transitional justice and human rights, and has provided strategic legal advice to the Spanish Ministry of Foreign Affairs regarding the situation of women in Afghanistan.

#### **MAI EL-SADANY (UNITED STATES/EGYPT)**

Mai El-Sadany is a human rights lawyer with a focus on the Middle East and North Africa (MENA) region. She is currently the Executive Director of the Tahrir Institute for Middle East Policy (TIMEP), an organization dedicated to centering the insights and expertise of advocates from and in the MENA region in the policy discourse to foster transparent, accountable, and just societies. Throughout her career, she has worked to expand creative pathways to accountability, to leverage international and regional mechanisms to advance human rights, and to publish accessible analysis and scholarship on legal, judicial, and constitutional issues. She has previously worked at the International Center for Not-for-Profit Law, Robert F. Kennedy Human Rights, and the Carnegie Endowment for International Peace, among other organizations. She is on the Advisory Network for the Human Rights and Business Award and she is a Board Member of HuMENA for Human Rights and Civic Engagement. She holds a J.D. and certificate in refugees and humanitarian emergencies from the Georgetown University Law Center, and a B.A. in political science from Stanford University.

#### **MARINA FORTI (ITALY)**

Journalist and writer, she is the Director of the Scuola di giornalismo Lelio Basso, in Rome. Formerly foreign editor at the daily newspaper *Il Manifesto*, she covered immigration, the environment, and international current affairs. She travelled extensively in Iran, the Indian subcontinent, and Southeast Asia. For her column “*terraterra*”, stories about the environment and conflicts over natural resources, she won the 1999 “Premiolino” award. Her book *La signora di Narmada* (Feltrinelli 2004) was awarded the Elsa Morante Prize for Communication. Her latest book is *Malaterra. Come hanno avvelenato l'Italia* (Laterza, 2018). She was selected and ruled as judge in the PPT session on the murder of journalists in 2021.

#### **ARACELI (ARANCHÁ) GARCÍA DEL SOTO (SPAIN)**

A Spanish Psychologist with a PhD in Sociology, she started her work in 1993 accompanying refugee groups in the Balkans and is currently engaged in emotional safety projects and holistic security within human rights organizations. In the past, she worked in West Africa

and Sri Lanka. She collaborates with different organizations: from community based to the International Criminal Court. In Colombia she worked for the Truth Commission with groups in exile, and has been part of EQUITAS (forensic and psychosocial support to families of missing persons) since 2004. Within the European Union she has delivered workshops on migration with OSCE/ODIHR, Office for Democratic Institutions and Human Rights. She accompanies human rights defenders from Central America, the Balkans, and in Spain (Observatoire international des avocats en danger). She teaches in Colombia and the US on psychosocial, psycho-legal and trauma-informed approaches when working with victims of war and violence.

### **GHIZAL HARESS (AFGHANISTAN)**

Ghizal Haress is a constitutional lawyer, scholar, and human rights advocate from Afghanistan. She served as the first Ombudsperson and as a Commissioner on the Independent Commission for Overseeing the Implementation of the Constitution in Afghanistan, where she exposed corruption and misuse of State resources, and safeguarded constitutional principles and fundamental rights, despite immense political pressures and personal risks. For over 13 years, she taught at the American University of Afghanistan, where she continues to teach remotely to Afghan women banned from education by the Taliban. Now in exile, she is an Adjunct Professor at the University of Toronto and collaborates with the International Human Rights Program on documenting the suppression of women under the Taliban rule. She is the Director of the Afghan Women's Fellowship Program at Massey College, which enables Afghan women to remain engaged in academic life. Her work has long focused on women's empowerment and participation in public life, peacebuilding, and constitutional debates, bringing Afghan women's voices to national and international platforms, including the United Nations.

### **RASHIDA MANJOO (SOUTH AFRICA)**

Rashida Manjoo is Professor Emerita at the University of Cape Town, South Africa where she taught for many years in the Faculty of Law and convened the LLM Human Rights Program. She continues to supervise PhD candidates in the Faculty. She has over five decades of experience in social justice and human rights work both in South Africa and abroad. Between 2009 and 2015, she held the position of United Nations Special Rapporteur on Violence against Women, its Causes and Consequences. Her UN work over six years has included monitoring and reporting on States' compliance in responding to and preventing violence against women, its causes, and consequences, both generally and in different country contexts. Prof Manjoo is the former Parliamentary Commissioner of the Commission on Gender Equality, an institution created by the Constitution of South Africa, with a mandate to oversee the promotion and protection of gender equality and women's rights. She has also been involved in social context training for judges and lawyers, where she has designed both content and methodology.

