

Human Rights of Afghan Women Under Siege:

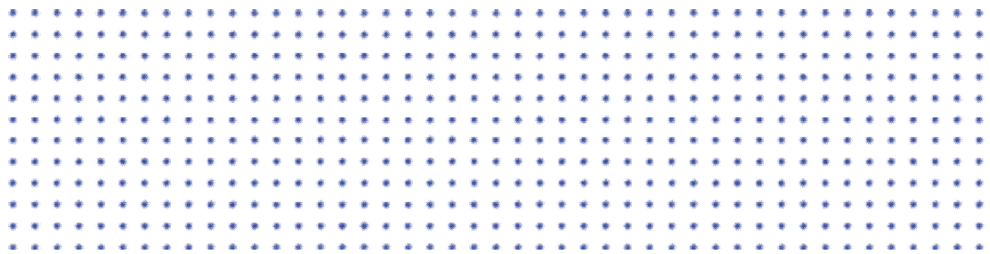
An Examination of the Gender Apartheid and Persecution of Women in Afghanistan under the Taliban's De Facto Rule

Prepared by the Civic Engagement Project
in partnership with Foley Hoag LLP's United Nations Practice Group



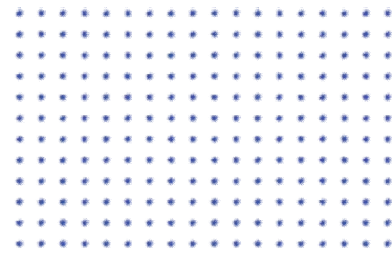
Afghan women and girls taking part in a protest in front of the Ministry of Education in Kabul on 26 March 2022, demanding that high schools be reopened for girls.

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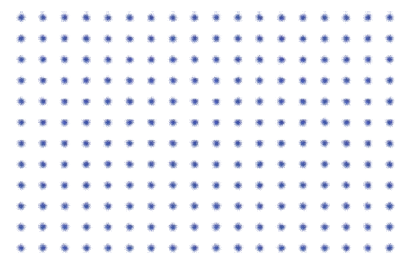
I. INTRODUCTION

In August 2021, Taliban forces exploited the departure of the Afghan government's foreign partners, and swiftly and violently seized power. With its government toppled and legal system (including its 2004 Constitution) suspended, Afghanistan has been subjected to the brutal rule of the Taliban,¹ which has exerted its power over every aspect of Afghan life ("**Second Taliban Regime**"). In particular, the Second Taliban Regime has issued more than 200 written and oral decrees which have been given the force of law ("**Decrees**" or "**Taliban Decrees**"; *the Decrees referenced in this report are listed chronologically in **Annex A***). These Decrees have had a catastrophic effect on the rights of the Afghan people and, most acutely, on the rights of women and girls. The Taliban Decrees deprive women of all status in the country, subjugating them to men in all conceivable respects. Women are prohibited from leaving their homes if they are not accompanied by a *mahram*, or close male relative "guardian." Women and girls are prohibited from attending school past the sixth grade and may not be employed. They have been forced to don the *burqa* (also known in Afghanistan as the "*chadori*"), covering their full faces and bodies with only a mesh strip over the eyes. Women who fail to comply are subject to arbitrary arrest and imprisonment, and risk violence to themselves and their family members.

Those courageous enough to speak out against the abuse they have endured under the Taliban regime are often subjected to cruel punishment and torture, denied any meaningful legal process, or disappeared from their homes by Taliban soldiers, never to return. The situation reached a new nadir in August 2024, when the Taliban regime promulgated the Law on the Promotion of Virtue and Prevention of Vice ("**LPVPV**", see **Annex B**), which, among many other prohibitions, makes it illegal for a woman's voice to be heard in public. The result has been the creation of a system of gender apartheid, in which women suffer systematic discrimination, oppression and segregation.

This Report provides an overview of the history of women's rights in Afghanistan and a general background to the disintegration of women's rights in Afghanistan under the Second Taliban Regime (**Section II**). The Report then provides an analysis of the Taliban's Decrees and their devastating impacts on women's rights through the lens of international law (**Section III**). This Report concludes with a call for action to respond to the Taliban's systematic and pervasive erosion of women's rights (**Section IV**).

II. THE DEVOLUTION OF THE RIGHTS OF WOMEN AND GIRLS IN AFGHANISTAN



Over the last century, the social and legal status of women and girls in Afghanistan has evolved through multiple political shifts. Women gained suffrage in 1919 and were granted legal protections in the 1923, 1964, and 1976 Constitutions.² In 1983, Afghanistan joined the International Covenant on Civil and Political Rights (“ICCPR”), which recognizes and protects important civil rights of all individuals in the territories of States Parties, “without distinction of any kind” based on sex.³

However, the Soviet-Afghan war (1979-1989) and the subsequent rise of the Taliban (1996-2001) led to severe regression in the rights of women and girls. Under the Taliban theocracy’s fundamentalist interpretation of Islam, women were stripped of their legal rights to work, education, meaningful access to healthcare, and legal protections from violence.⁴ Women, viewed by the Taliban as a source of temptation to be suppressed, were eradicated from all public spaces.



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The fall of the Taliban in 2001, and assistance from foreign partners, brought incremental progress in the rights of women and girls. The 2004 Afghan Constitution enshrined women’s rights, reserved 25% of parliament and provincial council seats for women, and committed to international women’s rights conventions.⁵ The Ministry of Women’s Affairs was established to promote women’s rights and empowerment.

In 2009, Afghanistan passed the Elimination of Violence Against Women Law (“**EVAW**”), which criminalized various forms of violence against women, including rape, forced prostitution, and underage marriage, and required government action to protect and support victims, e.g., by establishing safe houses and providing legal aid and free health services.⁶ The country’s 2007 National Action Plan for Women, and the 2015 National Action Plan for UN Security Council Resolution 1325, aimed to increase women’s participation in society.⁷ Despite their uneven progress, these reforms led to increased representation of women in government and various sectors.

Since the Taliban's takeover on 15 August 2021, the rights of women and girls have been substantially curtailed. The *de facto* authorities struck down the 2004 Constitution and all domestic legislation, including the EVAW.⁸ Taliban forces have abolished institutions and mechanisms that promoted gender equality and provided protection against gender-based violence, such as the Afghanistan Independent Human Rights Commission and the Ministry of Women's Affairs.⁹

In place of a formal codified legal system, the Taliban rules through the dissemination of both oral and written Decrees ... These repressive laws and decrees violate Afghanistan's international legal commitments under various international conventions and customary international law.

In place of a formal codified legal system, the Taliban rules through the dissemination of both oral and written Decrees, which are given the force of law.¹⁰ These Decrees purport to reflect Sharia law, as interpreted by the Taliban.¹¹ Since 2021, the Taliban has issued more than 200 such Decrees, the majority of which violate the rights of women and girls.¹² The Taliban's Ministry of Propagation of Virtue and Prevention of Vice, together with the General Directorate for Monitoring and Follow-up of Decrees and Directives, is tasked with monitoring and implementing the edicts. These Decrees have restricted women's rights to freedom of movement, attire and behavior, as well as access to education, work, health and justice. The Taliban has barred women from working with NGOs and UN offices in Afghanistan, severely limiting their ability to work as aid workers. Together with restrictions on women's freedom of movement without a male "guardian" — an impossibility for the quarter of Afghan households headed by women — this has had the grievous effect of restricting women's access to humanitarian aid, in violation of international law.¹³ In August 2024, the Taliban codified and formalized these oral Decrees by publishing the Law on the Promotion of Virtue and the Prevention of Vice ("LPVPV") in the national gazette of Afghanistan, a critical step in the Taliban's strategy to turn women into faceless, voiceless shadows. Under this draconian legislation, even the sound of a female voice outside the home now constitutes a moral violation subject to criminal sanction.

These repressive laws and decrees violate Afghanistan's international legal commitments under various international conventions and customary international law.¹⁴ Notably, many of the human rights conventions to which Afghanistan is a party include non-discrimination provisions mandating that States Parties provide for all protections contained therein without regard to gender and/or ensure equal

treatment of men and women with respect to those rights.¹⁵ As a State Party to various human rights conventions, Afghanistan has positive obligations to adopt measures of protection and to take necessary steps to enable every person, regardless of sex, to enjoy the rights recognized therein.¹⁶

The Taliban's legal system not only facilitates gender persecution, but constitutes a regime of gender apartheid, given the systematic discrimination, subjugation, and segregation of women based on gender. While this report details the existing international human rights obligations which are being breached daily by the Taliban regime, an analysis which considers each Decree in isolation fails to account for the comprehensive subjugation of women at the core of the Taliban's governing strategy. This systematic scale requires the identification of new accountability tools, namely the codification of the crime of gender apartheid under international law.

