

FEMINIST DISSENT

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Special Issue:

Afghan Women's Resistance

Guest edited by Janet Afary



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Feminist Dissent

Issue 7

Special Issue: *Afghan Women's Resistance: Forty Years of Struggle Against Gender Apartheid*

Guest edited by Janet Afary

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Introduction: Afghan Women's Resistance-- Forty Years of Struggle Against Gender Apartheid

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The defeat of the U.S. client regime in Afghanistan and the seizure of power by the Taliban in August 2021 marked a real turning point. These events represented another major setback for the United States in the wake of a failed war in Iraq. Journalists rushed to compare the debacle in Kabul in 2021 to Saigon in 1975, as Afghans fearful of Taliban rule scrambled to get onto US planes. Many were left behind as the United States rushed to get its own forces and those of its allies out.

The August 2021 regime collapse in Afghanistan, although sudden in its final manifestation, was a long time coming. The United States realized it had been defeated at least by 2020, as the Trump administration agreed to a total US withdrawal in direct negotiations with the Taliban. The Biden administration continued this policy, which had two basic aspects: the United States would withdraw by the end of August 2021, and the Taliban would not attack US forces during the period of withdrawal. Both sides kept to the bargain; the Afghan people were not consulted at all, nor was US-backed government of Ashraf Ghani, who was not even included in the negotiations.

There was an important difference from the situation in Saigon in 1975, however. The forces that defeated the United States in Vietnam included female combatants and officers. Moreover, the regime they installed to replace the US client state espoused a modernist if authoritarian ideology

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that extolled gender equality, land reform, and other forms of social and economic transformation.

In contrast, the return to power of the Taliban was instead a setback for women's rights of epochal proportions, and for other social and political rights as well. They set about establishing an ultra-conservative fundamentalist regime of a type not seen since the Islamic State was driven out of Raqqa, Syria, in 2017. The Taliban have again established a theocracy, which openly supports long-standing hierarchies of gender, ethnicity, religion, and class, albeit with a somewhat modern form of organization, including a surveillance apparatus and modern weapons. With its denial of secondary education to girls, the new Taliban regime's level of gender apartheid far exceeds those of Saudi Arabia and Iran. At this writing, not a single country, not even Saudi Arabia, has formally recognized the Taliban government.

The Taliban regime also showed every sign of excluding groups outside its Pashtun-speaking base centered in southern and eastern Afghanistan. Pashtuns constitute a plurality, but not a majority, of the total population. In negotiations with the United States and statements to global audiences before their seizure of power, the Taliban indicated that they would be more inclusive than during their first period of rule, 1996–2001. But little of such openness or inclusivity could be found in practice after their seizure of power. When the interim government was announced a few weeks after the US departure, it was composed pretty much of old-time, male Pashtun hardliners, with nary a Tajik (a Persianate ethnic group comprising about a quarter of the population), nor a Hazara (a Shia minority thought to comprise about a tenth of the population), and certainly no woman. The only exception to this monolithic cabinet were two (male) ministers drawn from the Uzbek minority (a Turkic-speaking group constituting about a tenth of the population).

Despite its 300,000 troops, at least on paper, the US-backed Ghani regime collapsed rapidly in the face of only about 50,000 Taliban fighters once the United States came close to completing its withdrawal. This ignominious collapse occurred for a number of reasons, among them endemic corruption that hollowed out these armed forces, as also happened with many of the Western-funded development projects. Prominent examples were schools never built or 'ghost battalions' of the armed forces whose funding went into the pockets of corrupt officials or officers.

In addition, most of the factions with real power in the US-backed regime, including those in the army as well as warlords, originated from the militias that fought against the Russian occupation in the 1980s. They were at best Islamists, and somewhat less extremist than the Taliban itself. In 2001, the United States labeled these forces, often based upon non-Pashtun ethnicities, as more moderate than the Taliban. Here, the fact that they were not linked to the Al Qaeda forces that had staged the September 11, 2001, attacks on the United States was the key, rather than their views about governing Afghan society. The enduring Islamist coloration of these groups meant that military commanders and other officials ostensibly loyal to the regime could be induced to surrender or even join the Taliban as its strength grew.

At a broader level, the massive poverty endemic to the rural areas, inhabited by over 70% of the population, not only did not diminish but actually increased under the US-installed regime, especially after the Taliban were able to re-emerge and rekindle a civil war. The incessant bombings and military raids in rural areas by US forces ostensibly targeting Taliban combatants often killed or injured civilians, as recounted by journalist Anand Gopal (2021) in heartrending detail, albeit in a manner surprisingly uncritical of the Taliban. In August 2021, the global media publicized one prominent example of this kind of thing, for once visible because it occurred in the heart of Kabul in broad daylight at a time when

the media had gathered to witness the final US withdrawal: An August 29 US drone attack on a supposed ISIS target instead killed ten civilians, among them seven children.

These kinds of attacks, as well as Taliban guerrilla warfare and terrorist attacks, persisted for years and created an atmosphere of despair and hopelessness among much of the population (probably the vast majority), in which economic privation played no small part. As Gallup reported several years ago on the basis of a poll that sampled the entire population, 'Afghans' ratings of their own lives are lower than any other population's worldwide,' adding, 'Almost no Afghans see their economic situation improving anytime soon' (Crabtree 2018).

In power again since August 2021, the Taliban face a daunting situation. There is little evidence that they enjoy significant popular support. Instead, they seem merely to have filled a void as the United States left, and the regime it backed collapsed. No large crowds have come out onto the streets to support the Taliban takeover. A movement with a mainly rural social base, and even there among the most conservative elements, the Taliban now face a much more urbanized society than in the 1990s. For example, Kabul's population, which stood at six million in 2022, was only 300,000 when the Taliban first came to power in 1996, after years of fighting that had left the city in ruins. They also face a much more educated populace, with thousands of younger people, including women, having received a university education. At a national level, half of the population was born after the first Taliban regime fell in 2001. At best, therefore, the Taliban are likely to face a passive and resigned population. But there is also likely to be large-scale passive resistance, as well as more active, open resistance.

Since the country fell again to the Taliban in 2021, women have shown the most persistent resistance to the new regime, especially younger women

and their male supporters. During the Taliban's first weeks back in power, women staged dozens of protest demonstrations around the country against the new regime. Some examples from these early days of Taliban rule will serve as kind of a snapshot (see also the Chronology in this issue).

On August 19, 2021, some 200 young women and men gathered in the streets of Kabul to protest Taliban policies while waving the national flag that the Taliban has replaced with one evoking their Islamic Emirate. Taliban soldiers soon arrived, insulted the women as 'indecent' and proceeded to beat up the men, firing on and wounding some of them.

In smaller cities lacking a global media presence, the Taliban tightened the screws more than in Kabul. In Herat, which had been one of the country's most liberal and cultured cities, very few women appeared on the streets without their faces covered immediately after the Taliban takeover. Female students were being prevented from going to the university. Most ominously, black marks were being placed upon homes occupied by members of the Hazara minority or by single women (Follorou and Golshiri 2021). But by September 2, open resistance broke out in Herat as well, as several dozen women marched through the streets after the Taliban announced that their new government would not include any women. They demanded that this policy be reversed, focusing their overall slogans on the right to 'education, work, and security' (Hassan 2021).

On September 8, several small rallies in Kabul protested the interim government's lack of inclusivity, especially its exclusion of women. In one of these actions, demonstrators began their action in the Hazara community, chanting, 'No women, no Hazara. It's completely wrong.' They marched across the city, arguing their way past armed Taliban checkpoints. But as they reached the center of the city, Taliban forces set upon the women and came down even more harshly on two male journalists covering the event. These Afghan men were beaten mercilessly,

and later showed their scars to the media. On the same day, the Taliban announced they were re-establishing their religious police apparatus, the Ministry for the Promotion of Virtue and the Suppression of Vice (Bulos and Yam 2021).

The 2021 women's struggle emanated from a sense of anger, despair, and dread. Roya Mandegar, a social worker living alone as a single woman in Kabul, stated in an incredibly brave interview, in which she allowed herself to be quoted by name,

I am an atheist and a feminist. I never stayed at home on March 8 [International Women's Day]. We fought for twenty years so that girls could wear colorful clothing in Kabul. Today the city has become quiet and empty. I am walled into my apartments, which I change regularly. My heart is burning with distress. All the work of these twenty years was reduced to naught in the space of one night.
(Golshiri 2021)

Over the next two years, the new regime gradually tightened its grip. The Ministry of Women's Affairs became the headquarters of the morality police. Women were excluded more and more from public spaces and from employment. By June 2022, Mullah Abdul Wahid explained to a journalist, 'The goal is to separate women and men in public spaces. In the parks, for example, there is one day for men, one for women, and another for families.' The mullah added that of course, Friday, the weekly holiday, would be reserved for men because fewer and fewer women were employed outside the home anyway. He also spoke of separate city buses for men and women (Follorou 2022a). By November 2022, however, women were excluded from public parks altogether, and also from the country's iconic public gardens, its sports facilities, and even the public baths—this in a society where modern plumbing is often lacking (Follorou

2022b). It is hard to overestimate how much this will shatter the lives of children as well as women.

Women have also been squeezed out of paid employment. Most female government workers have been dismissed. While more women continue to work in the private sector, their numbers are decreasing rapidly there as well (Amnesty International 2022). This has created even worse economic deprivation for women than men, amid the terrible economic collapse that followed the fall of the Ghani regime, the drying up of Western aid, and the refusal by the United States and other powers to turn over to the Taliban regime the country's national currency reserves until it reversed its draconian policies, especially with regard to women. Moreover, even amid severe food shortages, the Taliban regime continues to spend a huge percentage of its resources on social control in the form of morality police and armed forces operating in urban areas on a substantial scale.

A wrenching scene took place in March 2022, when it was announced that girls would again be allowed to return to secondary school. Thousands of girls arrived at school, dressed in their uniforms and full of hope, only to be turned away as it was announced that the decision to reopen the schools had been rescinded. As of this writing, the policy closing secondary schools for girls remains unchanged, two years after the Taliban came to power. Girls are thus limited to an elementary school education, and even here the government has limited the number of years girls can attend school.

On August 13, 2022, near the first anniversary of the Taliban seizure of power, women came out onto the streets of Kabul, about forty strong, to demonstrate for their rights. This small demonstration was the first of its kind in several months. Their main banner read, 'August 15 Is a Dark Day.' Gathering in front of the Ministry of Education, they were dispersed after just a few minutes by armed Taliban, who fired their rifles into the air. The Taliban militia then chased the women into local shops, where they

seemed to receive some support from men. The militia beat those they could catch with rifle butts, confiscated their mobile phones for later prosecution and investigation of their networks. The most prominent chant, however, was 'Bread, Work, and Freedom' (AFP 2022). Notably, this slogan recalled the Arab Spring of 2011 in how it tied economic demands to political and social ones.

The Taliban struck a further blow against women's right to any public space in July 2023, when they closed all beauty shops for women. Kabul alone had 10,000 of these shops, and their sudden demise also represented a huge economic blow to the tens of thousands of women who earned their livelihoods in this occupation across the country (Follorou and Golshiri 2023). This led to a demonstration by some fifty women in Kabul on July 19, who were dispersed with water cannons. 'Don't take my bread and water,' read one sign (AFP 2023).

During the initial two years of the new Taliban regime, Afghan women have shown much greater persistence and resilience than men in the face of incredible obstacles that make any kind of political activity extremely difficult. There have also been signs of popular support for the female activists from the broader population, at least in urban areas. While the women's rights demonstrations have been small, they are very significant nonetheless, especially when one contrasts their enduring impact with the failure of attempts to resurrect the old Northern Alliance of anti-Taliban warlords, such as the one in 2021 in the Panjshir Valley. We can also expect that Afghan women will continue to struggle in the shadows, working as educators, beauticians, and in other fields, just as they did during the long, harsh years of the first Taliban regime. This time, their support networks are sure to be larger and stronger.

The Taliban regime has been consolidating itself along lines broadly similar to those of 1996–2001. Even its promises to sever connections with Al

Qaeda turned out to be fictional when Ayman al-Zawahiri was assassinated by the United States in the heart of Kabul, in a residence linked to the Haqqani network, a family-based faction of the Taliban leadership with particularly close ties to Al Qaeda and to Pakistan's intelligence service, the ISI. At the same time, younger members of the Haqqani family seem to be among those factions that support reopening secondary schools to girls. Whether any of these divisions can moderate the regime or open up fissures that allow feminists and other oppositional forces to gain headway remains to be seen. What does seem clear is that resistance will continue, particularly on the part of urban women.

In this special issue, Afghan and Iranian writers have attempted to provide us with the history of women's resistance to gender apartheid in the last four decades both inside Afghanistan and in the Iranian diaspora. Our first feature article is by Karima Bennoune on the Taliban's imposition of a regime of gender apartheid in Afghanistan in violation of international law. Bennoune argues that gender apartheid poses specific human rights problems requiring particular, heightened responses and necessitates different counter-strategies. Her article proposes a conceptual architecture for analyzing and responding to this aspect of the current Afghan crisis and argues that the robust international legal framework that helped end racial apartheid should be urgently adapted to address gender apartheid. In her Voices of Dissent piece, Kobra Sultani begins with the current situation of women in Afghanistan and their resistance to the complete takeover of power by the Taliban in August 2021. Sultani tells us about the history of the Afghan women's movement since the early 1920s and shows how various Afghan governments, occupation by imperialist powers, and conflicts between fundamentalist forces, together with deep sexism and prejudices among Afghan progressives made it impossible to develop a coherent and persistent women's movement.

Mahnaz Afkhami interviews two former government officials from Afghanistan. In October 2021, Women's Learning Partnership (WLP) convened a conversation with Sima Samar, former minister for women's affairs in Afghanistan, and Habiba Sarabi, former governor of Bamyan Province. The panel was moderated by Thoraya Obaid, former UNFPA executive director, and Mahnaz Afkhami, WLP founder and president. Audience members came from around the world, including directors of WLP's partner organizations in Asia, Central Asia, Latin America, and the Middle East. A question and answer session followed the conversation, which was moderated by WLP Executive Director Allison Horowski. Here we publish an abbreviated version of the interviews.

Delaram Hosseinioun explores the art work of Shamissa Hassani (b.1988), the first female graffiti artist of Afghanistan, and Keyvan Shovir (b. 1985), the first post-revolutionary graffiti artist of Iran, using the works of Judith Butler and Hubert Hermans. She argues that Hassani and Shovir have used their art as a way to be heard and to encourage self-reflection in the restricted discourses of their home countries. She further explores these artworks as a form of revelation of the suppressed self and concludes that art manifests the possibility of self-revelation and the reclaiming of one's voice beyond the restricted social discourses of one's native homeland or diaspora. Ziba M. Jalali looks at how Afghan women who migrated to Iran gained greater self-awareness and experienced many changes in their traditional gender roles. Jalali conducted a qualitative study through in-depth interviews with Afghan working women in Tehran. The women had a median age of thirty-nine (between twenty-three to fifty-five) and had been living in Iran for one to twenty-five years. Most of the responders had migrated to Iran after the Taliban takeover of Afghanistan in 1995. A few were more recent migrants who arrived after the Taliban took over in August 2021. The article addresses the ways in which Afghan women have attained self-awareness and the multiplicity of factors that have facilitated or impeded this process. Jalali shows that these women have gone far

beyond the immediate restrictions and impediments that were imposed by their traditional families, as well as the strict gender division of labor in their communities. In their new social environment of Iran, they often lived in much smaller families and had to take on new responsibilities. These factors helped them to attain greater self-awareness and to rediscover their capabilities, helping them to achieve a new and better social status at home, one that helped them individually and their family members as well.