### **EMILIO RAMÍREZ MATOS (SPAIN)**

Emilio Ramírez Matos is a lawyer with more than 25 years of practice, specializing in Foreign Law, Civil and Historical Heritage. Doctor of Law by the UCM (Outstanding cum laude), also has training in criminology, canon law and security management. Since 1999 he has run his own firm Ramírez & Crespo Asociados and advises, among other institutions, the Fundación Casa de Alba, the Museo del Palacio de Liria and the Museo de las Dueñas; he has collaborated with diplomatic bodies, including the Chinese Embassy in Spain. Vice-President of the Arbitration Court of ICAM, elected member of its Governing Board and Chairman of its



Human Rights Observatory. In the academic field he has been a professor at URJC, IEB, European University and ISDE, where he directed the Master's degree in Foreign Law, and is a speaker and author on subjects of nationality, family and technological transformation. He participates as an observer in international judicial proceedings and collaborates with media such as El País, El Mundo and Lawyerpress, as well as appearing on television as an expert on foreigners.

#### **KALPANA SHARMA (INDIA)**

Kalpana Sharma is an independent journalist, columnist and author based in Mumbai, India. In over five decades as a journalist, she has worked with Himmat Weekly, Indian Express, Times of India, The Hindu and Economic & Political Weekly. Currently, she writes a column on the media in Newslaundry.com. As a journalist, she has focused on environmental, urban and developmental issues, gender, human rights and the media. She has written two books: *The Silence and the Storm: Narratives of violence against women in India* and *Rediscovering Dharavi: Stories from Asia's Largest Slum*. In addition, she has edited *Single by Choice: Happily Unmarried Women* and *Missing Half the Story: Journalism as if gender matters*.

### **Annex 3**

#### **PROSECUTION TEAM**

##### **MOHEB MUDESSIR (AFGHANISTAN)**

Dr. Moheb Mudessir is a London-based legal scholar, international human rights advocate, and journalist with more than two decades of experience at the intersection of law, media, and civil society. He holds a PhD in International Human Rights Law from the University of Sussex, where his doctoral research examined the rights of minority and marginalized groups, with a particular focus on Afghanistan. In addition, he holds an LLM in Public International Law and a BA in Law and International Relations. Dr. Mudessir's academic and advocacy work has consistently focused on the protection of human rights, with particular expertise in minority rights, indigenous peoples' rights, gender justice, and press freedom. His research and publications engage with questions of State responsibility, impunity, and the role of international institutions in advancing accountability and justice. Prior to his academic career, Dr. Mudessir spent more than 20 years as a journalist and senior presenter with the BBC World Service. In this capacity, he reported extensively on human rights, geopolitics, security, conflict, and across Afghanistan, Central Asia, Pakistan, Iran, and the broader Middle East, and contributed analytical writing to various national and international media outlets.

##### **ORZALA NEMAT (AFGHANISTAN)**

Dr. Orzala Nemat is an internationally known Afghan scholar, activist, and think-tank leader. She holds a PhD in Development Studies from SOAS, University of London, and an MSc in Development Planning from UCL. From 2016 until 2022, she served as Director of the Afghanistan Research & Evaluation Unit (AREU), one of Afghanistan's leading policy research organisations. After the return of the Taliban in 2021, Dr. Nemat relocated (to the UK) and founded Development Research Group Ltd (DRG), a multidisciplinary organisation focused on research, mentorship, open-access teaching, and evaluation. She has over 25 years' experience working with grassroots, national and international organisations, especially in support of women, youth, and marginalised populations. She was Acting Chair of the Open Society Foundations' Afghanistan Advisory Board until July 2021, and remains a Trustee of Afghanaid. Among her earlier distinctions, she was a Yale Greenberg World Fellow (2008), selected as a Young Global Leader in 2009, and is the recipient of the Isabel Ferrer Award for Women's Education and the Amnesty International Award for Humanitarian Aid to Children and Women.