As explained by the signatories of the Joint Call to Amend the Draft Crimes Against Humanity Convention to Encompass Gender Apartheid, who include former judges and prosecutors of the International Criminal Court, UN Special Rapporteurs, Nobel Peace Laureates, and former heads of State, gender apartheid "is distinct from other international crimes, including gender persecution, due to its dystopian ambition to maintain an institutionalized regime of systematic oppression and domination, where the under-class is subjugated for the dominant group's benefit and survival, dehumanized, and cut off from the resources and access needed to overcome their choreographed oppression."¹⁷

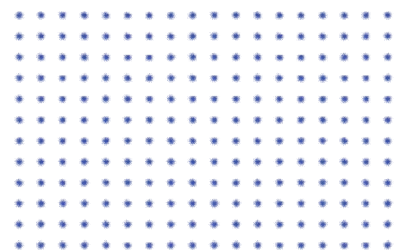
"There is no better way to describe what Afghanistan's women face than gender apartheid."

– Metra Mehran

Afghan human rights defender and policy specialist Metra Mehran has witnessed the dismantling of women's rights by the Taliban in recent years and attests that "[t]here is no better way to describe what Afghanistan's women face than gender apartheid ... Women are now effectively confined to their homes and to the only roles deemed by the *mullahs* to be appropriate for them: caregiving and childbearing."¹⁸

The Taliban's attempt to muzzle the women and girls of Afghanistan requires swift international action to recognize and punish the crime of gender apartheid, which is not explicitly prohibited by any existing human rights treaty — "The alternative is to continue on the current path, in which the world wrings its hands but essentially does nothing to stop the Taliban from rendering Afghanistan's women faceless, silent and invisible."¹⁹

III. INTERNATIONALLY PROTECTED RIGHTS VIOLATED BY THE TALIBAN'S DECREES



The Taliban, as the *de facto* authority in Afghanistan, must respect and implement all international obligations to which Afghanistan has committed, including the Universal Declaration of Human Rights (“UDHR”) and multiple human rights treaties.²⁰

In particular, Afghanistan is bound by the Convention on the Elimination of All Forms of Discrimination against Women (1979) (“CEDAW”), which it signed on 14 August 1980 and ratified on 5 March 2003. Afghanistan’s ratification of CEDAW included acceptance of Article 29, which establishes the International Court of Justice’s jurisdiction over disputes relating to the interpretation or application of the Convention. CEDAW’s comprehensive approach codifies a broad range of obligations concerning the rights of women and girls. Reflective of this comprehensive approach, the preamble recalls that “discrimination against women violates the principles of equality of rights and respect for human dignity” and is an “obstacle to participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity.” The preamble further records the States Parties’ conviction that the “full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields.” It also mentions the States Parties’ awareness that a “change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women.”

Article 1 of CEDAW defines “discrimination against women” as meaning “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”

Numerous provisions of CEDAW, including the following articles, pertain to the human rights violations experienced by women and girls in Afghanistan:

Article 2, under which the States Parties “condemn discrimination against women in all its forms” and “agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women.” Article 2 further provides that, “to this end,” the States Parties “undertake” to:

- (a) “embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle”;
- (b) “adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women”;
- (c) “establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination”;
- (d) “refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation”;
- (e) “take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise”;
- (f) “take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women”; and
- (g) “repeal all national penal provisions which constitute discrimination against women.”

Article 3, under which the States Parties are obligated to “take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.”

Article 5, under which the States Parties must “take all appropriate measures” to “modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.”

Article 6, under which the States Parties are required to “take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.”

Article 7, under which the States Parties are obligated to “take all appropriate measures to eliminate discrimination against women in the political and public life of the country.” Further, the States Parties are obligated to “ensure to women, on equal terms with men,” the right to (a) “vote ... and to be eligible for election”; (b) “participate in the formulation of the government policy”; and (c) “participate in non-governmental organizations and associations concerned with the public and political life of the country.”

Article 10, which requires the States Parties to “take all appropriate measures to eliminate discrimination against women in order to ensure them equal rights with men in the field of education.” This includes ensuring, on a “basis of equality of men and women”:

- (a) The “same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas,” which must be “ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training”;
- (b) “Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality”;
- (c) The “elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adoption of teaching methods”;
- (d) The “same opportunities to benefit from scholarships and other study grants”;

(e) The “same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women”;

(f) The “reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely”;

(g) The “same opportunities to participate actively in sports and physical education”; and

(h) “Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.”

Article 11, under which the States Parties must take “all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights.”

Article 12, under which the States Parties must “take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.”

Article 13, under which the States Parties are obligated to “take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights,” including the “right to participate in recreational activities, sports and all aspects of cultural life.”

Article 14, which obligates the States Parties to “take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development.”

Article 15, which requires the States Parties to “accord to women equality with men before the law”; to “accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity,” including giving “women equal rights to conclude contracts and to administer property”; and to accord equal treatment “in all stages of procedure in courts and tribunals.” The provision further requires according 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.”

Article 16, which requires the States Parties to “take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations,” including, *inter alia*, the “same right to enter into marriage”; the “same right freely to choose a spouse and to enter into marriage only with their free and full consent”; the “same rights and responsibilities during marriage at its dissolution”; the “same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children”; the “same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation”; and the “same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.”

The Taliban’s Decrees and the LPVPV breach these legal obligations and will continue to do so until meaningful action is taken to hold the Taliban accountable and restore protections for the rights of women and girls in Afghanistan. Such action is critical in light of the Taliban’s complete disregard for women’s human rights. The Taliban’s Ministry for Propagation of Virtue and Prevention of Vice recently described women’s rights as “international terrorism” and criticized the United Nations for what it perceives as an imposition of foreign values on Afghanistan. Spokesperson Saif-ul-Islam Khyber claimed that the UN’s interpretation of the Taliban’s laws reflects a misunderstanding of their cultural and religious context.²¹

The Taliban’s Ministry for Propagation of Virtue and Prevention of Vice recently described women’s rights as “international terrorism”.

The following sections analyze how the Decrees and the LPVPV breach the rights to life and health, access to justice, and freedom of movement — and accordingly access to humanitarian aid — along with numerous other social and economic rights.

Right to Health

The right to health, enshrined in Article 12 of the International Covenant on Economic, Social and Cultural Rights (“ICESCR”), can be understood as containing three interrelated subsidiary rights: (1) the right to enjoy the highest attainable physical and mental health; (2) the right to access health facilities and treatment; and (3) the right to access health-related education and information, including education and information on sexual and reproductive health and family planning.²² These rights are to be equally applied to men and women in accordance with Article 12 of CEDAW, which, as detailed above, specifically requires States Parties to “take all appropriate measures to eliminate discrimination against women in the field of health care ... [and] ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.”²³

The Taliban’s Decrees and the LPVPV have restricted women’s and girls’ access to health in several ways. Prior to 2021, Afghanistan’s healthcare system relied heavily on donor funding, with 95% of the budget provided by organizations like the World Bank, EU, and USAID, much of which was suspended when the Taliban seized control.²⁴ Women made up 30% of the 55,000 Afghan nationals working for NGOs, including organizations which provide essential healthcare services. In January 2023, the Taliban issued a decree indefinitely suspending female employment in domestic and foreign non-governmental institutions, which has resulted in a drastic shortage of healthcare workers in the country.²⁵ The shortage is further exacerbated by Taliban policies in many regions requiring female healthcare workers to obtain a license demonstrating that they have passed a “religious examination” in order to continue practicing medicine.²⁶ The license is prohibitively expensive for many healthcare workers (10,000 AFS). As a result, in some rural districts, there are now no female doctors or nurses. With healthcare facilities segregated by gender, women are prevented from being treated by male doctors, resulting in severely limited access to care and staggering female mortality rates.²⁷

The Taliban’s restrictions of women’s freedom of movement further curtail their access to health services.²⁸ The Taliban’s early Decrees banned women from traveling over 72 km without a male guardian,²⁹ from obtaining drivers licenses,³⁰ and from traveling in taxis or other urban passenger vehicles without a male guardian.³¹ The situation has further deteriorated since these Decrees were translated into law with the promulgation of the LPVPV. Indeed, the LPVPV now provides that women can

only leave their homes “for an essential reason,” which is undefined and interpreted arbitrarily by Taliban enforcers, and in that case women must “cover her voice, face, and body.”³² Likewise, the LPVPV prohibits the transport “of women without a legal mahram” and prohibits women from accessing public transport unless they wear the approved “hijab”.³³ As Human Rights Watch has observed, this legal system violates the right to health by impeding women’s and girls’ ability to access health services.³⁴ The catastrophic earthquakes which befell Afghanistan in October 2023 tragically highlighted this issue, with over 90% of the deaths being women and children due to restricted movement and lack of healthcare access.³⁵

[The Taliban’s] legal system violates the right to health by impeding women’s and girls’ ability to access health services ... [and] has severely limited women’s and girls’ access to education and information regarding health, including family-planning.