Frieda Afary examines Afghan women's resistance to the Taliban after their return to power in August 2021. She also critically evaluates the different attitudes expressed by global feminists toward the plight of the Afghan people and the need for solidarity with Afghan women. Soraya Baha provides a short story, excerpted from her memoir, *Raha Dar Bad* (Los Angeles: Ketab Corp, 2012). Baha was the sister-in-law of Mohammad Najibullah (1947–1996) who served as president of Afghanistan from 1986 to 1992. Najibullah became head of the secret police when the Soviet Union occupied Afghanistan in December 1979. He was infamous for his brutality and ruthlessness. When Soviet forces withdrew in 1989, Najibullah became president of the country. His widely despised government was considered a puppet regime of the Soviets. Baha was against Soviet occupation, as well as the dictatorship of Najibullah. She fled with her husband and their two children and joined the war front in northern Afghanistan (Panjshir), where the famous partisan commander Ahmad-Shah Masoud had stationed his mujahedin forces against Russian occupation. Masoud led the largest war front in the mountains and valleys of Panjshir. Soraya Baha stayed at a small cabin with her two children. She later wrote her memoir drawing on this experience.

Homeira Qaderi's short story is about a woman named Yaqoot. She narrator recalls her youth when she gave up her love for Rahim, a young mujahid, because her father opposed the marriage and demanded that

she marry the son of a communist friend of his. During the civil war with the Taliban forces in the 1990s, she lost her husband. When we meet Yaqoot, she has a son who is engaged to be married. On a hot summer day, Yaqoot accidentally runs into Rahim, who has survived the war years. Rahim, too, has also lost his wife. They visit a shrine together, and their love is rekindled.

Janet Afary is a Professor of Religious Studies at the University of California, Santa Barbara. Her books include: *Sexual Politics in Modern Iran* (Cambridge University Press, 2009 (with Kevin B. Anderson)); *Foucault and the Iranian Revolution: Gender and the Seductions of Islamism* (University of Chicago Press, 2005); and (with Kamran Afary) *Mollā Nasreddin: The Making of a Modern Trickster* (Edinburgh University Press, 2022). Her essay “Women, Life, Freedom: The Origins of the Uprising in Iran” (with Kevin B. Anderson) was published in *Dissent Magazine* (2022).

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is Distinguished Professor of Sociology at the University of California, Santa Barbara, with courtesy appointments in Feminist Studies and Political Science. He is the author of *Lenin, Hegel, and Western Marxism* (1995); *Foucault and the Iranian Revolution* (with Janet Afary, 2005); and *Marx at the Margins* (2010/2016). Among his edited volumes are the *Rosa Luxemburg Reader* (with Peter Hudis, 2004) and the *Dunayevskaya-Marcuse-Fromm Correspondence* (with Russell Rockwell, 2012). He writes regularly for *New Politics*, *The International Marxist-Humanist*, and *Jacobin* on Marxism and on international politics and radical movements in Africa, Europe, and the Middle East.

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The International Obligation to Counter Gender Apartheid in Afghanistan

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Abstract

The following article was first published in the Columbia Law Journal and is reproduced with permission and an updated introduction.

Since they returned to power in August 2021, the Taliban are again imposing a regime of gender apartheid in Afghanistan in violation of international law, just as they did in the 1990s. Given that it is pervasively discriminatory, gender apartheid poses specific human rights problems requiring particular, heightened responses. A system of governance based on subordination of women institutionalizes sex discrimination across state political, legal, and cultural infrastructures. It necessitates different counter-strategies.

This article suggests conceptual architecture for analyzing and responding to this aspect of the current Afghan crisis. Specifically, the robust international legal framework that helped end racial apartheid should be urgently adapted to address gender apartheid and concert the responses of other states to it.

There are three principal arguments in favor of this approach 1) It is essential for fulfilling states' international legal commitments on sex discrimination across every document in the International Bill of Human Rights, as well as the specific target they affirmed in the Sustainable Development Goals to achieve gender equality by 2030. 2) Any other stance leads to an unacceptable imbalance in the manner in which international law addresses discrimination on the bases of sex and race. 3) This may be the only way to effectively tackle systematic Taliban abuses, as the organization is deeply committed to its violations of women's rights and already sanctioned by the United Nations Security Council. Such an approach marshals the resources of the international community to constrain the Taliban, and is the best hope for ensuring the credibility, legitimacy and effectiveness of the international legal response.

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Introduction (Updated for *Feminist Dissent*)

Since the publication of “The International Obligation to Counter Gender Apartheid in Afghanistan” in December 2022 by the *Columbia Human Rights Law Review*, there has been tremendous progress toward recognition of the gender apartheid approach. It has been increasingly used to defend women’s human rights in some of the contexts where they are mostly drastically under assault. This progress is very positive indeed and beyond my wildest dreams when I spent six months writing the paper in 2021-22. Afghan women have also published scholarship on gender apartheid and held many events related to this concept.ⁱ I am honored that my paper has been translated into Farsi by the Afghanistan Institute for Strategic Studies in October 2023.ⁱⁱ A game-changing global campaign to end gender apartheid has been launched with the leadership of many prominent Afghan and Iranian women human rights defenders, including Nobel laureate Shirin Ebadi, and former parliamentarian Fawzia Koofi.ⁱⁱⁱ

A range of governments have now endorsed the concept as well and many have applied it to Afghanistan, including Albania, Ecuador, Mexico, France, Montenegro, the Netherlands, Spain, Canada and the United Arab Emirates. Graca Machel, Nelson Mandela’s widow and anti-apartheid icon said of Taliban rule, in an interview with the Telegraph: “It is a kind of apartheid, which is gender apartheid. I agree with that kind of definition...The same vigour... applied to fight apartheid should be applied in the case of Afghanistan.”^{iv}

Parts of the UN system have increasingly embraced this framing. The UN Special Rapporteur on Iran Javid Rehman, and other UN human rights experts, publicly condemned new heightened penalties on Iranian women for refusal to wear the headscarf as gender apartheid in September 2023.^v “The draft law could be described as a form of gender apartheid, as authorities appear to be governing through systemic discrimination with the intention of suppressing women and girls into total submission,” the experts explained.^{vi}

The label has also been applied to the situation in Afghanistan by many UN officials and experts, including the Secretary-General, the High Commissioner for Human Rights and the Executive Director of UN Women, who went so far in her intervention in the Security Council debate on Afghanistan, on September 26, 2023, as to call for codification of gender apartheid.^{vii} I was also invited to brief the Council that same day on the imperative of responding positively to the appeals from Afghan women human rights defenders to use the gender apartheid approach in developing more effective, principled and international law-abiding responses to their country situation. Specifically, I called on the Council to consider adopting resolutions labeling the treatment of Afghan women by the Taliban as both gender persecution and an institutionalized framework of gender apartheid, concepts which I define in my article. Such resolutions should require states and the UN to take effective steps to end these grave violations of international law, including by bringing perpetrators to justice. I also recommended that member states should add gender apartheid explicitly to the Crimes against Humanity convention currently under discussion.

In a powerful endorsement of the concept of gender apartheid – which they described as a grave human rights violation – the UN Special Rapporteur on the situation of human rights in Afghanistan and the UN Working Group on Discrimination against Women and Girls also argued for its application to Afghanistan alongside gender persecution. In doing so, they stressed that, "[g]ender apartheid framing emphasizes that exclusion of and discrimination against women..is institutionalized and..a grave and systematic human rights violation that breaches the UN Charter, the principle of equality & non-discrimination & fundamental..norms of international human rights law."^{viii}

When the Special Rapporteur and the Working Group presented this critical joint report to the Human Rights Council on 19 June 2023, not a single state disagreed with their characterization of the situation as such.

Support for framing the country situation in Afghanistan as gender apartheid came from a cross-regional list of states during the interactive dialogue with the Human Rights Council. South Africa, Namibia, Luxembourg, France, Spain, the Netherlands and Montenegro spoke in favor. South Africa was the real hero of the debate echoing the words of Graça Machel when it not only recognized the framing of situation in Afghanistan as gender apartheid, but also called for international action against it akin to that which ended de jure racial apartheid in South Africa. A Human Rights Council resolution on Afghanistan, adopted in October 2023, has “request[ed] the Special Rapporteur to prepare a report on the phenomenon of an institutionalised system of discrimination, segregation, disrespect for human dignity and exclusion of women and girls,” which builds on the earlier report, though the resolution does not use the term “gender apartheid.”^{ix} This study, to be presented in June 2024, can and must play a decisive role in advancing the use of the gender apartheid approach.

There are now two international legal pathways forward on this front. The first is to interpret existing apartheid law in a gender inclusive way to include gender apartheid. As I note in the article, there is precedent for doing this, for example, in the way in which violence against women entered the human rights framework. The other is to push for explicit codification of gender apartheid. A major international campaign is underway to make sure that this latter development happens, and now has the support of an incredible list of prominent figures from the field of human rights, including Afghans, Iranians and South Africans, two former High Commissioners for Human Rights (Navi Pillay and Mary Robinson), multiple Nobel laureates, no less than two former presidents, the former prosecutor of the International Criminal Court, prominent South African experts like Justice Richard Goldstone and Rachida Manjoo, and members of Feminist Dissent.^x Women human rights defenders must work along both of these tracks at the same time. Codification, even in the best-case

scenario, may take some time for both political and legal reasons, and the grave situations where the concept of gender apartheid accurately applies cannot wait for this process to come to fruition.

What has been tried so far since the Taliban returned to power in Afghanistan is not working. If business as usual continues, the situation will simply continue to deteriorate with devastating national, regional and international consequences. Women's human rights cannot be simply set aside while governments think they are focusing on counterterrorism. To quote Nazifa Haqpal, an Afghan woman former diplomat:

Any failure to see the links between violations against women and girls in Afghanistan and the dangers the Taliban and its terrorist associates pose to regional and global stability risks ignoring an unprecedented security challenge. [I]nternational policymakers, thus, must prioritize the protection and advancement of women and girls in Afghanistan in their policies and actions, as a moral obligation – and a security imperative.^{xi}

Meanwhile, sadly, the practice of gender apartheid worsens day by day in Afghanistan and Iran. Those who counter gender apartheid continue to face grave danger. For example, I am deeply concerned about the arrest of Afghan WHRD Neda Parwani and her family and the abduction of Afghan WHRD Zholia Parsi and her son.^{xii} Feminists must push for their immediate releases and those of other anti-apartheid advocates.

As I noted in my Security Council address, many Afghan women also tell me, day after day, how concerned they are over increasing attempts by some international actors to normalize the Taliban despite such repressive policies. The legal progress made on recognizing and countering gender apartheid must be consolidated and accelerated to meet the urgent needs on the ground and as a tool to push back against normalization. To this end, Afghan women human rights defenders undertook a hunger strike in autumn 2023 to galvanize a better international response, including

specifically calling for recognition that gender apartheid is being practiced in their country.^{xiii} Similarly, the heroic Narges Mohammadi joined the call for codification of gender apartheid from within prison the same week she later won the Nobel Prize.

It is time for the international community to hear their voices and take decisive action recognizing that gender apartheid is being practiced and working in support of frontline women human rights defenders to end it. Feminists everywhere should act to support them. In conclusion, I paraphrase the end of my remarks to the Security Council. “As an Afghan WHRD once said to me: “Optimism is key to survival.” The stalwart Afghan women continuing to protest on the streets will not give up, and are risking their lives for the Charter’s promise of equality.”^{xiv} The international community must show as much courage and commitment as they do.

Karima Bennoune, November 2023

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ABSTRACT

Since they returned to power in August 2021, the Taliban are again imposing a regime of gender apartheid in Afghanistan in violation of international law, just as they did in the 1990s. Given that it is pervasively discriminatory, gender apartheid poses specific human rights problems requiring particular, heightened responses. A system of governance based on subordination of women institutionalizes sex discrimination across state political, legal, and cultural infrastructures. It necessitates different counter-strategies.

This article suggests conceptual architecture for analyzing and responding to this aspect of the current Afghan crisis. Specifically, the robust international legal framework that helped end racial apartheid should be urgently adapted to address gender apartheid and concert the responses of other states to it.

There are three principal arguments in favor of this approach. 1) It is essential for fulfilling states' international legal commitments on sex discrimination across every document in the International Bill of Human Rights, as well as the specific target they affirmed in the Sustainable Development Goals to achieve gender equality by 2030. 2) Any other stance leads to an unacceptable imbalance in the manner in which international law addresses discrimination on the bases of sex and race. 3) This may be the only way to effectively tackle systematic Taliban abuses, as the organization is deeply committed to its violations of women's rights and already sanctioned by the United Nations Security Council. Such an approach marshals the resources of the international community to constrain the Taliban, and is the best hope for ensuring the credibility, legitimacy and effectiveness of the international legal response.

Introduction

“The Taliban are known for being a gender apartheid group. There is no space in the 21st century for any form of apartheid, including gender apartheid.”

Horia Mosadiq

Former Afghanistan Researcher for Amnesty International and Founder,
War Victims Network^{xv}

“If a government is unwilling to recognize half of the population, we should be unwilling to recognize them. If the same restrictions were applied to men, or on the basis of race, what would we do?”

Shaharзад Akbar

Former Chairperson, Afghan Independent Human Rights Commission^{xvi}

Today, the world watches as the Taliban re-imposes gender^{xvii} apartheid in Afghanistan. This Article explains why the international community is legally required to do more than simply observe. The feminist case was made for recognizing and responding to gender apartheid the first time the Taliban took power,^{xviii} but the related international legal case was not. This is the particular contribution this Article seeks to make.

One can almost stipulate to the deleterious nature of Taliban rule for women’s human rights when the group’s abysmal track record and rights-rejecting pronouncements are so well known. However, there is a dangerous international trend of minimization of these abuses and increasing normalization of the Taliban by some states and international bodies, which many Afghans fear will lead to recognition of the group without human rights conditions.^{xix} Hence, one must rehearse the nature

of Taliban ideology and practices, as this Article does. One fact alone demonstrates the urgency of constructing an effective international response: as Afghan women advocates stress, the organization ironically named “the students” represents the only governing group in the world to have systematically excluded most women and girls from education in the territory it controlled in the late 20th century, and now in the early 21st.^{xx}

International law has little useful left to say directly to an actor such as the Taliban, which personifies its rejection and whose leadership is already featured on U.N. Security Council sanctions lists.^{xxi} One of the only remaining vehicles of change is how other states, ostensibly committed to rights and equality, react to Taliban policies and if they do so in keeping with their international legal obligations.^{xxii}

Hence, this article seeks to provide conceptual architecture for approaching this thorny topic and prescribing what the international legal system could do. In so doing, it foregrounds the international legal obligation of other states and international actors not to be complicit with such a project because it amounts to apartheid, an international crime. Such an inquiry can productively expand our understanding of what Steven Ratner has described as “obligations to refrain from . . . getting too close to abhorrent behavior.”^{xxiii} Thereby, international human rights law can empower and cajole rights-respecting responses from other states and an international community which claims to respect and value these human rights. International pronouncements in favor of rights and equality without commensurate action discredit the women’s human rights project. This impact is magnified as states and international organizations begin to participate in apartheid by, for example, sending all-male delegations to Kabul.^{xxiv} While both the Soviet Union (in 1979) and the United States (in 2001) claimed the protection of women’s rights as one justification for the use of force in Afghanistan when they had additional

motives for intervening,^{xxv} claims which some have criticized,^{xxvi} now global powers deprioritize these rights in decision-making.