##### **AZADAH RAZ MOHAMMAD (AFGHANISTAN)**

Ms. Azadah Raz Mohammad serves as a Legal Advisor at the End Gender Apartheid Campaign. Her previous work has focused on the role of law and justice reform in Afghanistan, where she worked closely with the Afghanistan Independent Human Rights Commission, the Ministry of Justice, the Administrative Office of the President, and other national justice institutions. She has also served as an adjunct lecturer in law at the American University of Afghanistan. Ms. Raz Mohammad holds an LLB from the University of Westminster, an LLM in International Humanitarian Law and Human Rights from the University of Essex, and a second LLM in International Criminal Law from Ohio State University, where she was a Fulbright Scholar. She is currently pursuing a PhD at Melbourne Law School. In 2021, she co-founded the Ham Diley Campaign, a collective of human rights lawyers committed to pursuing accountability for international crimes committed in Afghanistan. As part of this work, she co-directs legal and policy research at the Afghanistan Support Clinic within Monash Law Clinics, where she also serves as a Teaching Associate.

Her academic and professional work focuses on international criminal law and international humanitarian law, with particular emphasis on gender justice, legal reform, and victim-centred approaches to accountability for international crimes. She also writes frequently on international criminal law and accountability through decolonial and gender-sensitive perspectives.

#### **BENAFSHA YAQOOBI (AFGHANISTAN)**

Dr. Benafsha Yaqoobi, a civic society and human rights activist, founder of the Organization of Rahyab for Rehabilitation Services for the blind (ORRSB) in Afghanistan, an attorney for the elimination of violence against women until 2019, and also Afghanistan Independent Human Rights Commissioner (before The Taliban's 2nd takeover), was born in Kabul, Afghanistan. She is taking a PhD Research Degree program in sociology at the London School of Hygiene and Tropical Medicines (LSHTM). She is also the founder and director of The Rahyab Initiative, UK. Since the political changes in Afghanistan in 2021, she has consistently used every available platform to emphasize to the international community the critical importance of including Afghan women in national peace-building processes. In 2024, she completed a PhD research degree from Lovely Professional University, India, in Political Sciences, with a thesis on democratic governance and its impacts on women's political rights in Afghanistan (2001-2021). She is an awardee of the International Women of Courage (IWOC) for 2024 by US State Department, due to her advocacies for the rights of women, particularly the rights of women with disabilities in Afghanistan. She was also awarded the 2022 Marca Bristo fellowship by Human Rights Watch and selected as one of the 100 most influential women by BBC World in 2021. Received master's degree in political sciences in 2018, from Payam-e-Nour University, Kabul, Afghanistan and got another master's degree in international relations from Afghanistan Institute of Higher Education, Kabul, Afghanistan.

#### **Annex 4**

#### **LIST OF TREATIES RATIFIED BY THE STATE OF AFGHANISTAN**

- Convention on the Political Rights of Women (CPRW), ratified on 16 November 1966
- International Covenant on Civil and Political Rights (ICCPR), ratified on 24 January 1983
- International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified on 24 January 1983
- Convention Against Torture (CAT), ratified on 1st of April 1987
- Convention on the Rights of the Child (CRC), ratified on 28 March 1994
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), ratified on 5 March 2003
- Convention Against Discrimination in Education (CADE), date of effect 25 April 2010
- Convention on the Rights of People with Disabilities (CRPD), ratified on 18 September 2012

## **Annex 5**

### **LIST OF ACRONYMS**

ACLED Armed Conflict Location and Event Data Project

AHRDO Afghanistan Human Rights and Democracy Organisation

CADE Convention Against Discrimination in Education

CAT Convention Against Torture

CEDAW Convention on the Elimination of All Forms of Discrimination against Women

CPRW Convention on the Political Rights of Women

CRC Convention on the Rights of the Child

CRPD Convention on the Rights of Persons with Disabilities

DROPS Organisation for Policy Research and Development Studies

HRN Human Rights Now

ICESCR International Covenant on Economic, Social and Cultural Rights

ICC International Criminal Court

ICCPR International Covenant on Civil and Political Rights

ICJ International Court of Justice

ICTR International Criminal Tribunal for Rwanda

ICTY International Criminal Tribunal for the former Yugoslavia

NGO Non-Governmental Organization

OTP Office of the Prosecutor of the International Criminal Court

PPT Permanent Peoples' Tribunal

PVPV Law on the Promotion of Virtue and the Prevention of Vice

RO Requesting Organisation

UDHR Universal Declaration of Human Rights

UN United Nations

UNAMA United Nations Assistance Mission in Afghanistan

UNESCO United Nations Educational, Social and Cultural Organization

UNICEF United Nations International Children's Emergency Fund

UNSG United Nations Secretary General

USIP United States Institute of Peace