The Taliban has severely limited women’s and girls’ access to education and information regarding health, including family-planning. The Taliban has banned radio and television broadcasting programs related to women’s health issues in the media.³⁶ This includes broadcasting programs addressing menstruation, contraception, pregnancy-related problems (including pregnancy pains and ectopic pregnancy), and miscarriage. Relatedly, the Head of the Takhar Provincial Health Office has prohibited the installation of any health-related advertisements or announcements depicting women in health clinics and hospitals.³⁷ And in Kandahar, young girls are prohibited from going to healthcare facilities at all.³⁸ The situation can only deteriorate after the publication of the LPVPV, which provides that media may publish only “content that does not contradict Sharia and religion,” as interpreted by the Taliban.³⁹

The Taliban has also taken steps to restrict women’s access to facilities that promote physical and mental health and well-being. On 10 November 2022, the Ministry of Promotion of Virtue and Prevention of Vice announced that women would no longer be allowed to enter recreational parks.⁴⁰ It has been reported that this ban has been extended to gyms and public baths.⁴¹ On 26 August 2023, the Taliban banned women and girls from entering Band-e Amir National Park — a collection of natural lakes and one of Afghanistan’s major tourist attractions.⁴²

The Special Rapporteur on the Situation in Afghanistan recently expressed alarm at the high rate of suicide reported among young girls.

These Decrees violate women's and girls' right to health because they deny them access to facilities that would enhance and promote their physical and mental health and well-being, both of which are in crisis under the Taliban. The Special Rapporteur on the Situation in Afghanistan recently expressed alarm at the high rate of suicide reported among young girls, particularly in the south of the country.⁴³ When experts have asked women and girls what would improve their mental health, amongst the top three suggestions was "safe spaces to meet and exercise."⁴⁴

In December 2024, the Taliban sounded a death knell for women's health when it decreed that women could no longer study nursing or midwifery, the only medical fields that women remained permitted to pursue under the prior edicts.⁴⁵ In a regime that does not permit even women on the brink of death from being treated by male doctors, this most recent development threatens a devastating future for Afghan women and girls.

Right to Freedoms of Expression

As mentioned above, CEDAW requires States Parties to "condemn discrimination against women in all its forms" and "agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women."⁴⁶ This entails that States Parties must refrain from discrimination "in all fields, in particular in the political, social, economic and cultural fields,"⁴⁷ and "take all appropriate measures" to "modify the social and cultural patterns of conduct of men and women [to] achiev[e] the elimination" of discrimination against women,⁴⁸ in particular as regards "the political and public life of the country."⁴⁹

Additionally, the right to express one's conscience freely is enshrined in multiple conventions to which Afghanistan is a party, most notably the ICCPR. These rights include the right to (1) "freedom of thought, conscience and religion" and "freedom to have or to adopt a religion or belief of [one's] choice" without "coercion which would impair" the practice of those religious beliefs;⁵⁰ (2) freedom "to hold opinions without interference";⁵¹ (3) "freedom of cultural expression";⁵² (4) "freedom to seek, receive and impart information and ideas of all kinds";⁵³ and (5) freedom of peaceful assembly.⁵⁴ Within these umbrella rights exist freedom of dress,⁵⁵ freedom of the press,⁵⁶ and the right to peaceful protest.⁵⁷

The Taliban has violated each of these enumerated and penumbral rights.

The Taliban has decreed that the Hanafi school of Sunni Islam is the exclusive governing law of Afghanistan and that judges must apply Hanafi jurisprudence when issuing their decisions.⁵⁸ This requires that other religious sects, such as the religious minority Shi'a community, comply with Hanafi law.⁵⁹ With the imposition of Hanafi jurisprudence, the Taliban dismissed all Shi'a judges and abolished the Shi'a Personal Status Law, meaning that Shi'a women, like other religious minorities, can no longer have their civil cases or personal status matters adjudicated in line with their beliefs. Taliban courts have displayed bias against religious minorities; for example, a Herat court reportedly issued a verdict denying Shi'a Muslims from accessing a mosque used by the community for years in favor of Hanafi followers aligned with the Taliban.⁶⁰ This coercion and bias in legal matters strips Afghan women of their right to freely practice their religion and undermines their access to justice.

In a further infringement of women's rights to freedom of religion and expression, in the summer of 2022, the Taliban imposed severe restrictions on women's dress through a series of written Decrees⁶¹ mandating that women's faces be covered in public through the use of "approved" forms of hijab—including the *chadori* (the blue-colored Afghan burqa or full-body veil) or a black veil covering from head to foot.⁶² Before women were banned from working in governmental positions, these Decrees established that non-compliant female government employees were to be dismissed from their jobs, and threatened similar consequences for male employees if their female relatives failed to comply.⁶³ The Taliban has detained women and girls nationwide for not observing the mandated hijab, subjecting them to prolonged police custody and torture in some cases.⁶⁴

Women are prohibited from even speaking in public because their voices have been deemed “Awrah” (loosely translated to “intimate” or “nakedness”) and criminalized by the Taliban.

The LPVPV has codified these restrictions and further worsened the position of women. Indeed, Article 13 of the LPVPV requires women to cover not only their entire body, but also their face. What is worse, women are prohibited from even speaking in public because their voices have been deemed “Awrah” (loosely translated to “intimate” or “nakedness”) and criminalized by the Taliban.⁶⁵ They claim it causes “*Fitna*,” which translates to “temptation in men” and can provoke immorality in society. Women are also prohibited from engaging with “non-believing and immoral women,” thus cutting them off from any woman who is western-looking.⁶⁶

The Taliban has imposed increasingly severe limitations on the freedom of the press, including as it relates to the discussion and depiction of women. In 2021, the Taliban issued a national ban on depictions of women “that are not fully covered” in media,⁶⁷ while some provinces prohibited the broadcasting of women’s voices and images entirely, leading to the arrest of journalists and the closure of several media outlets.⁶⁸ In 2023, the Taliban prohibited interviews between presenters of one sex and guests of the opposite sex, requiring media outlets to host gender-segregated programs for their broadcasts.⁶⁹ Female presenters and guests were ordered to appear in *niqab*, covering all but their eyes or even in full mask.⁷⁰

The Taliban limits information that may be disseminated by the media on women’s health issues, including, *inter alia*, menstruation, pregnancy-related topics, contraception, and miscarriage.⁷¹ Women are prohibited from serving in positions on the Media Violations Commission, which operates under the Ministry of Information and Culture of Afghanistan, further attenuating the voice and influence women may have on messaging on women’s issues in the media.⁷²

The Taliban openly targets female dissidents—beating, detaining, and torturing those documenting Taliban human rights violations.

Finally, the Taliban has all but eradicated the rights to freedom of assembly and freedom of speech by decreeing that protest organizers must acquire authorization to protest from the Ministries of Interior Affairs and Justice as well as approval of the slogans and protest messages to be used.⁷³ In practice, the Taliban has not issued any such authorization, and Taliban forces have systematically harassed and imprisoned protest organizers — particularly women dissidents.⁷⁴ For example, following demonstrations against Taliban human rights violations, female activists were taken from their homes in the middle of the night and disappeared into Taliban custody without further process or transparency as to their treatment.⁷⁵ The Taliban openly targets female dissidents,⁷⁶ beating, detaining, and torturing those documenting Taliban human rights violations.⁷⁷ These actions violate Afghanistan’s obligations to protect the freedoms of expression and peaceful assembly.

Right to Education

The right to education is a fundamental right. The UDHR provides that “everyone has the right to education.”⁷⁸ Likewise, the ICESCR requires States Parties to guarantee the “right of everyone to education.”⁷⁹ Women’s right to access education is not only firmly established and ensured by the aforementioned treaties, but is also reinforced by CEDAW, which requires States Parties, and thus Afghanistan, to ensure that women have equal opportunity for education as compared to men,⁸⁰ as well as the Convention Against Discrimination in Education, which imposes a positive obligation on States to prevent and eradicate discrimination in education.⁸¹

The Taliban’s Decrees have imposed a de facto ban on education for women and girls.

The Taliban’s Decrees have imposed a *de facto* ban on education for women and girls. On 12 September 2021, a Decree was issued by which schools reopened for boys only, while girls and women were prohibited from attending.⁸² The situation worsened drastically after 30 March 2022, when the Taliban introduced a ban on attending school for girls above grade six.⁸³ Although this Decree purports to purely “suspend” girls from accessing education, the ban has not been lifted and girls are still prohibited from accessing education.