When considering how to hold states accountable for their responses to the Taliban regime, one confronts the dearth of norms on second state responsibility in international human rights law itself.^{xxvii} Rules of general international law contained in the Draft Articles on Responsibility of States for Internationally Wrongful Acts (“Draft Articles on Responsibility of States”) concerning this kind of second state responsibility are limited to covering responses to breaches of peremptory norms, the highest-level norms in international law.^{xxviii} The International Law Commission enumerates in its commentary that these peremptory norms include “racial discrimination and apartheid,” but makes no specific mention of sex or gender discrimination.^{xxix} Given this lacuna, the concept of gender apartheid offers not only a factually accurate description, and one that carries appropriate stigma, but also an essential mechanism for generating some global legal accountability for the Taliban’s return to power—which was a transnationally created disaster. In the words of Shaharad Akbar, former Director of the Afghan Independent Human Rights Commission, the gender apartheid framework can be a “powerful mobilizing tool.”^{xxx}

When Kabul fell to the Taliban on August 15, 2021, much of what remained of twenty years of flawed, incomplete, hard won, and vital progress for Afghan women was lost in a matter of weeks.^{xxxi} In Afghanistan today, the de facto Taliban authorities^{xxxii} practice both gender separation and the exclusion of women with dire human rights consequences.^{xxxiii} Laws protecting women’s rights, enacted due to the risky work of Afghan women law reformers and women human rights defenders (WHRDs)^{xxxiv} in the last twenty years, are reportedly slated for abrogation.^{xxxv} Institutions women built to protect their rights are

dismantled. The Ministry of Women’s Affairs became the Ministry of Vice and Virtue.^{xxxvi} Male aid workers may not enter tents in camps while 80% of the millions of displaced persons are women and girls.^{xxxvii} Women are sent home from their workplaces,^{xxxviii} thereby losing income essential for feeding their families in the middle of one of the world’s worst humanitarian crises.^{xxxix} Most girls above grade six may not go to school.^{xl} University education is segregated, if available.^{xli} Criticizing the Taliban has reportedly become an officially punishable offense.^{xlii} In this hostile environment, Afghan WHRDs have attempted to continue their work on the ground, carrying out demonstrations even under a hail of gunfire, but the space for such dissent constricts increasingly.^{xliii} Women engaging in protests, and sometimes members of their families, face arrest, torture and ill-treatment, and incommunicado detention.^{xliv}

The international community has a responsibility to react decisively to counter such retrogression on women’s rights. Using the apartheid framework—which emphasizes the foreign policy responses of second states and the international community—to characterize the situation can help spur such reactions. Given the systematic nature of rights deprivation, the transnational causes of the crisis, and the intractability of the situation, the arsenal of international law must now be enhanced and fully deployed. This matters most for Afghans, but it is also critical for the credibility of the international law project and the U.N. system going forward.

Writing in the tradition of feminist international law,^{xlv} this article draws from the academic literature and international norms and jurisprudence on women’s equality and racial apartheid, as well as on a series of interviews conducted remotely with Afghan WHRDs from September 2021 to February 2022.^{xlvi} Feminist international law has questioned whether international legal norms adequately respond to women’s experiences, pushed for more gender inclusive interpretations, and challenged

gendered assumptions in the field of human rights law, such as the public-private divide which had relegated many women's experiences of violation to being outside the scope of international norms.^{xlvii} This article takes up those tasks in relation to the current situation of women in Afghanistan, informed by the views of the WHRDs interviewed.

To do so, the article deploys strategies outlined in a foundational 1990 piece, *Women's Rights as Human Rights: Toward a Re-Vision of Human Rights*, by Rutgers professor Charlotte Bunch.^{xlviii} Bunch identified four key methods for advancing women's rights in the international human rights system: (1) analogizing women's rights to established concepts within civil and political rights, (2) fitting women's human rights concerns within accepted paradigms of economic and social rights, (3) creating new international legal mechanisms to counter sex discrimination, and (4) engaging in feminist transformation of international law.^{xlix} Women's human rights advocates often employ a holistic approach, oscillating between all such strategies, which are overlapping and complementary. This project aims to do just that, in a move to respond vigorously to Taliban policies and to international enablers of the Taliban. Enhanced responses are also needed to shape a more robust and relevant international legal framework.

The needed concepts already exist within international law and can be updated and analogized to cover this situation. This is a commonly used legal device^l which fits in Bunch's first and second approaches. It involves making existing categories of violations and remedies in international human rights law more gender inclusive. These objectives can also be realized via Bunch's third approach, establishing new international legal mechanisms, a possibility discussed below. However, the latter is a more difficult route. International law has a paradigm for dealing with apartheid, but it is explicitly drafted to respond only to racial apartheid and has not

been deployed to address gender apartheid. This article argues that it should be. Such a feminist transformation of international law is essential in the 21st century.

To make this case, Part One of this Article surveys the international legal regime on racial apartheid and the application of that body of laws to Southern Africa. It assesses why racial apartheid was deemed a grave crime, international complicity with which was forbidden, and why it spawned potent approaches to the obligations of second states. Those approaches were one prong of an effective international response that helped end the practice^{li} and likewise changed international law.

Building on this framework, Part Two explains the concept and practice of gender apartheid—the use of the systematic segregation of the sexes imposed through law and policy as a governing ideology. In this construct, segregation is sometimes accompanied by the total exclusion of women. Part Two considers the consequences of practicing gender apartheid for women’s human rights, primarily through the prism of Taliban Afghanistan, versions 1.0 and 2.0. Next, it reviews the international response to such practices. This part of the Article assesses the groundbreaking scholarship and advocacy on this issue in the 1990s, including by women of Muslim heritage and Muslim women who were not merely the objects of this work but its protagonists. It builds on arguments that a small number of women’s rights advocates made about gender apartheid during the 1990s Taliban rule of Afghanistan, an approach the international community failed to adequately embrace. Ratifying the analyses of those global feminist pioneers, this Article develops the international legal basis for their arguments, updates them in light of twenty years of development in the field, and avers that now is the time to fully re-assert them.

Having suggested ways of transposing the legal framework on racial apartheid to the gender apartheid context in its opening sections, the Article then responds to the most likely counterarguments. These counterarguments include: (1) the notion that sex discrimination is different than race discrimination in international law, thus meriting a distinct approach; (2) relatedly, the claim that culture offers an alibi for gender apartheid; and, finally, (3) the concern that international law lacks explicit textual support for recognizing the concept of gender apartheid and counteracting its practice. Responses can be found within international law itself to counter all of these rejoinders, as will be outlined in the subsequent portions of the Article.

Part Three compares the international law bans on systematic discrimination on the bases of race and sex, and considers the implications of this comparison. It makes the case that there is no rational justification for failing to use the heightened approach developed to combat governance on the basis of systematic racial discrimination for similar practices on the basis of sex.

Subsequently, Part Four confronts cultural relativism and cultural excuses made by the Taliban and others advocating gender apartheid. These are considered fashionable in certain Western quarters, including parts of the academy.^{lii} Such arguments are significant obstacles to the full deployment of the construct of gender apartheid. However, as this part of the Article demonstrates, international law categorically rejects such attempted justifications for imposing inequalities on the basis of sex, just as it did for racial harms. Ultimately, with all of these building blocks and rejoinders in place, in Part Five, the Article offers interpretive strategies for countering gender apartheid with international law in Taliban Afghanistan 2.0.

I. Global Norms to “End [a] White Monopoly on Political Power”^{liii}:

International Anti-Apartheid Law

To consider what contribution a new conceptual architecture on gender apartheid in international law could offer, the Article now turns to the positive example of this body of law’s response to racial apartheid, which supported the efforts of local and international opponents of apartheid. International law should learn from its past successes.

“Apartheid” is an Afrikaans word meaning apartness or separation, a phrase coined by South African Prime Minister Daniel Malan “to denote South African policies of racial segregation between whites and various nonwhite racial groups.”^{liv} Nelson Mandela noted that “[a]partheid was a new term but an old idea What had been more or less de facto was to become relentlessly de jure.”^{lv} In South Africa, apartheid became not just a practice, but the governing ideology and legal framework from 1948–1990. It was also applied in some neighboring Southern African states.^{lvi}

Legislation structured all aspects of South African society by race, just as Taliban Afghanistan is organized by sex. It also segregated people considered “Bantus,” “coloureds” and “white,”^{lvii} as the Taliban divide women and men, even if the geography of spatial separation is different. In apartheid South Africa, a series of laws separated public and residential areas by race and allocated most of the country’s land to white people.^{lviii} To enforce these restrictions, “pass laws” required nonwhites to carry documents authorizing their presence in white areas.^{lix} Racial apartheid also governed employment and education, as gender apartheid does in Taliban Afghanistan. In South Africa, state-run schools were created for Black children (educating them in domestic and manual work), and nonwhites were barred from most universities.^{lx}

Recognizing that such use of discrimination as a governance model flagrantly violated the then-recently adopted U.N. Charter and Universal

Declaration of Human Rights (UDHR),^{lxi} in 1952 the U.N. General Assembly began issuing an annual denunciation of apartheid (which it did until 1990), with the U.N. Security Council following suit after 1960.^{lxii} Influenced by political pressure and bolstered by the emerging legal framework, by the 1970s the Security Council began adopting a series of resolutions “prohibiting any aid or assistance in maintaining the illegal apartheid regime...”^{lxiii}

International political will and local political struggle were essential catalysts for change. Newly decolonized states played a leadership role, seeing the issue as a vital part of a larger struggle for the completion of decolonization and the achievement of self-determination. The African National Congress was given observer status at the United Nations and carried out its own successful foreign policy.^{lxiv} Highly publicized South African atrocities, such as repression of the 1976 Soweto Uprising, galvanized international opinion and action.^{lxv} The U.N. response and international norms were only one component of concerted Global South-led anti-apartheid initiatives, but they created a powerful advocacy tool and helped mobilize global opprobrium for South African policy that, *inter alia*, helped break the deadlock on sanctions.^{lxvi} As academics David Walsh and J.E. Spence conclude in a review of the relevant external factors:

It would be difficult ... to attempt a precise weighting for any one of these factors; it was rather their cumulative effect which ultimately undid ... apartheid ... What can be asserted with some confidence is that the changes that occurred in the norms governing state behaviour ... were crucial. Western governments, in particular, had to pay at least some deference to these new norms, the effect of which was to give South Africa a unique status in the international society of states.^{lxvii}

Indeed, building on earlier standards prohibiting race discrimination, international norms banning apartheid emerged in the 1970s, requiring rights-respecting responses by second states. The most important of these new standards was the International Convention on the Suppression and Punishment of the Crime of Apartheid (“Apartheid Convention”), which came into force in 1976.^{lxviii} South African expert John Dugard described it as “the ultimate step in the condemnation of apartheid.”^{lxix} The *raison d’être* of this Convention was, according to its preamble, to actualize pre-existing prohibitions of apartheid. It aimed to “make it possible to take more effective measures at the international and national levels with a view to the suppression and punishment of the crime of apartheid.”^{lxx} This is precisely what is needed in the case of gender apartheid.

The Convention defines apartheid as “inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them.”^{lxxi} The list of “inhuman acts” under the definition includes “denial to a member or members of a racial group or groups of the right to life and liberty of a person,” “murder[s] of members of a racial group or groups,” “deliberate imposition on a racial group or groups of living conditions calculated to cause its or their physical destruction in whole or in part,” legislative and other measures aimed to “prevent a racial group or groups from participation in the political, social, economic and cultural life of the country and the deliberate creation of conditions preventing the full development of such a group or groups,” measures to “divide the population along racial lines,” and persecution of organizations or persons because they oppose apartheid.^{lxxii} As will be demonstrated below, if gender or sex is substituted for race, every single one of these elements is present in both Taliban 1.0 and 2.0 policies vis-à-vis women.^{lxxiii}

Recognizing apartheid as a violation of the U.N. Charter, and therefore unlawful, the Convention criminalizes it.^{lxxiv} Article III imputes international criminal responsibility to perpetrators of inhuman acts deriving from apartheid. Subsequently, Article IV lays out the responsibilities of states parties in responding to another state's practice of apartheid: they must adopt "legislative or other measures necessary to suppress as well as to prevent any encouragement of the crime of apartheid and similar segregationist policies or their manifestations and to punish persons guilty of that crime."^{lxxv} States must also "adopt legislative, judicial and administrative measures to prosecute, bring to trial and punish in accordance with their jurisdiction persons responsible for, or accused of" acts prohibited by the Convention.^{lxxvi} Finally, this groundbreaking treaty seeks to catalyze further U.N. action by recognizing that any party can call upon U.N. bodies to take Charter-based action to prevent and suppress the crime of apartheid,^{lxxvii} and by giving states parties heightened obligations to implement relevant U.N. resolutions.^{lxxviii}

Dugard stresses the significance of the fact that the Apartheid Convention enables prosecution of foreign nationals for criminal acts committed on the territory of a non-party if the alleged perpetrator is found within the jurisdiction of a state party. This was both innovative and symbolically important. However, as he notes, "[n]o one was prosecuted for the crime of apartheid while apartheid lasted in South Africa. And no one has since been prosecuted for the crime."^{lxxix} This was in part because South Africa opted instead for a Truth and Reconciliation Commission as part of its democratic transition.^{lxxx} The Convention nonetheless provided a critical advocacy tool for opponents of apartheid;^{lxxxi} it was used as a standard for judging national responses and regularly cited in U.N. debates, and it codified the view of the apartheid regime as an illegal situation to be ended^{lxxxii} rather than an acceptable object of incrementalist "constructive engagement."^{lxxxiii}

Following the adoption of the Convention, in 1976, the International Law Commission recognized apartheid as an international crime and deemed its prohibition an “international obligation of essential importance for safeguarding the human being.”^{lxxxiv} In 1977, Additional Protocol I of the Geneva Conventions of 1949 denoted apartheid a “grave breach,”^{lxxxv} “without any geographical limitation.”^{lxxxvi} All of these legal advances contributed to the momentum which emboldened the Security Council to impose a series of sanctions on South Africa as of 1977.^{lxxxvii}

Specific standards on apartheid in particular fields were also adopted, such as the 1985 International Convention against Apartheid in Sports.^{lxxxviii} This convention recognizes that sports exchanges with teams “selected on the basis of apartheid directly abets and encourages the commission of the crime of apartheid.”^{lxxxix} Sports contact with countries practicing apartheid “condones and strengthens apartheid,”^{xc} and so is a violation of the Olympic Principles pertaining to international athletics.^{xcii} Other states cannot be complicit.^{xcii}

After the end of apartheid in South Africa, the 1998 Rome Statute codified that its practice anywhere may rise to the level of a crime against humanity.^{xciii} In fact, international apartheid law builds on the insights of just such constructs as crimes against humanity and genocide, which provide for heightened international responses to widespread and systematic atrocities against an entire population or group, recognizing the unique and pervasive damage they cause.^{xciv} Ultimately, the prohibition of apartheid has been recognized by the International Law Commission in its 2001 Commentary on *the Draft Articles on Responsibility of States* as rising to the level of jus cogens,^{xcv} the highest-level norms in the field of international law which override contradictory norms and instruments.^{xcvi} Given that status, this Article now turns to possibilities for applying a

similarly vigorous approach to ending the use of discrimination against women as a governance model.

II. “Not as Human as Men”^{xcvii}: Gender Apartheid and International Law

A. *Defining Gender Apartheid*

Building upon the international legal framework on racial apartheid, this part of the Article explains the concept of gender apartheid and how its practice likewise violates fundamental norms of international law on equality and non-discrimination. It then offers Taliban Afghanistan 1.0 and 2.0 as the paradigmatic examples to demonstrate the concrete impacts on human rights.

Analogous to racial apartheid, gender apartheid is a system of governance, based on laws and/or policies, which imposes systematic segregation of women and men and may also systematically exclude women from public spaces and spheres.^{xcviii} It codifies the subordination of women in violation of “fundamental principles recognized under international law,”^{xcix} as the U.N. Committee on Economic, Social and Cultural Rights characterizes the equal right of men and women to enjoy all human rights.^c Gender apartheid is anathema to these foundational norms of international law, every bit as much as racial apartheid was to the analogous principles prohibiting race discrimination.^{ci} Ultimately, as racial apartheid was for Black South Africans, gender apartheid is an erasure of the humanity of women. Every aspect of female existence is controlled and scrutinized. It permeates all institutions and spaces, public and private. There is no escape from gender apartheid. The solution cannot be the departure of half the population of the country.^{cii}

Gender apartheid is a hierarchical system that maintains the inferiority of women and the superiority of men, not simply their equal separation. As with gender apartheid, racial apartheid is grounded in discrimination, but what is crucial to understand is its composite and systematic nature. As the International Law Commission noted of racial apartheid in its Commentary on the Draft Articles on Responsibility of States, “cumulative conduct constitutes the essence of the wrongful act.”^{ciii} Experts have emphasized the “pervasiveness” of racial apartheid and the way it functioned as a “system of gross human rights violations.”^{civ} This is also true of gender apartheid and is clearly identifiable in Taliban Afghanistan. It is intentional, systematic, and pervasively discriminatory. There is nothing incidental or anecdotal about the violations which result. It poses specific human rights problems requiring particular, heightened responses.^{cv} Notwithstanding the robust international normative framework and the fact that it is prohibited by the touchstone instruments of the contemporary global legal order, discrimination against women remains, in practice, one of the most pervasive human rights violations around the world.^{cvi} However, creating a system of governance based on such practices and designed to impose them takes the abuse to another level. This institutionalizes sex discrimination across state political, legal, and cultural infrastructures—a problem that is distinct from more common patriarchal societal norms found to varying degrees in most societies. It necessitates different counter-strategies.

In a context like Taliban Afghanistan, the term “gender apartheid” seeks to foreground the way in which discrimination has been made the system of governance itself rather than an aberration from it, such that the aim of government and public policy is to discriminate. This radically alters the relationship of the state and the government (or the entity exercising de facto control) to the discriminatory practices in question, as it becomes the engine of discrimination. It also transforms the ways in which human rights

criticism and scrutiny might be able to affect them. It is no accident that the Taliban have only minimally responded to pressure in this regard. Their enacted hatred of women is the heart of their governing platform.

All this makes clear why ordinary human rights law and non-discrimination norms are important components of critiquing apartheid but are also insufficient for addressing it. The specific problem posed by apartheid, based on race or sex, as opposed to other forms of de facto or periodic discrimination, is the way it upends the assumptions of human rights law. Human rights treaties center the state and address it as the entity to realize equality.^{cvii} When the apparatus of the state is organized to mandate systematic inequality and its law or policy codifies discrimination as the norm, the international human rights law model cannot work. The state becomes the primordial source of discrimination, amplifying its practice in society. This is an affront to the principles of the rule of law. International scrutiny and global engagement are absolutely necessary to realize the foundational goals of international law in any such context. In fact, without them or without system-wide change inside the country brought about in accordance with international law,^{cviii} those goals will be impossible to achieve.

B. "Abnormal from the Standpoint of Human Rights": Early Opposition to Gender Apartheid

In the 1990s, campaigning against an earlier iteration of gender apartheid in Afghanistan brought together Afghan women human rights defenders and global feminist partners to try to galvanize an effective response to Taliban rule 1.0. They recognized the dangers of a Taliban-ruled Afghanistan well before the atrocities of 9/11, at a time when governments were appeasing the armed group and oil companies were seeking lucrative deals with it.^{cix} These WHRDs were thereby challenging international law to live up to its foundational promises, and governments

to make good on their rhetoric about equality. As Nancy Gallagher explained,

[g]ender discrimination had never been a major issue in international foreign policy making, but feminist and human rights activists now called for an international response to the Taliban similar to the international response to the South African apartheid government. Hence the new term, “gender apartheid” and the idea of an international, anti-gender apartheid campaign.^{cx}

Women of Muslim heritage who had already been engaging in both local and transnational campaigning against Muslim fundamentalist state and non-state actors were often at the forefront of advancing such analysis.^{cx}

Iranian women’s rights advocate Mahnaz Afkhami wrote in 2001 that a “resurgence of radical Islamist thought” in some Muslim majority countries has sought to establish “various degrees of gender apartheid in Muslim societies”—from the passage of a bill to segregate hospitals in Iran to the “total segregation” of society promoted by the Taliban in Afghanistan.^{cxii} This work bore in mind the success of international law in confronting racial apartheid and sought to apply lessons from that experience.

One prominent U.N. human rights expert of Muslim heritage, who recognized that this discussion was about political choices with grave impacts on women, not simply about religion or culture, was also willing to use this approach. During Taliban rule 1.0, Abdelfattah Amor, who held the post of what was then called the U.N. Special Rapporteur on the elimination of intolerance and all forms of discrimination based on religion or belief, specifically charged that Afghan women were being subjected to a form of “apartheid.”^{cxiii} According to the U.N. press release on his report, he asserted with grave concern that “[w]omen were subject to a form of religious apartheid, and suffered under religious fundamentalism, for example in Afghanistan.”^{cxiv}

[T]he Taliban has introduced what is in point of fact a system of apartheid in respect of women, based on its interpretation of Islam: exclusion of women from society, employment and schools, obligation for women to wear the burqa in public and restrictions on travel with men other than members of the family. . . . The Special Rapporteur believes that the maintenance, openly and publicly, of an apartheid policy of this nature is abnormal, from the standpoint of human rights.^{cxv}

His words are striking against the backdrop of the more general assertions that U.N. mechanisms make today.^{cxvi} Ann Mayer, noted scholar of Islam and human rights, correctly explains that, “[a]s a Muslim coming from Tunisia, a Muslim country where progressive laws generally accord women equality in rights, Amor could see through and dismiss the Islamic rationales proffered for the Taliban’s demeaning treatment of women.”^{cxvii}

Given such conceptual clarity and human rights leadership, it is surprising how little the term “gender apartheid” has been used in international legal parlance, including in the human rights system, since then. Mayer argued that gender apartheid has been viewed as a relatively “benign apartheid” because it is not seen to have the same linkage to colonialism as racial apartheid, it is subject to cultural relativist justifications^{cxviii} and, in her view, the language of the U.N. Convention on the Elimination of All Forms of Discrimination against Women (“the CEDAW Convention”) is relatively weak.^{cxix}

The views Mayer critiqued can be dislodged using the tools of 21st century feminist international law. This requires taking three key steps: (1) recognizing that the commitments in international law to ending gender discrimination are as strong as those related to decolonization,^{cxx} (2) refusing to perpetuate a global version of the public-private divide which

sees systematic racial discrimination as international and thus appropriate for the strongest rebuke, and sex discrimination as internal and therefore subject to less rigorous of an international response, and (3) boldly interpreting the CEDAW Convention for the 21st century. Each prong of this approach is taken up below. Meanwhile, the following descriptions of Taliban rule in Afghanistan in the 1990s and today further illustrate the reality of gender apartheid and the need for such an international legal response.

C. Gender Apartheid in Afghanistan

1. Taliban rule, take one: 1996-2001

Understanding the impact of Taliban gender apartheid rule on women requires consideration of 20th century Afghan women's history. In contrast with the current situation, Afghan women experienced a positive rights trajectory throughout much of the 20th century until 1979.^{cxxi} This occurred under a series of reformist kings and the first communist regime (though the latter also engaged in increasing political repression). After an illegal 1979 Soviet invasion, counter-intervention by the United States, Pakistan, and Saudi Arabia^{cxxii} supported mujahideen groups, including extremists. The resulting 1989 Soviet withdrawal paved the way for catastrophic conflict between these mujahideen groups in the 1990s. In this context, the Taliban emerged in 1994, supported by the Pakistani security service or Inter-Services Intelligence, and drawing from war orphans who had been indoctrinated in extremist madrasas (religious schools) and may have had little or no contact with women.^{cxxiii} During a hellish rocket war, the Taliban conquered Kabul in August 1996 and came to control the majority of the country.^{cxxiv}

Taliban rule 1.0 saw the imposition of systematic gender apartheid, including the end of education for women and girls, alongside other

widespread human rights abuses.^{cxxv} Taliban policies eviscerated what remained of women's human rights after seventeen years of war.^{cxxvi} They systematized the total social erasure of women. "Upon seizing power, the Taliban regime instituted a system of gender apartheid effectively thrusting the women of Afghanistan into a state of virtual house arrest. Under Taliban rule women were stripped of all human rights[—]their work, visibility, opportunity for education, voice, healthcare, and mobility."^{cxxvii}

Specific Taliban decrees banned women from working, expelled women and girls from schools and universities,^{cxxviii} forbade women from leaving their homes without a close male relative or *mahram* (a restriction the effects of which were magnified in a country full of war widows^{cxxix}), and even "[p]rohibited women and girls from being examined by male physicians while at the same time prohibit[ing] female doctors and nurses from working."^{cxxx} These policies had stark consequences, leading to one of the highest maternal mortality rates in the world^{cxxxi} and "de facto sentencing widows and their children to starvation."^{cxxxii} The windows of women's homes were blackened so they could not be seen.^{cxxxiii} Violations of the rules would be met with beatings, floggings, executions, and even stoning.^{cxxxiv}

For those who argue that the Taliban can change, it is worth noting the assessment of the campaigning organization known as "Feminist Majority" of the group's rule in the 1990s:

Even after international condemnation, the Taliban made only slight changes. Some say it was progress when the Taliban allowed a few women doctors and nurses to work, even while hospitals still had segregated wards for women. In Kabul and other cities, a few home schools for girls operated

in secret ... Women who conducted home schools were risking their lives or a severe beating.^{cxxxv}

The sweeping impacts of discriminatory Taliban policies on women's human rights included violence against women so widespread that many families sent their daughters to Pakistan or Iran for their safety.^{cxxxvi} High rates of suicide and depression among women resulted from these policies and their consequences. A 35-year-old Afghan widow summed up the dire situation: "We are locked at home and cannot see the sun."^{cxxxvii} Despite this grim reality and the advocacy of international and local WHRDs, the international community failed to respond vigorously to gender apartheid, overlooking it as a "warning sign"^{cxxxviii} of further horror to come. The situation persisted until the United States, with support from international and Afghan coalitions, overthrew Taliban 1.0 rule following 9/11, an attack which the group allowed to be planned from its gender segregated territory.^{cxxxix}

2. Taliban rule, take two: August 2021 to the present

Just as with the rise of Taliban 1.0, the new Taliban de facto regime that came to control the country in 2021 should be viewed in light of the trajectory for women's rights in the preceding timeframe. Substantial progress was made for Afghan women after the overthrow of the Taliban in 2001, though this progress was not equally enjoyed by all women^{cxl} and serious threats to women's rights persisted.^{cxli} During the Trump administration, the Taliban successfully used negotiating for peace as a weapon of war, and were rewarded with the Doha Agreement.^{cxlii} International actors were willing to set aside women's rights, while mouthing platitudes about empowerment.^{cxliii} Benefitting from one-sided prisoner releases that liberated fighters, international negotiations that often excluded the democratically-elected government, and the demoralization of government forces due to significant casualties, the Taliban's conquest of territory accelerated.^{cxliv} Kabul itself ultimately fell to

the armed group on August 15, 2021, twenty-five years after it took power the first time.

This led to panicked mass attempts to flee the country, as foreign countries prioritized evacuation of their own citizens and small numbers of Afghans who had worked with them.^{cxlv} This kind of withdrawal was based on bipartisan policy in the United States, carried forward by the Biden administration.^{cxlvi} As early as 2013, the then-immediate-past State Department legal advisor Harold Koh advocated for what he termed “reconcil[ing]” with the “moderate Taliban”^{cxlvii} as the United States sought a way out of Afghanistan. In August 2021, the Western media published many stories about the supposedly new and improved Taliban.^{cxlviii}

It is instructive to contrast this thesis with the views of the WHRDs interviewed for this article. One had asked me about this construct back in 2011 in Kabul: “If they are moderate, then why they are Taliban?”^{cxlix} Another WHRD, Zubaida Akbar, expressed her frustration at the “narrative of the changed Taliban,” that some governments and even aid organizations which want to work with the group used, “without thinking of the human cost of this.”^{cl} She was aghast at the way significant platforms were given to the Taliban to bolster this view. Some of those interviewed asserted that the “new” Taliban “was even worse than the previous Taliban, because the new Taliban uses technology against Afghans.”^{cli}

Egyptian political scientist Mariz Tadros considered the narrative of the “improved Taliban” against the recent history of her home country, as well as that of Iran, Tunisia, and Turkey.^{clii} Her research found that the optimistic narrative about the Taliban’s improving trajectory, that hardliners become more malleable with their ideologies as they adapt to governance, has proven to be inaccurate with regard to Muslim

fundamentalist groups.^{cliii} “Across the political spectrum of Islamist movements assuming power, whether ‘moderates’ or ‘extremists,’ the inclination, once in power, is to adopt a hardline ideological stance.”^{cliv}

In keeping with this analysis, Taliban 2.0 inaugurated an all-male interim administration, featuring few members from minorities and possessing little governing expertise.^{clv} Women have again been barred from employment and girls excluded from school after sixth grade.^{clvi} One Afghan human rights defender from Kandahar indicated he had heard reports that in the south, younger girls were also being kept home due to fears for their safety, effectively stopping nearly all girls’ education.^{clvii} One WHRD from the north explained that “the freedom that women did have in public spaces, including in cities and rural areas does not exist anymore. The Taliban distributed posters and brochures in Friday prayers to men, instructing women to not leave the house without a *mahram*, and on how to dress.”^{clviii}

In December 2021, the Office of the U.N. High Commissioner for Human Rights reported that

women, except for some teachers, health and NGO workers, are largely prohibited from working—and may not take products to market due to the local de facto authorities’ closure of women-operated bazaars. Many Afghan women and girls now have to be accompanied by a male relative, whenever they leave their residence. These are strictly enforced in some places, but not all.^{clix}

Additionally, Taliban spokesmen have suggested plans to dismantle the entire legal structure of women’s rights, including by abrogating the 2004 constitution^{clx} and the 2009 Elimination of Violence against Women Law,^{clxi} as well as a ban on women and girls playing sports.^{clxii} Measures such as a tepid December 3, 2021 decree on women’s right to consent to

marriage,^{clxiii} that do not address their rights to work or to education or recognize their equality, appear to be largely designed to impress the international audience rather than to advance women's rights at home.^{clxiv} Women and girls are being subjected to forced marriages with Taliban fighters notwithstanding this decree.^{clxv} A number of those interviewed reported receiving information suggesting increasing levels of domestic violence due to the stressful country situation and the total impunity. The shelters have closed and those who ran them have been forced into exile.^{clxvi}

A significant percentage of WHRDs were compelled to flee the country given threats to their safety and attacks on their colleagues. This greatly reduced the cohort of those who can raise the international alarm about the human rights impact of these policies, scattering them around the world to refugee centers where they will be less able to carry on their work.^{clxvii} Many of them are trying to do just that despite massive logistical obstacles.^{clxviii}

Other WHRDs were left behind and are now hiding in "safe houses," which may not be. Many of them feel increasing concerns about appearing in public and are dealing with ongoing demands for their help, to which they are now largely unable to respond. "Talking about our situation puts our life at risk," Kubra Balooch explained.^{clxix} Women protestors brave enough to voice their opposition in public have been shot at, beaten, arrested, and reportedly tortured by male Taliban fighters, though small protests continue.^{clxx} To underscore the dangers, one WHRD in exile spoke about another activist in her family who remained behind: "My sister was trying to teach girls at home [in Kabul, in October 2021] and the Taliban saw, and they said, 'We will kill your whole family in front of others so they know not to teach the girls.'" ^{clxxi}

Meanwhile, one of the world's worst humanitarian crises is unfolding, with millions facing hunger and deprivation, and resultant abuses, including reports of the sale of children, girls in particular.^{clxxii} This aspect of the current crisis also has disproportionate impacts on women due to the apartheid restrictions.^{clxxiii} When women suffer, such as by being denied employment during an economic catastrophe, their families suffer too. The spillover effects of gender apartheid on families and the population at large are far-reaching, as in the case of racial apartheid.