At the university level, access to education is now banned for women. This policy developed gradually, beginning with a 9 December 2021 Decree implementing gender segregation in universities and prohibiting men and women from studying together.⁸⁴ Soon after, on 10 May 2022, the Taliban issued a new Decree by which women were prohibited from pursuing certain university majors such as agriculture, journalism, engineering, and veterinary medicine.⁸⁵ The edict not only banned existing students from these academic pursuits, but also required school officials to reject female applicants. Women’s right to access a university education was completely restricted when, on 20 and 22 December 2022, the Taliban Minister of Higher Education issued two Decrees announcing that “the education of female students is entirely suspended” and criminalized even the *presence* of women on university campuses.⁸⁶ These Decrees not only curtailed access for female students, but banned the presence of female professors — and female employees more broadly — in educational institutions.⁸⁷

Male advocates for the education of women and girls who have campaigned against the Taliban's Decrees on education have been publicly beaten and arbitrarily arrested and imprisoned. For example, in February and March 2023, respectively, Professor Ismail Mashal and prominent education activist Matiullah Wesa were beaten and arrested for promoting equal education for women and girls.⁸⁸ On 17 October 2023, two more activists, Ahmad Fahim Azimi and Seddiqullah Afghan, who worked with the education organization Fekre Behtar, were also arrested.⁸⁹ These arrests highlight the increasing suppression of those advocating for girls' education in Afghanistan.

The Taliban's Decrees and actions constitute a complete violation of CEDAW Article 10, which requires that States Parties "take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education." This Article of CEDAW further requires that women have the "same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments."⁹⁰ Clearly, Decrees banning women from accessing any level of education are in breach of this provision. Likewise, the Decrees requiring the rejection of female applicants from accessing entrance exams violate CEDAW Article 10(b), which requires women to have "[a]ccess to the same curricula, the same examinations, teaching staff with qualifications of the same standard." Since the Decrees prevent women from accessing education entirely, they also violate CEDAW's requirement to allow women to be granted "[the] same opportunities for access to programmes of continuing education ... particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women."⁹¹

The recent issuance of the LPVPV has deteriorated the situation further, crystallizing these violations. Indeed, the law prohibits women from leaving their homes unless "for an essential reason,"⁹² thus excluding women from accessing any form of education.

Right to Work and Self-Development

The right to work has been recognized as “essential for realizing other human rights and [as] form[ing] an inseparable and inherent part of human dignity”.⁹³ Article 11 of CEDAW protects women’s equal right to work and employment opportunities.⁹⁴ This instrument further defines work as “an inalienable right,”⁹⁵ placing it in the category of those rights which cannot by their nature be taken away, providing “an essential guarantee for women’s economic freedom.”⁹⁶ Implementing the right to work means that States must take all appropriate measures to facilitate the economic participation of women,⁹⁷ and must ensure women’s freedom of choice as to profession.⁹⁸

Several decrees have imposed a gradual, and now complete, ban on women’s participation in work.

The Taliban’s prohibitions on education for women and girls bitterly impacts women’s rights to work and self-development. Indeed, by not having “equal rights with men in the field of education,”⁹⁹ women cannot have “the same employment opportunities” as required by Article 11(1)(b) of CEDAW.

To say nothing of women’s inexistent access to education, several Decrees have imposed a gradual, and now a complete, ban on women’s participation in work. On 16 September 2021, the Mayor of Kabul “instructed female employees in the Kabul municipality to stay at home and attend their duties.”¹⁰⁰ Likewise, on 21 September 2021, the Deputy Minister of Information and a spokesman for the Taliban announced that female employees working in government offices should stay at home.¹⁰¹ And on 20 January 2023, the Minister of Economy issued a Decree mandating that because of “complaints ... received regarding the non-compliance with Islamic hijab and other laws and regulations enforced by the Emirate concerning the activities of female employees in non-governmental and foreign institutions..., the Ministry of Economy directs all esteemed institutions to suspend the work of all female employees in their respective departments until further notice.”¹⁰² The Taliban imposed severe consequences for the NGOs who defended their female employees and defied the ban. If they did not comply, the Taliban threatened, “the operating license issued by this ministry will be revoked.”¹⁰³ On 1 January 2023, women were also banned from working at UN agencies in Afghanistan.¹⁰⁴ According to the Taliban, this ban was for “[the] preservation of the dignity and chastity of women” because “these institutions are not under the control of the Emirate.”¹⁰⁵ The Taliban also issued a Decree on 20 June 2023, reiterating that “female employees of all non-governmental organizations must remain in their

homes until further notice and not attend their duties” and specifying that this order applied to female employees of the International Organization for Migration, UNICEF, the Norwegian Refugee Council, and other prominent foreign aid organizations.¹⁰⁶

On 12 September 2023, the Taliban decreed that all women’s councils should be abolished and that employing women in any institution or board of directors is “absolutely prohibited”.¹⁰⁷ The same Decree mandated that women could not be paid for engaging in remote work, closing a loophole by which some women continued their employment while confined to their homes.¹⁰⁸ While the Taliban’s ban on women’s work had allowed for qualified female medical personnel to continue to practice medicine, local news sources report that in 2023 the Taliban began closing many medical centers operated by female doctors simply for attending to and treating male patients.¹⁰⁹

The ban on women’s right to work was crystallized in the LPVPV since that instrument prohibits women from leaving their home unless it is for an “essential reason,” with the additional condition that women must be accompanied by a male guardian and fully covered, as mandated by the Taliban regulations.¹¹⁰

These measures violate CEDAW Article 11(1), which requires States to “take all appropriate measures to eliminate discrimination against women in the field of employment.” Instead of taking measures to eliminate discrimination against women, the current regime has dismantled the laws and institutions that protected women’s inherent rights, depriving them of access to and full enjoyment of their rights in every aspect of life. Since women are banned from all professions, the Decrees and the LPVPV are in clear defiance of CEDAW Article 11(1)(a), which establishes that “[t]he right to work [is] an inalienable right of all human beings.” Indeed, contrary to what CEDAW requires, the Decrees impede “[t]he right to the same employment opportunities,” and the “right to free choice of profession and employment.”¹¹¹ The Decrees thus defy CEDAW’s requirement that the States actively “prevent discrimination against women in the field of employment.” For these reasons, in January 2022, the International Labor Organization expressed its concerns about the violation of Afghan women’s right to work.¹¹²

Instead of taking measures to eliminate discrimination against women, the current regime has dismantled the laws and institutions that protected women’s inherent rights.

Rights to Freedom of Movement and Access to Humanitarian Aid

Afghanistan is bound by international obligations to ensure “liberty of movement,” which protects the right to move freely within Afghanistan as well as to leave the country.¹¹³ This right is directly tied to the international humanitarian obligation under the Fourth Geneva Convention to take positive measures to ensure equal access to humanitarian aid and to facilitate “the rapid and unimpeded passage of all relief consignments, equipment and personnel.”¹¹⁴

By banning women from working with UN agencies and other non-governmental organizations, their access to crucial humanitarian aid during the country’s largest humanitarian crisis in recent history has been limited. As United Nations Spokesman for the Secretary-General Stéphane Dujarric explained in December 2022:

*The effective delivery of humanitarian assistance requires full, safe and unhindered access for all aid workers, including women. The reported ban on women working with the international community to save lives and livelihoods in Afghanistan will cause further untold hardship on the people of Afghanistan.*¹¹⁵

The Taliban’s Decrees and the LPVPV violate these international norms by prohibiting women from traveling without a close male relative, including on public transit, by restricting their movement in public spaces, and by denying women access to social structures and locations where humanitarian aid is most commonly delivered, such as parks, healthcare facilities, gyms, and schools.¹¹⁶ The restrictions on movement have been felt most acutely by households headed by women — for example, by single or widowed women — who, without a male “guardian,” have no recourse to access life-saving assistance.

In May 2024, by order of the Taliban supreme leader, the Community Development Councils (CDCs), which were operational across Afghanistan, even in the most remote areas, and had reserved half of their seats for women to ensure their participation and leadership in decision-making, were dismantled.¹¹⁷ As a result, all programs including humanitarian aid and development projects implemented by donors and international organizations, including the World Bank, through these structures had to be halted according to the order. All implementing organizations must now seek approval from the Taliban for their projects, giving the Taliban direct control over aid distribution and effectively excluding women from any involvement or leadership in these processes.¹¹⁸

Other Economic, Social, and Cultural Rights

The treaties to which Afghanistan is a party protect numerous economic, social and cultural rights, such as protections for the “free and full consent” to marriage¹¹⁹ and the right to women’s “equality in cultural life.”¹²⁰ The right to freedom from forced marriage requires that States protect the right to “freely choose a spouse,” ensure that women enjoyed the same rights before, during, and after marriage, and prevent the entry into marriage of children unable to consent.¹²¹

The Taliban legal system expressly permits and encourages the forced marriage of women and girls and prevents freedom of spousal choice, particularly between individuals of different religions. On 13 August 2021, the Cultural Commission of Taliban issued a written Decree calling on each province to compile a list of unmarried and widowed women between the ages of 15 and 45. These names were to be submitted to the Cultural Commission so that the women and girls could be forced to marry Taliban soldiers.¹²² This Decree not only impacts the rights of women, but also contravenes the rights of the child in mandating child marriage (also referred to as early marriage).¹²³

Many women have been denied the ability to file for divorce, trapping them in circumstances of domestic violence and otherwise denying them the right to dissolve their marriages.

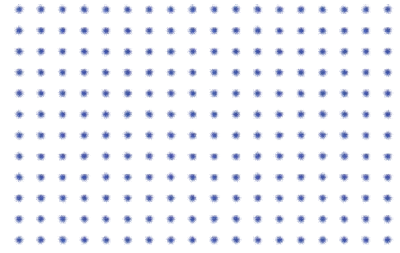
Child and forced marriage are human rights violations in their own right, and often lead to cascading harms by increasing the likelihood that women or girls will be subjected to gender-based intimate partner violence, including marital rape, or left unable to access reproductive health services that mitigate health issues and maternal morbidity rates.¹²⁴

Upon taking power, the Taliban nullified settled divorce cases decided between 2001 and 2021, claiming that the proceedings under the previous government did not align with their interpretation of Islamic law.¹²⁵ Moreover, many women have been denied the ability to file for divorce, trapping them in circumstances of domestic violence and otherwise denying women’s rights to dissolve their marriages.¹²⁶ Moreover, the Taliban has declared that women do not have the right to file complaints against men in courts, including about domestic violence or marital rape.¹²⁷ These rulings form part of a larger Taliban campaign to deny women access to justice, which included dismissing all female judges from the bench in Afghanistan. Abdulrahim Rashid, director of foreign relations and communications at the Taliban’s

Supreme Court, confirmed to journalists that women were unfit to participate in the judicial system because they “aren’t qualified or able to judge because in our Sharia principles the judiciary requires people with high intelligence.”¹²⁸

In addition to these attacks on marriage and divorce, the Taliban has issued Decrees barring women from entering mosques or praying outside their homes,¹²⁹ from participating in radio programs which promote social and educational content,¹³⁰ from frequenting recreational facilities or public spaces,¹³¹ and from participating in sports.¹³² These edicts reflect an escalating restriction of religious freedoms and the right of women to equally participate in social and cultural life in Afghanistan.

IV. CALL TO ACTION



The legal system under the Taliban has eroded the basic rights and freedoms of women and girls, constituting gender apartheid. However, as the *de facto* authorities in Afghanistan, the Taliban regime is bound by Afghanistan's commitments as a party to international human rights treaties. Urgent and concerted efforts must be taken to uphold the fundamental rights of women and girls and address the extreme gender inequality in today's Afghanistan. Accordingly, we present the following calls to action for the Taliban and the international community:

Call on the Taliban to Comply with International Law

Taliban leadership must uphold Afghanistan's international legal obligations,¹³³ including to protect, *inter alia*, the rights to freedom of religion, freedom of expression, freedom of peaceful assembly, freedom of the press, education, work and self-development, access to justice, health, freedom of movement and access to humanitarian aid, and all other enumerated civil, political, economic, social, and cultural rights. In furtherance of this mandate, we call upon Taliban leadership to:

1. Withdraw each of the written and oral Decrees which violates the human rights of Afghan citizens, particularly Afghan women and children;
2. Reestablish a constitutional order which recognizes and protects the status and equal rights of women and girls in Afghanistan;
3. Investigate, put an end to, and sanction human rights violations perpetrated by Taliban officials;
4. Implement measures to affirmatively protect the rights enshrined in human rights treaties and international law;
5. Ensure that all Afghan citizens have equal access to humanitarian aid, regardless of gender, religious expression or belief, or political beliefs; and
6. Seek and accept assistance by the international community to meet Afghanistan's international legal obligations.

Call on the International Community to Act

We also call on the international community to adopt measures to condemn and sanction the Taliban's violations of Afghanistan's international legal obligations, including through:

1. Joint condemnation of the Taliban's numerous breaches of international law;
2. Commencement of investigations into the Taliban's human rights violations pursuant to the review mechanisms codified in the human rights treaties signed by Afghanistan, including by the United Nations Human Rights Council — a United Nations mandated accountability mechanism to investigate and document human rights abuses in Afghanistan;
3. Referral to and provision of funding for prosecution before the International Criminal Court of key Taliban leaders and officials who have enacted and carried out the written and oral Decrees which violate the human rights of Afghan citizens, especially of women and girls, and who have committed crimes against humanity, including the crimes of gender persecution and gender apartheid,¹³⁴ among other heinous crimes;
4. Support for proposals led by Afghan human rights defenders to include the crime of gender apartheid in the Draft Articles on Prevention and Punishment of Crimes Against Humanity currently under consideration before the UN Sixth Committee;
5. Non-recognition of the legitimacy of Taliban authority in Afghanistan unless and until the Taliban complies with Afghanistan's international legal obligations to recognize and protect the rights of women and girls and to establish an inclusive government reflective of the diverse ethnic, linguistic, and religious dynamics of Afghanistan;
6. Protection for the political agency of Afghan women by meaningfully including them in any bilateral or multilateral processes related to Afghanistan, such as the UN-led Doha Format, where 25 countries make decisions on Afghanistan's future; and
7. Accountability mechanisms to ensure that States comply with their international law obligations when engaging with the Taliban, so as not to embolden the Taliban's regime of gender apartheid.

References

¹ The leader of the Taliban is the Emir, who presides over all legislative, executive and judicial powers; there is no parliament.

² Human Rights Council, *Situation of women and girls in Afghanistan – Report of the Special Rapporteur on the situation of human rights in Afghanistan and the Working Group on discrimination against women and girls*, A/HRC/53/21 (“**Human Rights Council Report**”), ¶ 4.

³ International Covenant on Civil and Political Rights (adopted 16 Dec. 1966, entered into force 23 Mar. 1976) (“**ICCPR**”), art. 2. In the same year, Afghanistan also acceded to the International Convention on the Elimination of All Forms of Racial Discrimination (adopted 7 Mar. 1966, entered into force 4 Jan. 1969) (“**CERD**”) and the International Covenant on Economic, Social and Cultural Rights (adopted 16 Dec. 1966, entered into force 3 Jan. 1976) (“**ICESCR**”). In 1985, Afghanistan signed the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 Dec. 1984, entered into force 26 June 1987) (“**CAT**”), and ratified the treaty in 1987.

⁴ Amnesty International UK, *Women in Afghanistan: The Back Story* (available at: https://www.amnesty.org.uk/womens-rights-afghanistan-history#:~:text=1996%20%E2%80%94%202001,were%20banned%20from%20attending%20school.)).

⁵ Specifically, the United Nations Security Council Resolution on Women Peace and Security (UN Doc. S/RES/1325) and the Convention on the Elimination of All Forms of Discrimination Against Women (adopted 18 Dec. 1979, entered into force 3 Sept. 1981) (“**CEDAW**”). See N. Nehan, *The Rise and Fall of Women Rights in Afghanistan*, 2(3) LSE PUBLIC POLICY REVIEW 6 (2022), p. 4 (available at: <https://ppr.lse.ac.uk/articles/10.31389/lseppr.59>).

⁶ The Law on the Elimination of Violence Against Women included in the definition of “violence” forced marriage, preventing women from acquiring property, and prohibiting a woman or girl from going to school or work. Crucially, EVAW provided recourse for victims and imposed positive obligations to take preventive and protective measures in furtherance of the law on the Ministries of Women’s Affairs, Religious Affairs, Education and Higher Education, Information and Culture, Justice, Interior Affairs, and Public Health. See Law of 2009 on Elimination of Violence Against Women (2009) (“**EVAW**”), arts. 5, 6, 8-14 (Afghanistan).

⁷ Islamic Republic of Afghanistan, National Action Plan for the Women of Afghanistan (2007-2017) (available at: <https://faolex.fao.org/docs/pdf/afg149120.pdf>); Afghanistan Ministry of Foreign Affairs, *Afghanistan's National Action Plan on UNSCR 1325 – Women, Peace and Security 2015-2022* (June 2015) (available at: https://unama.unmissions.org/sites/default/files/wps-afghanistan_national_action_plan_1325_0.pdf).