In just a few months, twenty years of hard fought, incomplete progress was almost entirely lost as gender apartheid again descended on the land of the Hindu Kush. "We are being erased," Kubra Balooch lamented.^{clxxiv} Taken together, all of this has given rise to a situation so dire that journalist Emma Graham-Harrison opined: "Afghanistan is currently the worst place to be a woman."^{clxxv} In July 2022, German Foreign Minister Annalena Baerbock echoed this assessment, saying that Afghanistan is experiencing "the biggest violation on earth of women's rights" under Taliban rule.^{clxxvi} Quoting an Afghan female journalist, Amnesty International characterized the situation of women under Taliban rule as "Death in Slow Motion."^{clxxvii} If international law has no solutions to offer here, it will discredit itself. This time, gender apartheid should receive the effective, concerted response it merits.

3. Assessments by Afghan WHRDs: "Starting over from zero with empty hands"^{clxxviii}

The Afghan WHRDs interviewed for this Article were asked to assess the current situation in their home country, and whether using the construct of "gender apartheid" could be an accurate and productive response to it. Most agreed with describing it as such. According to Yalda Royan, "apartheid is a good expression to use. They are totally denying the existence of women."^{clxxix} In the words of Zarqa Yaftali, "The Taliban is not

accepting women as human, and ignoring one half of the country. This is very dangerous.”^{clxxx} For Palwasha Hassan,

“gender apartheid” is the right term, not just segregation alone. They think of women as less than the other half of society—men. They think they have the right to tell women what is good or not based on their own misperception and misinterpretation of Islam, and use that as a framework with which to govern Afghanistan.^{clxxxi}

Another WHRD emphasized the necessity of highlighting the heightened impact of the Taliban’s systemic discrimination because it “removes women from government and society.”^{clxxxii}

One interviewee, a human rights lawyer, disagreed with using the gender apartheid label because she argued that the Taliban have not formally changed Afghan law yet, and therefore the group’s practices are de facto rather than de jure. This is a helpful reminder of the ambiguity of the current situation human rights defenders confront.^{clxxxiii} Existing, formal Afghan law continues to mandate equality of all citizens, yet de facto authorities themselves are systematically contravening that law as a matter of policy. “There is now zero access to justice,” as WHRD Kubra Balooch expressed it.^{clxxxiv} Given this contradictory reality, the dissenter’s insight informs this Article’s insistence on defining gender apartheid to include systematic discrimination in both law and policy, by recognized governments and de facto authorities. Though there may be important juridical differences between the two situations, the outcome on the ground for women’s human rights in Afghanistan is similar. For now, the Taliban are the law.

The WHRDs interviewed were trying to continue their work against gender apartheid. One was openly campaigning for girls’ education from northern Afghanistan when she was interviewed in October 2021, working virtually with Nobel laureate Malala Yousoufzai. Unfortunately, she has since been

forced into exile. She stressed that even a short-term practice of gender apartheid has grave long-term consequences, and quickly becomes self-perpetuating: “If girls do not go back to school for one to two years, the impact will be very harmful in the future, for the next ten to fifteen years. We will have a generation of nonliterate girls who will not be able to play a role in the country.”^{clxxxv} Most of those interviewed wanted governments around the world to take a firm stand against Taliban policies and strictly condition any recognition on progress in the field of human rights especially regarding education and employment for women, as well as on their representation in government. Some—but not all—supported sanctions. However, they also expressed concern about ensuring that pressure is applied in ways that compel the Taliban to change, but do not harm the population in the face of the humanitarian crisis. Suggested methods of doing so included providing assistance through the conduit of international organizations and civil society, especially women-led organizations, rather than through Taliban channels.

Many of the interlocutors expressed disappointment and even outrage at the international community’s stance toward the Taliban takeover of their country. “They just handed us over to them with two hands,” one said.^{clxxxvi} Another opined: “When I see the international community’s response, I am hopeless. They do not believe in the future of Afghan women. They have declarations, but they do not push the Taliban. Words are not enough. We need actual action to support Afghans.”^{clxxxvii}

A number of those interviewed resented what they described as the international community’s acquiescence to the Taliban’s current policies, and expressed a sense of profound isolation and abandonment. One went so far as to say, when asked about what she would like the world to know about the country’s situation, “I do not have any more messages for the international community.”^{clxxxviii} Another remained pragmatic, asserting

that even now “the international community’s reaction is very, very important. The only entity that can help is the international community because the Taliban need its support, financial assistance, recognition and humanitarian aid.”^{clxxxix} The fact that many international actors are now participating in gender apartheid by sending all-male delegations to meet with the Taliban, what one termed “meetings with one gender,”^{cxlc} was a source of frustration: “Have you seen any women in the teams of those meeting with the Taliban? The Taliban does not believe in women’s rights, but why aren’t these outside governments taking any women with them?”^{cxli}

A woman journalist interviewed stressed that when international organizations and other countries “only have male faces, not female ones” representing them in talks with the Taliban, especially in discussions of women’s rights, they are showing “recognition of and respect for Taliban ideology.”^{cxlii} “How can an all-male delegation ask the Taliban, ‘where are the women?’”^{cxliii} Many of the WHRDs suggested a more aggressive, principled approach. “Send a delegation of five women. That will shame the Taliban.”^{cxliv} Moreover they warned the international community of the long-term, global consequences of Taliban policies, with one noting: “We are the losers now. But it will be a dangerous time for the rest of the world.”^{cxlv}

D. Government Reactions to Taliban Practice of Gender Apartheid

The international law on racial apartheid sought to push other states to isolate, stigmatize, and pressure the apartheid state, notwithstanding the reticence and economic interests of some of those other states.^{cxlvi}

Drawing from the holding of the International Court of Justice (ICJ) in the *Namibia* case, second states must demonstrate the illegality of apartheid through concrete action in response to it, as well as by refraining from any action that implies recognition of, or lends support or assistance to the

commission of apartheid.^{cxvii} Unconstrained by such norms, governmental and international responses to the Taliban's gender apartheid regime have been ambiguous. They need to be tempered by similar standards.

For now, as was the case the last time they took power, the Taliban do not hold Afghanistan's seat in the United Nations and almost no governments have formally recognized them (though some have "inched" toward such a step).^{cxviii} However, there is a fear that this will change. Some states and international organizations have roundly condemned the Taliban's exclusion of women from public life, but have gone no further.^{cxci} Unfortunately, some of those same states were willing to negotiate with a group openly committed to such practices without insisting the practices be renounced, to accept minimal participation of women in those negotiations, and ultimately to hastily abandon a civilian population to their rule.^{cc}

Since then, some other powerful states have refrained from criticizing the Taliban and have sought to do business with the de facto authorities, notwithstanding their institutionalized discrimination. For example, the Chinese Foreign Minister described the Taliban as "a pivotal military and political force,"^{cci} and his government has been criticized by experts in other countries in Asia for "actively lobby[ing] for the Taliban authorities in international formats like the U.N. as well as more widely in advance of desired Taliban goals."^{ccii} Policies such as these can potentially rise to the level of complicity with apartheid or the aiding and abetting of its commission.^{cciii}

The Russian Government, which has long had high-level contacts with the Taliban, held the Moscow Format Consultations on Afghanistan on October 20, 2021. This process included China, Iran, India, Kazakhstan, Kyrgyzstan, Pakistan, Turkmenistan, Uzbekistan, and the Taliban. The participants decided they would work with the Taliban in the future and

cooperate, regardless of whether the group is recognized by the international community. Russian officials have praised the group's security efforts while only offering mild criticism of its rights record, and there are allegations that the Russian government provided arms to the Taliban.^{cciv}

A number of countries and delegations, including China, the European Union, Kazakhstan, Kyrgyzstan, Qatar, Russia, Turkmenistan, the United Kingdom, and Uzbekistan; as well as international organizations such as the U.N. Development Program, UNICEF, and the International Committee of the Red Cross; and prominent non-governmental organizations such as Doctors Without Borders, have engaged in repeated talks with the Taliban involving all-male delegations.^{ccv} Some of these monogender dialogues have actually been about women's rights.^{ccvi} Shaharзад Akbar acerbically labelled this "the new requirement of discussing anything in Afghanistan: having only men in the room."^{ccvii} Some aid organizations have reportedly been willing to practice gender segregation, to send female staffers home altogether, and to impose Taliban dress code on them.^{ccviii} Such responses may "aid[], abet[], [or] encourag[e]" the international crime of apartheid in violation of Article III of the Apartheid Convention.^{ccix}

Even Norway, a longtime champion of Afghan women's rights, hosted a high-level delegation of Taliban representatives in its capital city, including U.N.-sanctioned terrorists, without preconditions. The Norwegian government sent an expensive private plane to collect them, risking the conferral of considerable legitimacy.^{ccx} At least these Talibs were required to meet representatives of Afghan civil society, including WHRDs. However, some of the women who participated in the meeting subsequently faced death threats and were unable to return home, and Taliban oppression of WHRDs has only escalated since the Oslo meeting with increasing reports of abductions of WHRDs and their families.^{ccxi}

As noted above, using an apartheid framework implicates not only the immediate perpetrators but also the international obligations of all states and international actors that interact with them.^{ccxii} If backed up with political will, doing so can constrain policy choices and spark the necessary coordinated riposte. Jamaica's U.N. ambassador Egerton Richardson argued in 1966 about discussions of racial apartheid at the then-forthcoming World Conference on Human Rights that "[t]he objective should be a discussion of apartheid . . . from the point of view of the possible application of human rights techniques as a means of dissuading States from aiding and abetting the South African Government's policy."^{ccxiii} This approach must now also be applied to apartheid Afghanistan. Otherwise, we may see ever greater normalization of gender apartheid, gravely undercutting Afghan women and diluting the value of international women's rights norms globally.

E. International Human Rights Bodies Respond to Gender Apartheid

Afghanistan is a state party to the CEDAW Convention without limiting reservations, as well as to all the human rights treaties enumerated below guaranteeing women's equality, including in education and employment. Any entity seeking to rule the country inherits these human rights obligations. Such commitments cannot be evaded since withdrawal from these treaties is impermissible.^{ccxiv}

Given the Taliban's open and widespread violation of these international norms, U.N. human rights bodies and mechanisms have been highly critical of their practices toward women. However, U.N. mechanisms, including the Committee on the Elimination of Discrimination against Women ("CEDAW Committee"), have mostly avoided use of the term "gender apartheid" and have often insufficiently foregrounded the meanings of the systematic practice of sex discrimination and its entrenchment in official policy. When they have used the term "apartheid," they have largely used

it to reference racial apartheid in Southern Africa.^{ccxv} In fact, voices in the human rights system have at times used tepid language to describe gender apartheid which would not be deemed acceptable in regard to systematic racial discrimination. For example, a U.N. official speaking in a February 2022 CEDAW Committee meeting noted simply that “women continued to be excluded from social, economic and political spheres across Afghanistan and were largely prohibited from working.”^{ccxvi}

Since Afghanistan did not ratify the CEDAW Convention until after the overthrow of Taliban 1.0, and the CEDAW Committee has only considered two state party reports—both related to the record of the now-ousted elected government of Afghanistan, in 2013^{ccxvii} and 2020^{ccxviii}—the Committee has not had a meaningful opportunity to comment on this issue through concluding observations. However, the Committee has helpfully sought an early opportunity to do so by requesting an exceptional report, under Article 18(c).^{ccxix}

There are some hopeful signs regarding the U.N. system’s response. The post of Special Rapporteur on the situation of human rights in Afghanistan was revived by the Human Rights Council as of May 2022.^{ccxx} Many other Special Procedures of the U.N. Human Rights Council have also reacted to Taliban rule 2.0 in a robust, if inconsistent, fashion.^{ccxxi} However, the U.N. system still mostly classifies Taliban policies simply as unlawful discrimination. This approach alone fails to adequately acknowledge the particular harm that a governance model based on systematic segregation and exclusion inflicts. Ordinary anti-discrimination norms alone are insufficient because they focus primarily on individual violations, rather than systemic or industrial-scale violations.^{ccxxii} Moreover, even the concept of systematic discrimination does not adequately invoke responsibilities of other states not to be complicit. Hence, the effectiveness of the work of the U.N. human rights system could be

enhanced, and the situation on the ground brought into starker relief, if the gender apartheid formulation used by Abdelfattah Amor in the 1990s was revived and strengthened.

F. Considering Counter-Arguments and Alternative Strategies

Possible arguments against the gender apartheid approach merit careful consideration and response. For example, Austrian academic Anthony Löwstedt suggests that gender apartheid should not be called apartheid because those who impose it are “indigenous” and not a minority, in contrast to those in power in systems characterized by racial apartheid: “In real apartheid, people are ethnically cleansed and replaced: politically, economically and physically, and new power is ultimately established by invaders from afar. Indigenous culture is also replaced by the settlers’ culture”^{ccxxiii} Such opinions mistakenly limit apartheid to the particular South African experience, when it is now clearly understood as a concept with wider relevance. This narrow view recognizes only one potential axis of dispossession, one which comes at the hands of certain kinds of outsiders. It cannot be reconciled with the definitions of apartheid in the Rome Statute or by the International Law Commission, which do not require a link to settler colonialism. Moreover, this is another example of the private-public divide being applied to delegitimize women’s experience of subordination as not being as severe as other forms because it is not understood as constituting alien domination. Such a view of apartheid is not shared by human rights advocates who have readily applied it in other contexts. For example, Human Rights Watch has been willing to label the treatment of so-called lower caste people, or Dalits, in India by higher caste people in the same society a “hidden apartheid,” as have some scholars.^{ccxxiv} In fact, a preparatory meeting for the World Conference on Racism held that “caste as a basis for the segregation and oppression of peoples in terms of their descent and occupation is a form of apartheid.”^{ccxxv}

One of the arguments Löwstedt makes is that Afghan women were not in power prior to the imposition of Taliban rule and thus its system cannot be termed apartheid.^{ccxxvi} This is akin to saying that women were too subordinated to qualify for the most heightened category of oppression (and would likewise exclude Dalits and other marginalized groups as well). It also overlooks the radical shift in Afghanistan's culture that the Taliban seek to impose, often with foreign influence.^{ccxxvii}

Another possible counter-argument mirrors the perennial concern that if norms are expanded they will be diluted. This, in turn, undermines the integrity and credibility of international law and state commitment to it.^{ccxxviii} Some states routinely rail in the U.N. against the expansion of human rights. Yet, there is also a high price to pay for pretending we can meet the 21st century goal of ending gender discrimination with 20th century interpretations of human rights. Women were grossly underrepresented in the U.N. system when many of these norms were agreed upon and their interpretations developed.^{ccxxix} All too often, women's human rights have been omitted from narrow interpretations of concepts like torture. Rectifying such imbalances is vital. The urgency of doing so outweighs the methodological risks. Moreover, the building blocks of this approach are contained in international law, making this a reinterpretation rather than an expansion.

Nevertheless, it is worth considering applicable alternatives to the concept of gender apartheid which could require less normative heavy lifting and still offer effective remedies for Taliban practices against women. One framework that could be deployed is persecution on the grounds of gender as a crime against humanity, an innovation of the Rome Statute of the International Criminal Court.^{ccxxx} To date, only one prosecution for this crime has been brought, against a commander of the Malian Islamist

armed group Ansar Dine. The case is currently underway.^{ccxxxi} The rationale for this charge includes that the defendant “targeted women and young girls on the basis of gender, imposing restrictions on them motivated by discriminatory opinions regarding gender roles.”^{ccxxxii} This charge is also among those against the Taliban that the ICC prosecutor’s office began investigating in 2017, when it was simply an armed group controlling some Afghan territory.^{ccxxxiii}

Though “underutilized,”^{ccxxxiv} rules against gender-based persecution are already explicitly codified in international law, requiring no expansion of concepts. Taliban Afghanistan could be incorporated into this new jurisprudence given that Afghanistan is a party to the Rome Statute and already under investigation. However, the International Criminal Court’s approach to Afghanistan is controversial, especially since the Prosecutor singled out ISIS-K and Taliban perpetrators due to their sanctioning by the U.N. Security Council while declining to continue investigating others.^{ccxxxv} Additionally, the ICC can try a few individual defendants at most. Therefore, it would not, by itself, achieve the wholesale change in policy required to end gender apartheid.

Moreover, the persecution approach fails to adequately implicate the institutionalized and ideological nature of the abuses in question or reflect on the responsibilities of other international actors to respond appropriately. This insufficiency is underscored by the significant difference between the relevant definitions in the Rome Statute. According to Article 7(2)(g), “Persecution’ means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity.”^{ccxxxvi} This definition helpfully stresses the severity and the discriminatory motivation that characterizes Taliban policy toward women. Like any crime against humanity, gender-based persecution occurs within the context of a

widespread or systematic attack against a civilian population when there is a “policy to commit such attack.”^{ccxxxvii} However, domination of women is a core element of the group’s ideology and a key prong of its governing platform. The definition of apartheid in Article 7(2)(h) much more fully captures this context, if one transubstantiates gender for race in the following passage: “inhumane acts . . . 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.”^{ccxxxviii}

Another possibility is an enumerative approach, cobbling together violations of disparate international law standards—including the CEDAW Convention, the covenants on human rights, and ILO conventions on non-discrimination—to which Afghanistan is also a state party.^{ccxxxix} As is the case with human rights treaties, the ILO conventions require governments to pursue policies committed to equality in the field of employment.^{ccxl} This again presumes a state willing to take action against job discrimination and centers the state as the motor of implementation.

Ultimately, all of these approaches could be complementary and are worth trying, but none of them equally captures the nature of these abuses or empowers international actors to play an effective role in stopping them as the gender apartheid approach does. This is admittedly not an easy political move, nor the sole international legal approach envisageable, but it represents both a necessary and potentially promising step forward.

G. The Added Value of the Gender Apartheid Approach Today

Racial apartheid law accomplished what discrimination law alone could not and contributed to ending the practice. In the process, it changed international human rights law by opening the door to new

implementation mechanisms and bringing second state responsibilities directly into human rights law.^{ccxli} The General Assembly became comfortable with not just condemning violations, but also calling for the application of sanctions in response to apartheid.^{ccxlii} Getting to this point was not an easy process, with some powerful states opposing the development of the relevant legal framework and sometimes advocating “constructive engagement” with apartheid South Africa instead (as one hears now about the Taliban).^{ccxliii} However, tackling racial apartheid in the second half of the 20th century was undoubtedly easier than tackling gender apartheid will be today, because racial apartheid was recognized as being linked to colonialism and viewed as a quintessentially international issue. This put it in the public sphere writ large, the primordial setting for the application of international human rights norms, before the 1990s women’s human rights revolution pushed the private sphere onto the international stage.^{ccxliv} Furthermore, with decolonization, the anti-racial-apartheid cause had a constituency of governments at the table in the U.N. in a way that the movement against gender apartheid does not due to women’s ongoing political underrepresentation.^{ccxlv}

Given the success of the international legal regime in the 20th century in contributing to ending racial apartheid and explicitly supporting local movements against racial apartheid,^{ccxlvii} as well as the way in which it galvanized the international community and the U.N. system, it is essential to use an analogous framework to respond to gender apartheid in the 21st century. One Afghan woman journalist interviewed, who decried the international community’s failures, optimistically stressed that the conditions of Black South Africans have improved due to the international response and argued that the best hope for a similar trajectory for Afghan women would result from using a similar approach to tackle gender apartheid.^{ccxlviii} The international legal concept of apartheid is important to harness, where appropriate, because of the way it surfaces the composite

or systematic nature of the abuses, because of the wide-ranging global legal obligations it entails, and because of the “special stigma”^{ccxlviii} that it carries.

In fact, the symbolic and expressive importance of applying the apartheid concept to a situation like Taliban Afghanistan is profound. Like “genocide,” using the term “apartheid” enhances the “mobilization of shame,” which is a critical international law compliance tool. It does so more effectively than using terms such as “discrimination” or even “systematic discrimination” alone.^{ccxlix} This framing puts pressure on governments, international organizations, and transnational corporations^{cccl} to avoid engaging with the Taliban in ways that show tolerance for and help perpetuate grave abuses. Using the term “apartheid” implies the pariah status of its perpetrators who are denoted as *hostis humani generis*, the enemies of all humankind. It also elevates the status of the practice’s local opponents. Conversely, the failure to employ a heightened concept and an enhanced response to a regime whose well-known policies are this relentlessly misogynistic sends a terrible message to women everywhere that their rights do not matter.

By recognizing the dangers of systematic discrimination for human rights and transcending the territorial state in those it held responsible, the international law on racial discrimination poked large holes in all sorts of preconceived notions about international human rights law.^{cccli} The anti-apartheid law that sprung from race discrimination norms enhanced these impacts and melded them with commitments to decolonization. Building on these achievements can help strengthen human rights protection for women who have been for too long at the margins of the international system.

The underlying values that racial apartheid offended, including principles of non-discrimination and equality in the UDHR, are the same as those implicated by gender apartheid in Afghanistan. Importantly, diverse South African feminists, including Black women scholars, have found this transposition appropriate. Writing in 2012, Penelope Andrews argued that a “recognition that the systemic subordination of and discrimination against women in Afghanistan constituted gender apartheid, would demand a more concerted effort”^{ccli}

Ending racial apartheid was correctly framed as a necessary part of completing decolonization, giving it additional impetus in the U.N. of the 1960s and 1970s. Similarly, the commitment of U.N. member states to achieving gender equality by 2030 in the Sustainable Development Goals (SDGs) is as central to the human liberation the U.N. Charter seeks to achieve.^{ccliii} It is just as impossible to achieve that goal without confronting gender apartheid as it was to decolonize without challenging systematized racial suppression. There is no rational explanation for a variegated approach unless one either: (1) sees the prohibition of sex discrimination as less fundamental to human dignity than the prohibition of racial discrimination, (2) accepts cultural relativist justifications applied to gender apartheid that were rejected in the case of racial apartheid, or (3) sees the absence of specific text in international law as an insurmountable obstacle. Given the hurdles they represent, these three possible rejoinders receive detailed consideration in the subsequent parts.

III. Sex and Race Discrimination in International Law

The three elements of the crime of apartheid, drawing from the Apartheid Convention and the Rome Statute, can be distilled as follows: (1) intent to maintain domination by one racial group over another; (2) a context of

systematic oppression by one racial group over another; and (3) inhumane acts.^{ccliv} Taliban Afghanistan 1.0 and 2.0 can easily fulfill each required element if “gender” and/or “sex” is substituted for “racial group.” Penelope Andrews engages in the useful exercise of redrafting the definitional article of the Apartheid Convention, replacing “racial group” with “gendered group,” and “South Africa” with “Afghanistan,” pronouncing the resulting applicability “apparent.”^{cclv} Other experts have also accepted this approach, as noted above.^{cclvi} The question one then encounters is whether international law can sustain such a substitution. This Article argues that such a transposition is warranted in international law. To make this case, it now turns to international law’s respective handling of sex and race discrimination.

A. International Law’s “Faith ... in the Equal Rights of Men and Women”

The prohibition of discrimination on the basis of sex, like that on race discrimination, is a cornerstone of the modern international legal order. In fact, the right not to be discriminated against on the basis, *inter alia*, of sex is the only substantive human right explicitly mentioned in the U.N. Charter.^{cclvii} The ringing words of the UDHR preamble insist that “the peoples of the United Nations have in the Charter reaffirmed *their faith in* fundamental human rights, in the dignity and worth of the human person and *in the equal rights of men and women...*”^{cclviii}

Building on this foundation, every substantive text in the International Bill of Human Rights guarantees sex equality.^{cclix} The two binding treaties that codify the range of rights in the UDHR—the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR)—contain not only prohibitions of sex discrimination, but also affirmative requirements of the substantive equality of men and women in the enjoyment of all rights.^{cclx} ICCPR Article 2 states that all parties must respect and ensure all rights in the covenant “without distinction of any kind, such as race, colour, sex, language,

religion, political or other opinion, national or social origin, property, birth or other status.”^{cclxi} More specifically, Article 3 states that all parties must “ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.”^{cclxii} The addition of the Article 3 requirement, focusing on sex alone amongst bases of discrimination, highlights the centrality to the human rights project of dislodging this particular form of discrimination.^{cclxiii} ICESCR Articles 2 and 3 afford virtually identical guarantees.^{cclxiv} Every one of these standards is binding on Afghanistan and any entity that governs it.^{cclxv}

While the U.N. Charter provides the foundations and the International Bill of Human Rights supplies the walls, the CEDAW Convention is the upper level of the structure of rights protection in this area. This entire treaty focuses solely on ending the discriminatory treatment of women.^{cclxvi} It currently has 189 states parties and two signatories, making it one of the most adhered to universal human rights treaties in principle, while admittedly also being one of the most reserved^{cclxvii} and violated in practice. It is the international yardstick for measuring states’ efforts in the area.

The CEDAW Convention contains many relevant provisions, including those in Article 2 requiring states:

- a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation ... and to ensure, through law and other appropriate means, the practical realization of this principle;
- b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

- c) To 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 ... [and]
- d) To 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...^{cclxviii}

It also explicitly requires combating sex discrimination in relation to many of the human rights in the interdependent framework of international human rights law, including the rights to political participation and to access to public space;^{cclxix} the rights to education, employment, health, and equality before the law; and the right “to participate in recreational activities, sports and all aspects of cultural life”;^{cclxx} as well as rights in the areas of marriage and family life. The Convention contains a more general requirement of non-discrimination in all areas, grounded in the broad language of Articles 1–3.

As if this were not already far-reaching enough, the CEDAW Convention offers the most ambitious provision of the entire corpus of international human rights law: Article 5(a). It requires that:

States Parties shall take all appropriate measures:
(a) 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...^{cclxxi}

WHRDs around the world view this transformative norm as essential.^{cclxxii} It indicates that, as will be elaborated below, far from culture trumping women’s rights in international law, it is women’s equality which forges the human rights-respecting cultures of the future.^{cclxxiii} As the

authoritative commentary on the CEDAW Convention stresses, the CEDAW Committee, the treaty body monitoring implementation of the CEDAW Convention, “has underscored State parties’ obligation to address cultural obstacles to equality rather than relying on culture as an excuse for lack of progress.”^{cclxxiv} Even culture (which is read to include religion since the CEDAW Convention makes no specific reference to it^{cclxxv}) cannot override the “faith” international law puts in women’s equality.

Weaving these strands together, the fabric of women’s equality in international law, which covers the situation of women in Afghanistan, is normatively strong, admitting no override. The Committee on Economic, Social and Cultural Rights (CESCR), the U.N. treaty monitoring body that oversees the implementation of the ICESCR, was undoubtedly correct when it asserted in its General Comment No. 16 that “[t]he equal right of men and women to the enjoyment of all human rights is one of the fundamental principles recognized under international law and enshrined in the main international human rights instruments.”^{cclxxvi}

B. A Hierarchy of Discriminations?

Similar to the framing of sex discrimination, the founding instruments of international law, including the U.N. Charter and the entire International Bill of Human Rights, all prohibit racial discrimination in unequivocal and non-derogable terms.^{cclxxvii} Analogous to the CEDAW Convention, an entire treaty, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), was drafted in order “to build an international community free from all forms of racial segregation and racial discrimination”^{cclxxviii} Distinctively, the ICERD asserts in its Article 3 that “States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.”^{cclxxix}

ICERD was adopted in 1966 and entered into force in 1969—a full decade before the CEDAW Convention, which was adopted in 1979 and became effective in 1981.^{cclxxx} The race standards came first, likely because they were seen as regulating an international problem (or at the least an inter-group problem) whereas sex was seen as an internal, domestic, intra-group matter. Nevertheless, each convention contains a sweeping ban on the relevant form of discrimination, defining the concept in nearly the same language. In fact, when the CEDAW Convention was drafted, the definition of discrimination and the structure of the instrument were borrowed from ICERD.^{cclxxxii}

There are some important differences in the treaty frameworks, for example, in the ways in which reservations are handled^{cclxxxiii} and the copious reservations that have been made to the CEDAW Convention. However, the Optional Protocol to the CEDAW Convention has corrected the imbalance in the implementation tools allocated to each instrument by establishing a mechanism for complaints and inquiries.^{cclxxxiv}

Nevertheless, Mayer argues that the CEDAW Convention does not condemn sex discrimination as forcefully as ICERD does race discrimination and that it does not frame discrimination against women as a political problem rising to the level of oppression and domination of women.^{cclxxxv} This, in her view, “opens the door to various depictions of women’s status that attempt to portray the treatment of women as the product of culture rather than politics.”^{cclxxxvi} There is no reason, however, that these 20th century defects cannot be cured by an ambitious interpretation worthy of the 21st century that reflects contemporary commitments on sex equality.^{cclxxxvii} Such approaches can also draw from the equal footing of race and sex discrimination in the U.N. Charter, and indeed the extra emphasis placed on sex equality in the International Bill of Human Rights.

Unfortunately, while racial discrimination is correctly considered a jus cogens norm, some continue to perceive the case for gender discrimination to fit in this category as an argument *de lege ferenda* (the law as it should be).^{cclxxxvii} In 2019, the International Law Commission (ILC) (a body which has included few women) declined to add any new jus cogens norms to its existing list, which includes systematic race, but not sex, discrimination.^{cclxxxviii} However, the jurisprudence of the Inter-American Court of Human Rights has treated the principles of equality and non-discrimination generally as jus cogens norms,^{cclxxxix} stating that “the principle of equality before the law ... and non-discrimination belongs to jus cogens, because the whole legal structure of national and international public order rests on it and it is a fundamental principle that permeates all laws.”^{ccxc} As Mary Hansel noted in her criticism of the ILC’s methodology, the body’s approach ignores positive evidence, including the human rights norms guaranteeing sex equality reviewed above as well as international jurisprudence over the past several decades. It serves to “marginalize gender and devalue the interests and experiences of women [and] girls...”^{ccxc} Hence, the gender apartheid approach is also needed as a correction to such institutional failures.