⁸ See Afghanistan Analysts Network, *From Land-grabbing to Haircuts: The decrees and edicts of the Taleban [sic] supreme leader* (15 July 2023) (available at: <https://www.afghanistan-analysts.org/en/reports/rights-freedom/from-land-grabbing-to-haircuts-the-decrees-and-edicts-of-the-taleban-supreme-leader/>); Human Rights Council Report, ¶ 14.

⁹ Human Rights Council Report, ¶ 14. See also United States Department of State, *2022 Country Reports on Human Rights Practices: Afghanistan*, Section 6 (available at: <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/afghanistan/>). See also, e.g., Annex A, Decrees 17 and 27.

¹⁰ The Emir issues the Decrees to the relevant administrative entities, who then disseminate them to the public by way of official instructions from central and provincial authorities, in speeches by Taliban officials and via social and mainstream media. Besides the official Decrees issued by the Taliban leader, instructions and directives given during meetings, administrative sessions, and speeches on Eid or other special occasions also hold the status of unwritten law and must be observed and implemented by officials. See, Human Rights Council Report, ¶ 19; Afghanistan Analysts Network, *Decrees, Orders and Instructions of His Excellency Amir Al-Mu'Minin – Unofficial AAN translation* (July 2023), p. 67 (“Decree defining the stages legislative documents must pass through (9)”) (available at: <https://www.afghanistan-analysts.org/en/wp-content/uploads/sites/2/2023/07/Decrees-order-of-Taleban-amir-English.pdf>).

¹¹ A. Thier, *The Nature of the Afghan State: Republic vs. Emirate*, United States Institute of Peace (Nov. 2020), p. 2 (available at: <https://www.usip.org/sites/default/files/Afghanistan-Peace-Process-The-Nature-of-the-Afghan-State-Republic-vs-Emirate.pdf>).

¹² See Annex A for a list of written and oral Decrees referenced in this Report, summarized or translated into English.

¹³ Statement by UN Women Executive Director Sima Bahous. *Statement: The decree barring women in Afghanistan from working in non-governmental organizations is yet another stark violation of women's rights* (27 Dec. 2022) (available at: <https://www.unwomen.org/en/news-stories/statement/2022/12/statement-the-decree-barring-women-in-afghanistan-from-working-in-non-governmental-organizations-is-yet-another-stark-violation-of-womens-rights>).

¹⁴ See *infra* note 20.

¹⁵ See ICCPR, art. 3 (“The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.”); *id.*, art. 2(1) (requiring that the rights recognized therein be protected “without distinction of any kind” such as on the basis of sex). See also analogous provisions in ICCPR, art. 26; ICESCR, arts. 2(2) and 3; CRC, Convention on the Rights of the Child (adopted 20 Nov. 1989, entered into force 2 Sept. 1990) (“**CRC**”), art. 2(1); Convention Against Discrimination in Education (adopted 14 Dec. 1960, entered into force 22 May 1962) (“**CADE**”), art. 3.

¹⁶ Human Rights Committee, *General Comment No. 28: Article 3 (The Equality of Rights between Men and Women)* (29 Mar. 2000), UN Doc. CCPR/C/21/Rev.1/Add.10, ¶ 3. See also CEDAW, art. 2 (State Parties are required “to pursue by all appropriate means and without delay a policy of eliminating discrimination against women” including by “tak[ing] all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.”).

¹⁷ Atlantic Council, Global Justice Center, *Joint Call to Amend the Draft Crimes Against Humanity Convention to Encompass Gender Apartheid* (5 Oct. 2023) (available at: <https://www.globaljusticecenter.net/joint-call-to-amend-the-draft-crimes-against-humanity-convention-to-encompass-gender-apartheid/>).

¹⁸ M. Mehran, *The Taliban Have Reached a New Low. How Can the World Respond?*, New York Times (9 Sept. 2024) (available at: <https://www.nytimes.com/2024/09/09/opinion/taliban-afghansitan-gender-apartheid.html>). See also M. Mehran, *Recognition of Gender Apartheid in Afghanistan Justified*, PeaceRep: The Peace and Conflict Resolution Evidence Platform, University of Edinburgh/London School of Economics (1 Jun. 2023) (available at: <https://peacerep.org/publication/afghanistan-research-network-recognition-of-gender-apartheid/>).

¹⁹ *Id.*

²⁰ See Convention Against Discrimination in Education (1960) (“**CADE**”); International Convention on the Elimination of All Forms of Racial Discrimination (1965) (“**CERD**”); International Covenant on Civil and Political Rights (1966) (“**ICCPR**”); International Covenant on Economic, Social and Cultural Rights (1966) (“**ICESCR**”); Convention on the Elimination of All Forms of Discrimination against Women (1979) (“**CEDAW**”); Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (1984) (“**CAT**”); Convention on the Rights of the Child (1989) (“**CRC**”); Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (adopted 17 June 1999, entered into force 19 Nov. 2000) (“**Convention on Child Labour**”); Convention for the Safeguarding of the Intangible Cultural Heritage (adopted 17 Oct. 2003, entered into force 20 Apr. 2006) (“**CSICH**”); Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005) (“**Convention on Cultural Expression**”); Convention on the Rights of Persons with Disabilities (adopted 13 Dec. 2006, entered into force 3 May 2008) (“**CRPD**”).

²¹ *Taliban’s Ministry Labels Women’s Rights as “International Terrorism”*, ShiaWaves (4 Oct. 2024) (available at: <https://shiawaves.com/english/news/islam/afghanistan/112452-talibans-ministry-labels-womens-rights-as-international-terrorism/>).

²² ICESCR, art. 12. See also, CRC, art. 24 (ensuring the right to health to children, without discrimination on the basis of sex).

²³ CEDAW, art. 12. Notably, Article 10(h) further provides that the State must accord women and men equal access to “educational information to help to ensure the health and well-being of families, including information and advice on family planning.”

²⁴ M. Fayyazi et al., *Breaking Barriers: A Comprehensive Exploration of Women’s Access to Healthcare in Afghanistan under Taliban Rule*, Porsesh Policy Research Institute (22 Dec. 2023), p. 4 (available at: <https://prresearch.us/wp-content/uploads/2024/01/A-Comprehensive-Exploration-of-Womens-Access-to-Healthcare-in-Afghanistan-under-Taliban-Rule-final.pdf>).

²⁵ *Id.*, p. 3. See also Annex A, Decrees 36 and 39.

²⁶ 8 AM Media, *New Restrictions in Ghazni: Female doctors must take a religious exam and obtain a work permit from the Department of Virtue* (28 Mar. 2023) (available at: <https://8am.media/fa/female-doctors-should-take-a-religious-exam-and-get-a-work-permit-from-the-ministry-of-public-affairs/>).

²⁷ M. Fayyazi et al., *Breaking Barriers: A Comprehensive Exploration of Women's Access to Healthcare in Afghanistan under Taliban Rule*, Porsesh Policy Research Institute (22 Dec. 2023), p. 20 (available at: <https://prresearch.us/wp-content/uploads/2024/01/A-Comprehensive-Exploration-of-Womens-Access-to-Healthcare-in-Afghanistan-under-Taliban-Rule-final.pdf>).

²⁸ See *infra*, “Freedom of Movement and Access to Humanitarian Aid”.

²⁹ Annex A, Decree 10.

³⁰ *Id.*, Decree 16.

³¹ *Id.*, Decrees 10-11 and 21. The Taliban has also banned women from traveling by air without a male guardian. *Id.*, Decree 38.

³² See Annex B, Law on the Propagation of Virtue and the Prevention of Vice (2024) (Afghanistan) (“LPVPV”), art. 13(8).

³³ LPVPV, arts. 20(3)-(6).

³⁴ Human Rights Watch, *A Disaster for the Foreseeable Future: Afghanistan's Healthcare Crisis* (12 February 2024) (available at <https://www.hrw.org/report/2024/02/12/disaster-foreseeable-future/afghanistans-healthcare-crisis>).

³⁵ M. Fayyazi et al., *Breaking Barriers: A Comprehensive Exploration of Women's Access to Healthcare in Afghanistan under Taliban Rule*, Porsesh Policy Research Institute (22 Dec. 2023), p. 5 (available at: <https://prresearch.us/wp-content/uploads/2024/01/A-Comprehensive-Exploration-of-Womens-Access-to-Healthcare-in-Afghanistan-under-Taliban-Rule-final.pdf>).

³⁶ Annex A, Decree 51.

³⁷ *Id.*, Decree 63.

³⁸ *Id.*, Decree 50.

³⁹ LPVPV, art. 17.

⁴⁰ Annex A, Decree 29.

⁴¹ *Id.*

⁴² *Id.*, Decree 58.