Some scholars have argued that, as a result of the explicit categorization of racial discrimination as a jus cogens norm and the differences in the treaties, international law has developed a “hierarchy of forms of discrimination” in which racial discrimination is prioritized above other forms.^{ccxcii} However, such an interpretation contravenes the clear language of the U.N. Charter, which requires states to take action to promote universal observance of human rights without discriminating on the basis of sex as well as race.^{ccxciii} Moreover, both the treaties that make up the International Bill of Human Rights and newer international instruments include language that explicitly place race and sex (and other forms of) discrimination on the same footing.^{ccxciv} An important line of feminist

scholarship rejects a relative normativity approach to different bases of discrimination that suggests that racial discrimination is more egregious than sex discrimination, and questions the basis for this hierarchy.^{ccxcv}

The increasingly dominant understanding of the intersectionality of bases of marginalization^{ccxcvi} should also counsel rejection of hermetically sealed ways of comprehending prohibitions of race and sex discrimination in international human rights law and refusal to pit them against one another. As diverse South African women scholars have noted, racial apartheid also involved a significant component of sex discrimination or “racialized sexual subordination,”^{ccxcvii} confronting nonwhite women with multiple layers of disadvantage.^{ccxcviii} Moreover, Taliban practice is also virulently discriminatory against Afghan ethnic and religious minorities, putting minority women, such as those who are Hazara Shia, in particular danger.^{ccxcix} Rather than being understood through the prism of an “oppression Olympics,”^{ccc} multiple forms of discrimination can more usefully be described as interlocking in international human rights law,^{ccci} with each branch of non-discrimination norms benefitting from a rigorous and holistic approach to enforcing the others. No credible reading of international law in the twenty-first century can reflect a hierarchy among the various impermissible grounds for discrimination. The norms on discrimination cannot themselves discriminate. Any distinction in approach to these issues has largely been a reflection of political will at the international level.

Perhaps because gender discrimination such as that practiced by the Taliban has often been incorrectly coded as largely “cultural” while race discrimination is correctly understood as a political project, there is less reflection in the international system on the human rights implications of systemic discrimination against women.^{cccii} This is an incorrect framing which overlooks the political implications of women’s subordination and

the political commitment of some governments and de facto rulers to discriminating against women. It is a view that is increasingly being jettisoned. As U.N. Secretary-General António Guterres noted on International Women's Day in 2019, "[g]ender equality is fundamentally a question of power."^{ccciii} Systematic crimes against women would be more helpfully described as political and structural, rather than solely cultural. International law needs to furnish appropriate language and concepts that recognize this.

As was the case with South African apartheid and norms on racial equality, Taliban violations of the norms on sex discrimination are so pervasive and obvious that tolerance of them is an injury to the entire international system protecting women's rights and undermines those rights everywhere. The Taliban have shown themselves in the past to be mostly immune to mere criticism. This means that a vigorous international response is needed to protect rights on the ground, but also to preserve the integrity (in both senses of the word) of the international system guaranteeing women's rights everywhere.

"It was the legislative enshrinement of racial inequality 'in all the spheres of living' that distinguished South Africa from other repressive regimes."^{ccciv} The essence of apartheid is the situation of state-sponsored and maintained systemic discrimination. Its illegality was first recognized on grounds of race in South Africa, but the principle can and should be maintained according to other grounds of prohibited discrimination, including the systematizing of sex inequality across all spheres. Despite claims to the contrary, there is no exemption from such prohibitions in the name of culture, a topic to which the article now turns.

IV. The Unacceptability of Cultural Relativist Justifications for Gender Apartheid^{cccv}

A. Does Afghan Culture Excuse Discrimination against Women?

In her 1990s work on gender apartheid, Mahnaz Afkhami stressed that “Islamists use the argument of cultural relativity, now in vogue in the West, to deny women’s rights by introducing regimes of gender segregation.”^{cccvi} This has certainly been the case in Afghanistan.^{cccvii}

Taliban leaders have resorted to this canard. In one recent example, Anas Haqqani, a member of the Taliban’s negotiating team in Doha, deployed cultural diversity as a justification during a BBC interview: “[W]e’ve been portrayed as monsters ... One thing needs to be made clear, Afghanistan is not Europe or the US.”^{cccviii}

Such claims that Afghan cultural particularities justify discrimination are highly contested. The stories of Afghan men, including in rural areas, defending the rights of women and girls to education—such as through motorcycle protests^{cccix}—are compelling but do not receive nearly enough airtime.^{cccx} The Afghan WHRDs interviewed for this study rejected the Taliban’s efforts to position themselves as defenders of Afghan culture and disagreed with some outsiders’ ascription of the group’s approach to Afghan culture. Women’s rights advocate Palwasha Hassan acerbically commented: “The Taliban are claiming to reconvert an already Islamic country containing 99% Muslims.”^{cccxi} Despite the significant percentage of practicing Muslims, she also insisted that, “Afghan culture is not homogenous. We have a lot of diversity. That diversity should be respected. Afghan culture is not defined by only one group of militants.”^{cccxii} In fact, she saw this question against the backdrop of inaccurate international stereotypes of Afghans: “The definition of an

Afghan seems to be a man with a gun and a woman with a burqa. If a woman speaks for herself, then she is not an Afghan.”^{cccxiii}

Many of the Afghan interlocutors claimed an equal right to interpret their religion and culture and openly disputed the Taliban’s religious claims. A human rights lawyer said, “Islam is against people who say that women should not be educated or who target women. We are all Muslim. The issue is interpretation.”^{cccxiv} A girls’ education campaigner, who proudly described providing her children with Islamic religious education at home, said of the Taliban, “I don’t know which Islam they are talking about.”^{cccxv}

A woman who used to run Kabul’s first women’s shelter insisted that:

We are proud to be Muslim. But the way they are imposing this fundamentalism on us, this is not the reality of Afghanistan ... We accept they are part of Afghanistan but they are not the whole country. In every country you can see differences in culture and religion.^{cccxvi}

One young WHRD expressed that she is non-religious, and knows others in her generation with the same views who cannot say so publicly. She resented the effort of the Taliban to impose a claimed religious code on those with different beliefs—within religion or outside of it. This is an important reminder that the nature of all Afghans’ beliefs cannot be presumed. Freedom of religion or belief for all—the Muslim majority, but also religious minorities and non-religious persons—is as essential for Afghans as for anyone else.

A woman humanitarian worker framed the cultural debate with a vital question on agency: “Who makes the culture? The people of a society. The culture of Afghanistan has always been patriarchal, but there has also been respect for women as well. I know there are various barriers culturally, but women were allowed to work.”^{cccxvii} Some viewed Taliban policies as entirely alien: “This is not the culture of Afghanistan. This is the

culture of the Taliban.”^{cccxviii} One interviewee, however, recognized a complex cocktail of culture, religion, and fundamentalist politics as giving rise to the Taliban’s policies. She noted that in some regions some people kept their daughters out of school before the Taliban seized power, labelling this “partly cultural issues, partly political.”^{cccxix} She also stressed that “most people are religious, but . . . they want their girls to go to school. They want female family members to be independent and to work and take part in social activities. They do not want the ideas of the Taliban. They want their daughters educated.”^{cccxx} Despite these realities on the ground, some of those interviewed reported encountering acceptance of cultural justifications for Taliban abuses by international actors—including even by some voices in the U.S. State Department—about which they expressed great frustration.

B. Cultural Relativism Versus Cultural Rights

Cultural relativism,^{cccxxi} which views rights as culturally dependent rather than universal, and its more polite cousin, cultural sensitivity,^{cccxxii} are often deployed by both perpetrators and apologists to justify gender apartheid and sex discrimination. Analogous arguments have been clearly and correctly recognized as unacceptable in the context of racial apartheid and race discrimination.^{cccxxiii} However, many practices and norms that discriminate against women are purportedly justified by reference to culture, religion, and tradition, leading experts to conclude that “no social group has suffered greater violation of its human rights in the name of culture than women,” and that it is “inconceivable” that a number of such practices “would be justified if they were predicated upon another protected classification such as race.”^{cccxxiv}

The U.N.’s Advisory Committee has noted that “[t]hose who benefit most from the status quo are more likely to appeal to tradition to maintain power and privilege, and also to speak on behalf of tradition, while those most marginalized . . . have the most to lose from a traditional values

approach to human rights.”^{cccxxv} Many abuses considered entirely repugnant today, such as slavery and systematic racial discrimination, were justified by recourse to “traditional values.”^{cccxxvi} In current times, such arguments are almost exclusively heard at the international level in relation to questions of gender.

The most productive approaches indicate that achieving women’s equality is not a question of choosing between culture and rights, but of engaging both in an integrated way. Cultural rights and cultural diversity are as important for women’s human rights as for anyone else’s. International law and the universal human rights framework also protect these rights and diversities.^{cccxxvii} However, “cultural rights are not a justification for violations of human rights or attacks on universality,” and are to be respected within the broader human rights framework.^{cccxxviii} A post-apartheid South African constitutional court judgment in the *Bhe* case makes this point by asserting the need to respect and recognize indigenous customary norms, which have positive dimensions, but insisting that those norms are circumscribed by constitutional guarantees, including of women’s equality.^{cccxxix}

In the field of cultural rights, there has been a paradigm shift from a view of culture primarily as an obstacle to women’s rights to one that seeks to ensure women’s equal enjoyment of cultural rights.^{cccxxx} Women have equal rights to have access to, participate in, and contribute to all aspects of cultural life. This encompasses their rights to participate in cultural practices, or not to participate in them, and to participate in equality in determining which cultural practices to discontinue because they no longer comport with our understanding of human dignity. These are “transformative rights” which can help secure other human rights.^{cccxxxi} This point has not been lost on Afghan WHRDs. For example, many Afghan women used images of their diverse, multi-colored Afghan traditional

dresses, which look nothing like a burqa, to advocate against Taliban dress restrictions in the #DoNotTouchMyClothes campaign.^{cccxxxii}

Cultural relativism rears its head in different forms in many regions, but is particularly in vogue in discussions of the rights of women in Muslim majority contexts, which are often slotted into what Afkhami has termed “Islamic exceptionalism.”^{cccxxxiii} Such excuses for abuse are often deemed more palatable to others than to many women of Muslim heritage themselves, as the research for this Article shows.^{cccxxxiv} As Fatiha Agag-Boudjahlat asks, “why should some women accept what others refuse for themselves and their daughters?”^{cccxxxv} Relativist arguments that offer such second class status to some women have been facilitated by increasing attacks on the universality of human rights, including from within the academic field of human rights itself.^{cccxxxvi}

However, international law completely rejects such cultural excuses, and both of the first two holders of the mandate of U.N. Special Rapporteur in the field of cultural rights, one Pakistani and the other of Algerian descent, have condemned them.^{cccxxxvii} These Special Rapporteurs were not alone. In its General Comment No. 28, the Human Rights Committee determined that “[a]rticle 18 [guaranteeing freedom of religion or belief] may not be relied upon to justify discrimination against women”^{cccxxxviii} Former Special Rapporteur on freedom of religion or belief Heiner Bielefeldt has noted that “freedom of religion or belief can never serve as a justification for violations of the human rights of women and girls.”^{cccxxxix} His successor, Ahmed Shaheed (a practicing Muslim from Maldives) also followed the same approach.^{cccxl}

Freedom of religion or belief is, like gender equality, a core human right guaranteed by international law. Under international legal documents, such as the ICCPR and the Universal Declaration of Human Rights,

individuals are guaranteed the right to hold religious beliefs and practice a religion of their choosing.^{cccxi} However, international law permits states to impose limits on the practice of religion which “are necessary to protect ... the fundamental rights and freedoms of others.”^{cccxii} Hence, “restrictions may be imposed on religious law and practice if they are necessary to protect women’s human rights and fundamental freedoms ...”^{cccxiii}

Likewise, the CEDAW Committee,

[w]hen confronted with damaging cultural beliefs and practices ... always reminds State parties of Article 5 [of the CEDAW Convention], often in combination with Article 2(f), and argues that ‘cultural characteristics could not be allowed to undermine the principle of the universality of human rights, which remained inalienable and non-negotiable, nor to prevent the adoption of appropriate measures in favor of women.’^{cccxiv}

The CEDAW Committee has also written that

the most significant factors inhibiting women’s ability to participate in public life have [included] the cultural framework of values and religious beliefs ... In all countries, cultural traditions and religious beliefs have played a part in confining women to the private spheres of activity and excluding them from active participation in public life.^{ccciv}

Religious practices (and what are claimed to be religious practices) that impede women’s ability to participate fully in public life are a barrier to be overcome, rather than something that must be tolerated to protect freedom of religion. The U.N. General Assembly has affirmed this approach in its 1993 Declaration on the Elimination of Violence against Women: “States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations

with respect to its elimination.”^{cccxlvi} Equality and universal human rights are not overridden by culture or what is claimed to be culture.

Moreover, some scholars have questioned whether the type of gender discriminatory segregation policies at issue in Taliban Afghanistan are truly religious in origin.^{cccxlvii} Often, they are based more in fundamentalist politics than in upholding the religious freedom of citizens. After all, men and women mix relatively freely in many Muslim-majority contexts.^{cccxlviii} In the context of Taliban rule, the issue is a particularly harsh form of Islamist cultural politics, not Muslim culture per se.^{cccclix} Former U.N. Secretary-General Kofi Annan argued in 2006 that “politicization of culture in the form of religious ‘fundamentalisms’ in diverse . . . religious contexts has become a serious challenge to efforts to secure women’s human rights.”^{ccccl} This remains true.

Lest academic advocates of cultural relativism, or the governments they accidentally defend, think they have succeeded in moving international human rights law away from the crystal clear provisions of the older standards on the universality of human rights contained in the International Bill of Human Rights, it is vital to recall that all the most recently drafted human rights treaties specifically reaffirm universality.^{ccccli} Special Procedures mandate holders, treaty monitoring bodies, and the Office of the United Nations High Commissioner for Human Rights have likewise continually reasserted this tenet and emphasized the importance of ensuring that “traditions,” “attitudes,” and “customary practices” are not elevated above universal human rights standards.^{cccclii}

Indeed, efforts to advance the universality of rights have been made in every part of the world, though some are more recognized than others. As Chetan Bhatt argues, “[i]t is too easy to forget that movements ... against slavery, against colonization, for self-determination ... and anti-apartheid

in South Africa were vitalized and articulated using the universal language of rights and equality, what we call human rights today.”^{cccliii}

Thus, it makes sense that the 2030 Agenda for Sustainable Development,^{cccliv} the touchstone document in the contemporary global development debate, envisages

a world of universal respect for human rights and human dignity . . . equality and non-discrimination; of respect for race, ethnicity and cultural diversity; and of equal opportunity A world in which every woman and girl enjoys full gender equality and all legal, social and economic barriers to their empowerment have been removed.^{ccclv}

The 2030 Agenda refers to the concept of the “universal” no fewer than 29 times. The SDGs set out in it cannot be achieved without the vigorous defense of universality. Furthermore, one of the goals to which states committed is to “end discrimination against women and girls” by 2030.^{ccclvi} This target cannot be met without dismantling gender apartheid, including in Afghanistan, a process to which international law can make a significant contribution.

V. Interpretive Strategies for Countering Gender Apartheid with International Norms

Some may resist the gender apartheid approach even today because it lacks an explicit textual basis in the language of the Apartheid Convention, adopted nearly fifty years ago. In their eyes, we simply do not have the text we need. For such skeptics, the gender apartheid paradigm represents an extension of norms beyond the acceptable bounds of state consent. The question is whether or not, in the face of contemporary patterns of systematic discrimination, we want to have a 21st century version of international law and if we dare imagine what that could look like.^{ccclvii} Its

building blocks are contained in existing law, merely needing recognition and sufficient interpretive ambition.^{ccclviii} Moreover, this approach cures a legal absurdity in the imbalance in the treatment of race and sex. A number of strategies can be envisaged.