⁴³ Human Rights Council, *Report of the Special Rapporteur on the Situation of Human Rights in Afghanistan* (22 Feb. 2024), UN Doc. A/HRC/55/80, ¶ 37.

⁴⁴ Human Rights Council Report, ¶ 64.

⁴⁵ R. Kumar, *Rights Group: Afghan women barred from studying nursing and midwifery*, NPR (4 Dec. 2024) (available at: <https://www.npr.org/sections/goats-and-soda/2024/12/04/g-s1-36765/afghanistan-taliban-women-nurses-midwives>).

⁴⁶ CEDAW, art. 2.

⁴⁷ *Id.*, art. 3.

⁴⁸ *Id.*, art. 5.

⁴⁹ *Id.*, art. 7.

⁵⁰ ICCPR, arts. 18(1), 18(2). Article 18(3) protects the right to manifest one's religion or beliefs, subject only to limitations which are "necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others." The same rights are enumerated at CRC, art. 14.

⁵¹ ICCPR, art. 19; CRC, art. 13.

⁵² Convention on Cultural Expressions, arts. 2, 7 (Parties shall endeavour to [...] encourage[] individuals and social groups [...] to create, produce, disseminate, distribute and have access to their own cultural expressions, paying due attention to the special circumstances and needs of women.").

⁵³ ICCPR, art. 19(2); CRC, art. 13; CRPD, art. 21.

⁵⁴ ICCPR, art. 21; CRC, art. 15.

⁵⁵ See Human Rights Committee, *Views Adopted by the Committee Under Article 5(4) of the Optional Protocol Concerning Communication No. 931/2000* (5 Nov. 2004) (*Hudoyberganova v. Uzbekistan*), UN Doc. CCPR/C/82/D/931/2000 (2005).

⁵⁶ See Human Rights Committee, *Views Adopted by the Committee Under Article 5(4) of the Optional Protocol Concerning Communication No. 780/1997* (20 Mar. 2000) (*Laptsevich v. Belarus*), UN Doc. CCPR/C/68/D/780/1997 (2000) (holding that Article 19 of the ICCPR encompasses the right to disseminate information); Human Rights Committee, *Views Adopted by the Committee Under Article 5(4) of the Optional Protocol Concerning Communication No. 1180/2003* (31 Oct. 2005) (*Bodrožić v. Serbia and Montenegro*), UN Doc. CCPR/C/85/D/1180/2003 (holding that these enumerated rights include journalistic rights).

⁵⁷ Human Rights Committee, *Views Adopted by the Committee Under Article 5(4) of the Optional Protocol Concerning Communication No. 1873/2009* (25 Oct. 2013) (*Alekseev v. Russian Federation*), UN Doc. CCPR/C/109/D/1873/2009; Human Rights Committee, *Views Adopted by the Committee Under Article 5(4) of the Optional Protocol Concerning Communication No. 1903/2009* (17 Mar. 2014) (*Youbko v. Belarus*), UN Doc. CCPR/C/110/D/1903/2009.

⁵⁸ Annex A, Decree 45.

⁵⁹ Rawadari, *Justice Denied: An Examination of the Legal and Judicial System in Taliban-Controlled Afghanistan* (Jun. 2023) p. 15 (available at: https://rawadari.org/wp-content/uploads/2023/06/RW_Rule-of-Law-Report-English.pdf).

⁶⁰ *Id.*, p. 22.

⁶¹ The Decrees were coordinated between numerous government ministries, including the Ministry of Promotion of Virtue and Prevention of Vice, Ministry of the Interior, Ministry of Intelligence, and Ministry of the Judiciary.

⁶² Numerous Taliban Decrees impose requirements for women's dress, namely in accordance with the Taliban's rules of Shariah hijab. See, e.g., Annex A, Decrees 6, 8, 10, 14, 18-19, 68, and 71. In light of the requirement for women to cover their hair and faces, the Taliban has ordered beauty salons across the country to shut down. *Id.*, Decree 53.

⁶³ *Id.*, Decree 19.

⁶⁴ *Id.*, Decree 68. The Ministry for the Promotion of Virtue and the Prevention of Vice has ordered that following arrest, detained women are to remain in police custody for several days after which relatives of the women must come to the station and guarantee that the women will adhere to the hijab according to the Taliban's directives in the future. *Id.* The closest male relative/guardian of a non-compliant individual is also subject to punishment under these Decrees. Initially, the "family guardian" is informed of the violation and reprimanded. Thereafter, he is to be summoned by the Ministry of Virtue. The family guardian will be imprisoned for three days if there is a third offense, and a fourth offense subjects him to punishment according to Sharia law. *Id.*, Decree 19.

⁶⁵ LPVPV, art. 13.

⁶⁶ LPVPV, art. 13(6).

⁶⁷ Annex A, Decree 8.

⁶⁸ *Id.*, Decrees 8, 25, 51, 65, and 71.

⁶⁹ *Id.*, Decree 51.

⁷⁰ *Id.*, Decrees 25 and 71. Spokespersons for the Taliban have warned that failure to comply with these rules will lead to a complete ban of women's work in the media.

⁷¹ *Id.*, Decree 51. Messaging about women's health is further restricted in specific provinces, some of which have banned the use of images of women in announcements and informational posters in health centers. *Id.*, Decree 63.

⁷² *Id.*, Decree 27.

⁷³ *Id.*, Decree 2.

⁷⁴ See, e.g., Annex A, Decrees 7, 12, and 28.

⁷⁵ See Q. Somerville, *The Disappearance of Female Activists; Please help, the Taliban have come to my house*, BBC (22 January 2022) (available at: <https://www.bbc.com/persian/afghanistan-60086555>) (reporting that Tamana Periani and her sister, Parvaneh Ebrahimkhel, and other protesting women were arrested from their homes by armed members of the Taliban and have not been returned to their homes since); America Voice Pashto, *The Taliban arrested Julia Parsi, a well-known Afghan women's rights activist* (27 Sept. 2023) (available at: <https://www.darivoo.com/a/activist-taliban-arrested-julia-parsi-a-well-known-afghan-women-s-rights-activist/7287228.html>) (reporting that Julia Parsi, leader of the Women's Movement in Afghanistan, and her child were taken from her home by the Taliban.).

⁷⁶ The Taliban Minister of the Interior publicly declared that Taliban forces had “pursued and detained” female activists during demonstrations in early 2022 (Annex A, Decree 12), a Taliban spokesperson publicly announced the arrest of woman activist Zarifa Yaqoobi and four of her colleagues in the “Afghan Women's Movement for Equality” (Annex A, Decree 28), and in Balkh Province, the Taliban issued arrest warrants against dissidents against the regime (Annex A, Decree 7). The Ministry of the Interior of the Taliban has published videos depicting the detainment and forced confessions of female dissidents (Annex A, Decree 12).

⁷⁷ See GNR Info, *Wasima Kohestani talks about torture in Taliban prison* (Video clip) (12 Nov. 2021) (available at: <https://youtu.be/vniF5zj2BNs?si=fnH0MZa0CY8nSKRj>).

⁷⁸ UN General Assembly, Universal Declaration of Human Rights (10 Dec. 1948), UN Doc. A/RES/217(III) (“UDHR”), art. 26.

⁷⁹ ICESCR, art. 13. See also CRC, art. 28 (“States Parties recognize the right of the child to education” and that this right should be achieved “on the basis of equal opportunity”).

⁸⁰ CEDAW, art. 2.

⁸¹ CADE, arts. 3-5.

⁸² Annex A, Decree 3.

⁸³ *Id.*, Decree 13. The Taliban has also closed schools for blind girls and women, denying disabled children access to any form of education. *Id.*, Decree 37.

⁸⁴ *Id.*, Decree 9.

⁸⁵ *Id.*, Decree 20.

⁸⁶ *Id.*, Decrees 33 and 34. Pursuant to this prohibition on the higher education of women, public and private universities issued notices that women would be banned from sitting for university entrance exams. See, e.g., *id.*, Decree 40.

⁸⁷ *Id.*, Decree 34.

⁸⁸ T. Wertheimer, *Ismail Mashal: Taliban arrests Afghan professor who backed girls' education*, BBC News (3 Feb. 2023) (available at: <https://www.bbc.com/news/world-asia-64509867>); Amnesty International, “Urgent Action: Education Activist Arbitrarily Detained” (6 Apr. 2023) (available at: <https://www.amnesty.org/en/documents/asa11/6656/2023/en/>).

⁸⁹ Amnesty International, *Urgent Action: Education Activists Arbitrarily Detained* (2 Feb. 2024) (available at: <https://www.amnesty.org/en/documents/asa11/7663/2024/en/>).

⁹⁰ CEDAW, art. 10(a).

⁹¹ *Id.*, art. 10(e).

⁹² LPVPV, art. 13(8).

⁹³ See Human Rights Committee, *General Comment No. 18: Article 6 (The Right to Work)* (6 Feb. 2006), UN Doc. E/C.12/GC/18, ¶ 1.

⁹⁴ Women must also be guaranteed appropriate access to training for equal employment opportunities to men. See F. Raday, *Article 11*, in THE UN CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN AND ITS OPTIONAL PROTOCOL: A COMMENTARY (2ND EDITION) (eds. P. Schultz et al.) (28 Dec. 2022), pp. 422-423. See also Committee on the Elimination of Discrimination Against Women, *Report of the Committee on the Elimination of Discrimination against Women* (7 May 2002), UN Doc. A/57/38, ¶¶ 478-479; *id.*, ¶¶ 130-133.

⁹⁵ CEDAW, art. 11(1)(a).

⁹⁶ F. Raday, *Article 11*, in THE UN CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN AND ITS OPTIONAL PROTOCOL: A COMMENTARY (2ND EDITION) (eds. P. Schultz et al.) (28 Dec. 2022), pp. 422-423.

⁹⁷ See Human Rights Committee, *General Comment No. 18: Article 6 (The Right to Work)* (6 Feb. 2006), UN Doc. E/C.12/GC/18. See *also*, F. Raday, *Article 11*, in *THE UN CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN AND ITS OPTIONAL PROTOCOL: A COMMENTARY* (2ND EDITION) (eds. P. Schultz et al.) (28 Dec. 2022), p. 423.

⁹⁸ CEDAW, art. 11(1)(c) (“The right to free choice of profession and employment ...”).

⁹⁹ *Id.*, art. 10.

¹⁰⁰ Annex A, Decree 4.

¹⁰¹ *Id.*, Decree 5.

¹⁰² *Id.*, Decree 39.

¹⁰³ *Id.*

¹⁰⁴ *Id.*, Decree 36.

¹⁰⁵ See Afghanistan International, *Banning the Work of Afghan Women* (available at: <https://www.afintl.com/202304098901>).

¹⁰⁶ Annex A, Decree 52.

¹⁰⁷ *Id.*, Decree 59.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*, Decree 44. See *also* 8AM Media, *The Taliban imposed restrictions on the activities of female dentists in Ghazni, Four health centers were closed* (22 Feb. 2023) (available at: <https://8am.media/fa/the-imposition-of-restrictions-by-the-taliban/>).

¹¹⁰ LPVPV, art. 13(8) (“If an adult woman needs to leave her home for an essential reason, she must cover her voice, face, and body.”).

¹¹¹ CEDAW, art. 11(1)(b)-(c).

¹¹² International Labour Organization, *Employment prospects in Afghanistan: A rapid impact assessment* (19 Jan. 2022), p. 2 (available at: <https://www.ilo.org/resource/brief/employment-prospects-afghanistan-rapid-impact-assessment>).

¹¹³ UDHR, art. 13; ICCPR, art. 12; CERD, art. 5(d)(i); CRPD, art. 18.

¹¹⁴ Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol I) (adopted 8 June 1977, entered into force 7 Dec. 1978), art. 70(2); Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol II) (adopted 8 June 1977, entered into force 7 Dec. 1979), art. 70(2).

¹¹⁵ S. Dujarric, *Statement attributable to the Spokesperson for the Secretary-General – on Afghanistan* (24 Dec. 2022), (available at: https://www.un.org/sg/en/content/sg/statement/2022-12-24/statement-attributable-the-spokesperson-for-the-secretary-general%C2%A0-afghanistan?_gl=1*11o55la*_ga*MTUwNjk3ODg3OC4xNzE3NDQzNDUx*_ga_S5EKZKSB78*MTcyMjk1ODgyOS4xLjEuMTcyMjk1ODg5NC42MC4wLjA.*_ga_TK9BQL5X7Z*MTcyMjk1ODgyOS4yLjEuMTcyMjk1ODg5NS4wLjAuMA).

¹¹⁶ Annex A, Decrees 10-11, 16, 21, 29, 34, 38, 44, 48, 50, and 58.

¹¹⁷ *Id.*, Decree 74.

¹¹⁸ Amin Kaveh, “Abolishing local councils and controlling humanitarian aid; the Taliban are working to completely seize aid.” 8AM Media (27 May 2024) (available at: <https://8am.media/fa/abolition-of-local-councils-and-control-of-humanitarian-aid/>).

¹¹⁹ ICCPR, art. 23(3); ICESCR, art. 10(1); CEDAW, art. 16.

¹²⁰ B. Rudolph, *Article 13*, in *THE UN CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN AND ITS OPTIONAL PROTOCOL: A COMMENTARY* (2ND EDITION) (eds. P. Schultz et. al.) (28 Dec. 2022), p. 513.

¹²¹ CEDAW, art. 16(1); Committee on the Elimination of Discrimination Against Women and Committee on the Rights of the Child, *Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination Against Women/General Comment No. 18 of the Committee on the Rights of the Child on Harmful Practices* (14 Nov. 2014), UN Doc. CEDAW/C/GC/31-CRC/C/GC/18, ¶¶ 20-23.

¹²² Annex A, Decree 1.

¹²³ Child or early marriage is defined by the Committee on the Elimination of Discrimination Against Women and the Committee on the Rights of the Child as any marriage where at least one of the parties is under 18 years of age. Committee on the Elimination of Discrimination Against Women and Committee on the Rights of the Child, *Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination Against Women/General Comment No. 18 of the Committee on the Rights of the Child on Harmful Practices* (14 Nov. 2014), UN Doc. CEDAW/C/GC/31-CRC/C/GC/18, ¶ 20.

¹²⁴ Amnesty International, *Death in Slow Motion: Women and Girls Under the Taliban* (27 July 2022), pp. 57, 86 (available at: <https://www.amnesty.org/en/documents/asa11/5685/2022/en/>). See also Committee on the Elimination of Discrimination Against Women and Committee on the Rights of the Child, *Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination Against Women/General Comment No. 18 of the Committee on the Rights of the Child on Harmful Practices* (14 Nov. 2014), UN Doc. CEDAW/C/GC/31-CRC/C/GC/18, ¶ 22.

¹²⁵ On 3 April 2023, the Taliban Supreme Court ordered the review of divorce judgments issued by the previous government's courts and stating that all divorces must strictly adhere to Hanafi jurisprudence which mandates that a woman may only seek to divorce her husband after he has disappeared for a period of 70 years. See Annex A, Decree 45. See also Mamoon Durrani, "A child bride won the right to divorce - now the Taliban say it doesn't count." *BBC News* (28 Sept. 2024) (available at: <https://www.bbc.com/news/articles/cx24evnk5d2o>).

¹²⁶ In addition, the Taliban has imposed unreasonable restrictions on women's freedom to choose their spouses by prohibiting marriages between Shia and Sunni individuals. See Annex A, Decree 64.

¹²⁷ Annex A, Decree 22.

¹²⁸ Mamoon Durrani, "A child bride won the right to divorce - now the Taliban say it doesn't count." *BBC News* (28 Sept. 2024) (available at: <https://www.bbc.com/news/articles/cx24evnk5d2o>).

¹²⁹ *Id.*, Decree 23.

¹³⁰ *Id.*, Decree 65.

¹³¹ The Taliban have implemented multiple Decrees aimed at restricting women's access to recreational activities, including banning women from gyms and recreational parks (*id.*, Decree 29), going to restaurants with green spaces (*id.*, Decree 48), and entering Band-e Amir National Park in Baniya (*id.*, Decree 58).

¹³² "Afghanistan's Undercover Athletes: Sportswomen Pose For Portraits Amid Taliban Threats," *Associated Press* (11 Jan. 2023) (available at: <https://www.rferl.org/a/banned-afghanistan-women-athletes-taliban-portraits/32218416.html>).

¹³³ See *supra* note 20.

¹³⁴ Gender persecution is explicitly prohibited by Article 7(1)(h) of the Rome Statute of the International Criminal Court. The grave consequences of this crime, and the pervasive impunity which its violators enjoy, are detailed in the International Criminal Court's Policy on Gender Persecution (Dec. 2022) (available at: <https://www.icc-cpi.int/sites/default/files/2022-12/2022-12-07-Policy-on-the-Crime-of-Gender-Persecution.pdf>). Moreover, while the crime against humanity of apartheid, as prohibited by Article 7(1)(j) of the Rome Statute, is defined as specifically prohibiting systems of racial segregation, in light of the progressive development of international law and the growing recognition of the crime of gender apartheid, there is scope to expand this definition and bring a claim of gender apartheid under the Rome Statute.