The existing law on apartheid can provide a template for a forward-looking, gender inclusive way to realize the SDG of gender equality agreed upon by all states. In other words, the conventions and standards on racial apartheid can be directly applied to gender apartheid.^{ccclix} A statement I negotiated while U.N. Special Rapporteur in the field of cultural rights, with the U.N. Working Group on discrimination against women and girls^{ccclx} and the U.N. Special Rapporteur on freedom of religion or belief, legal academic and former foreign minister of the Maldives Ahmed Shaheed, moved in this direction. It argued that the spirit of the Declaration on Apartheid in Sports and the Convention on Apartheid in Sports should be applied to the Taliban's ban on women and girls in athletics.^{ccclxi}

Such a move is not unprecedented in international law. For example, the CEDAW Committee brought violence against women within the ambit of the CEDAW Convention by labeling it a form of discrimination against women when it issued its General Recommendation No. 19, even though the 1970s Convention never mentions the word "violence."^{ccclxii} No states have objected to this significant expansion of their obligations, though it must be conceded that these obligations remain in the sphere of sex.^{ccclxiii} Another pertinent precedent shows that even the introduction of a gender-specific category to a non-gender focused treaty via interpretation is within the realm of possibility. The International Criminal Tribunal for Rwanda, in the *Akayesu* case, interpreted the Genocide Convention to include rape as a means of committing genocide, despite the fact that this

is not specifically enumerated in the text of the 1948 convention, nor are women a specified protected category.^{ccclxiv}

While the re-interpretation here admittedly requires a bigger change in existing definitions than either of these examples, it can build on these methods of carrying out feminist transformation of international law. One possibility would be for the CEDAW Committee to issue a General Recommendation defining and setting out international obligations to prevent gender apartheid and how they spring from the CEDAW Convention, read in the light of international law on racial apartheid.^{ccclxv}

Another option for advancing the concept would be innovative prosecutions for gender apartheid in Afghanistan in the International Criminal Court, given that the prosecutor Karim Khan has indicated his concern about these issues.^{ccclxvi} Such a move would help combat other international crimes explicitly within the court's statute. As political scientist Charli Carpenter notes of the Afghan context, "Gender apartheid begets other types of crimes against humanity as well. For example, forced marriage is now rampant ..." ^{ccclxvii}

In the future, it may be that we need a specific standard on gender apartheid, either as an optional protocol to the racial apartheid standards in existence^{ccclxviii} or to the CEDAW Convention, or as a stand-alone.^{ccclxix} This would take political will and the expending of political capital in the U.N. system, just as recently de-colonized states took up the issue of apartheid in the U.N. in the 1960s and 1970s. Those states claiming to have feminist foreign policies or with female heads of state, or Muslim-majority countries with commitments to gender equality such as Albania and Tunisia, could be called on to play this role.

As Zubaida Akbar stressed, "the international community should hold by principles they claim they have."^{ccclxx} This means that gender apartheid,

like racial apartheid, must be recognized as an international crime, specifically a crime against humanity. It also means that other states must not take part in this crime or be complicit with its commission in Afghanistan or anywhere else and must bring its perpetrators to justice. They cannot engage with perpetrators of gender apartheid without imposing the condition that the practice be ended. States are also not allowed to recognize as lawful a situation created by a serious breach, nor may they render aid or assistance in maintaining such situations. Only such a robust approach to human rights law can adequately fulfill the founding commitments of international law to women's equality, and only then can it become a law appropriate for the 21st century—the first era when states have collectively committed to actually achieving that equality by a specific date.

CONCLUSION: "APARTHEID HAS NO FUTURE"^{ccclxxi}

This article has established that the Taliban are re-constructing gender apartheid in Afghanistan in violation of international law, contravening both fundamental norms on women's human rights and equality and the U.N. Charter itself. This is a flagrant example of retrogression in the field of human rights, a trajectory which is of particular concern.^{ccclxxii} Moreover, the article has reviewed the sophisticated body of international law that not only prohibits the analogous practice of racial apartheid, but requires second states to take steps to combat that practice.^{ccclxxiii} Today, the abuse of governance for the purpose of engaging in systematic discrimination, whether on the basis of race or sex, must be criminalized. It should be remedied through sanctions and a panoply of targeted international measures in Afghanistan, as in the case of apartheid South Africa.

The failure to be gender inclusive in the contemporary understanding of apartheid cannot be reconciled with international legal commitments to

women's equality. I share the view of the late Nigerian physician Babatunde Osotimehin, the former Executive Director of the U.N. Population Fund, and U.N. Under Secretary General: "[D]espite universal promises made at the highest levels ... gender equality remains an unfinished agenda for the twenty-first century, a century that should enter history as the period that ended gender apartheid."^{ccclxxiv}

Systematic discrimination against women is the colonialism of the 21st century. I do not make this assertion lightly. I lost a grandfather and two uncles in the struggle against colonialism in Algeria, and my father was imprisoned and tortured by colonial authorities for his resistance. In fact, he told me that when he was detained for his participation in the anti-colonial struggle, he first began to think critically about the situation of women in Algeria because his status, deprived of liberty, began to resemble theirs.^{ccclxxv} While one form of domination represents the dispossession of entire national groups by foreigners, the other represents the systematic denial of personal self-determination for half the population by local hegemony. The geography and demography diverge, but both are widespread and categorical denials of human equality and agency incompatible with the U.N. Charter. The Charter offers an equally urgent imperative for ending both. The U.N. Secretary-General has himself insisted that: "Just as slavery and colonialism were a stain on previous centuries, women's inequality should shame us all in the 21st."^{ccclxxvi} This means that gender apartheid can be no less staunchly opposed and effectively stamped out than racial apartheid, unless the fundamental provisions of international law guaranteeing recognition of women's equal humanity are accepted as nothing more than a mirage.

Such unacceptable acceptance weakens the entire framework to the detriment of all women. This is nowhere more true than in other Muslim majority countries and diaspora populations where the Taliban victory put

wind in the sails of the fundamentalists that WHRDs of Muslim heritage resist.^{ccclxxvii} The transnational response to gender apartheid in Afghanistan has national, regional, and global repercussions. As Human Rights Watch researcher Heather Barr rightly expressed: “2021 was a bad year for women’s rights ... [T]he weak international response to the return of the Taliban in Afghanistan has implications for women everywhere. It tells us how little our rights—and we—are respected, still.”^{ccclxxviii}

Consistent failure to enforce international law principles on women’s rights undermines the entire project. Effectively engaging with the normativity of international law bans on discrimination against women is essential.

This is also a question of effectiveness, a principle of treaty interpretation which has been used to ensure the goals of the U.N. Charter and of human rights instruments can be realized.^{ccclxxix} Given the current situation in Afghanistan, there is likely no other way to achieve the goals set by the U.N. Human Rights Council than to concert the efforts of the international community.^{ccclxxx} In its 2021 resolution on Afghanistan, the Council [r]eaffirm[ed] its unwavering commitment to the full and equal enjoyment of all human rights by all women, girls and children in Afghanistan, including their right to freedom of movement, the right to education, the right to the enjoyment of the highest attainable standard of physical and mental health, including their sexual and reproductive health, the right to work and the right to access to justice on an equal basis with others.^{ccclxxxi}

These words are meaningless without a framework that can breathe life into their promises. The recognition of gender apartheid can offer such a framework.

One Afghan woman human rights defender interviewed for this article said to me in Kabul in 2011: “I really hope Afghanistan one day is a country where everyone can feel that they are a human being.”^{ccclxxxii} The only way this humble aspiration becomes possible is if the international community makes clear that Afghan women are equal members of what the Universal Declaration of Human Rights calls “the human family” and takes gender apartheid in Afghanistan as seriously as other forms of apartheid elsewhere.^{ccclxxxiii} This is the best way to realize the hope Nelson Mandela expressed as he left prison that, as a mode of governance, “apartheid has no future.”^{ccclxxxiv}

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ⁱ See, e.g., Recognition of Gender Apartheid in Afghanistan Justified - PeaceRep; and SPIA_NaheedRangita_PolicyBrief_07.pdf (princeton.edu).

ⁱⁱ Translation of the book on “Gender Apartheid in Afghanistan” (aissonline.org).

ⁱⁱⁱ See End Gender Apartheid.

^{iv} Taliban repression of Afghan women is form of apartheid, says Nelson Mandela widow (*telegraph.co.uk*).

^v [Iran’s proposed hijab law could amount to “gender apartheid”: UN experts | OHCHR](#).

^{vi} *Id.*

- vii For more information, see the gender apartheid tracker at: <https://x.com/karimabennoune/status/1651277250438864896?s=20>.
- viii UN Doc. A/HRC/53/21, 15 June 2023, para. 96.
- ix [Human Rights Council Adopts 16 Texts, Establishes a Fact-Finding Mission for Sudan and a Working Group on the Rights of Peasants | OHCHR](#)
- x See [End Gender Apartheid — Legal Brief](#).
- xi [The Taliban's Gender Apartheid Policies Support Radicalization \(justsecurity.org\)](#).
- xii [Taliban must immediately release women human rights defenders, say UN experts | OHCHR](#).
- xiii [Afghan Women On Hunger Strike In Germany To Protest 'Gender Apartheid' \(rferl.org\)](#).
- xiv [UN Security Council Briefing on Afghanistan by Karima Bennoune - NGO Working Group on Women, Peace and Security \(womenpeacesecurity.org\)](#).
- xv. Zoom Interview with Horia Mosadiq, Former Afghanistan Researcher, Amnesty International and Founder, War Victims Network (Sept. 23, 2021).
- xvi. Zoom Interview with Shaharзад Akbar, Former Chairperson, Afghan Independent Human Rights Commission (Sept. 28, 2021).
- xvii. The classical texts of international human rights law, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), all prohibit discrimination on the basis of “sex,” emphasizing the biological categories of male and female in keeping with the prevailing views in the decades when they were drafted (1940s through 1970s). See G.A. Res. 217 (III) A, Universal Declaration of Human Rights, (Dec. 10, 1948) [hereinafter UDHR]; International Covenant on Civil and Political Rights art. 1, *opened for signature* Dec. 16, 1966, S. Executive Document E, 95-2, 999 U.N.T.S. 171, 173 (entered into force Mar. 23, 1976) [hereinafter ICCPR]; Convention on the Elimination of All Forms of Discrimination against Women preamble and article 1, *opened for signature* Dec. 18, 1979, 1249 U.N.T.S. 13, 14–16 (entered into force Sept. 3, 1981) [hereinafter CEDAW]. Since the 1990s, increasing use has been made in human rights parlance of “gender” instead, to emphasize the social construction of sex. Such uses of “gender” tend to focus on the sociological meanings of being male or female. For example, the 2011 Istanbul Convention, in language advocated by feminist international law scholars such as Christine Chinkin, stipulates that “‘gender’ shall mean the socially constructed roles, behaviors, activities and attributes that a given society considers appropriate for women and men.” Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence art. 3, *opened for signature* May 11, 2011, C.E.T.S. No. 210 (entered into force Aug. 1, 2014). In light of such definitional developments, this Article uses the term “gender apartheid,” a term of art in some feminist writing, to describe socio-legal projects aiming to enforce systematic sex discrimination against women through segregation, while recognizing that “gender” is today construed to have broader meanings as well. See, e.g., Victor Madrigal-Borloz (Independent Expert on Protection against violence and discrimination based on sexual orientation and gender identity), *Report on the Law of Inclusion*, U.N. Doc. A/HRC/47/27 (June 3, 2021).
- xviii. See *infra* notes 95–103 and accompanying text.
- xix. See *Taliban Hail Oslo Meet as Success ‘In Itself’*, EURACTIV (Jan. 25, 2022), <https://www.euractiv.com/section/global-europe/news/taliban-hail-oslo-meet-as-success-in-itself/> [<https://perma.cc/AA96-Z6FQ>] (reporting on talks between the Taliban and diplomats from the United States, France, Britain, Germany, Italy, the European Union and Norway); Joint Statement, VOICE & Afghan Women’s Advocacy Campaign, *Afghan Women Must be at the Center of All Future Peace Talks* (Jan. 26, 2022), <https://voiceamplified.org/afghan-women-peace-talks/> [<https://perma.cc/YT4G-7F9A>] (demanding that the international community urge the Taliban to take a range of steps to ensure women’s human rights as a prerequisite of future peace talks).
- xx. See *infra* notes 110–113, 142–143 and accompanying text. Some universities have reportedly reopened with segregated offerings for women though WHRDs report harassment of women students due to their dress, and fear these universities may be closed again. Ehsan Popalzai, *Afghan Universities Reopen to Female Students but With Strict Rules on Mixing*, CNN (Feb. 3, 2022), <https://www.cnn.com/2022/02/03/asia/afghanistan-women-university-students-intl-hnk/index.html> [<https://perma.cc/AYK3-9YVR>]; Telephone Follow Up Interview Two with Zubaida Akbar, Program Officer, Freedom Now (Nov. 18, 2022). See also *Afghanistan’s Education Crisis Under the Taliban*, Georgetown Institute for Women, Peace and Security, (Feb. 8, 2022), <https://giwps.georgetown.edu/event/afghanistans-education-crisis-under-the-taliban-ensuring-access-for-women/> [<https://perma.cc/Y9DH-ZMKZ>]. The Taliban claimed schools would reopen for some girls in spring 2022 but this did not occur. *Taliban’s Backtrack on School Reopening for Girls Irreversibly Impacts Their Future*, Amnesty International. (Mar. 28, 2022) <https://www.amnesty.org/en/latest/news/2022/03/afghanistan-taliban-backtrack-on-school-re-opening-for-girls-irreversibly-impacts-their-future/> [<https://perma.cc/4AK6-TU2V>].
- xxi. *Hardliners Get Key Posts in New Taliban Government*, BBC News (Sept. 7, 2021), <https://www.bbc.com/news/world-asia-58479750> [<https://perma.cc/NLL7-XSV4>]. Both the interim de facto “Prime Minister” and “Interior Minister” are on the U.N. Security Council’s Resolution 1988 Sanctions List. *Mohammad Hassan Akhund*, United Nations Security Council, (Aug. 4, 2014), <https://www.un.org/securitycouncil/sanctions/1988/materials/summaries/individual/mohammad-hassan-akhund> [<https://perma.cc/E43R-NDNE>]; *Sirajuddin Jallaloudine Haqqani*, United Nations Security Council. (Sept. 13, 2007), <https://www.un.org/securitycouncil/sanctions/1988/materials/summaries/individual/sirajuddin-jallaloudine-haqqani> [<https://perma.cc/7LXN-XWKZ>]. These sanctions include assets freezes, travel bans and arms embargoes. Security Council Resolution. 1988 (June 17, 2011). The Taliban was initially sanctioned alongside Al Qaida pursuant to Security Council

Resolution 1267 (Oct. 15, 1999). The sanctions regimes for the two groups were separated in 2011, ostensibly to facilitate negotiations with the Taliban. See Security Council Resolution 1989 (June 17, 2011). For more recent developments, see Dipanjan Roy Chaudhury, "All Eyes on UN Sanctions Panel's Moves on Taliban's Top Leaders," *Economic Times* (Aug. 22, 2021), <https://economictimes.indiatimes.com/news/india/all-eyes-on-un-sanctions-panels-moves-on-talibans-top-leaders/articleshow/85519099.cms?from=mdr> [<https://perma.cc/3KCD-PMYW>]. Human rights groups called for exemptions to these sanctions allowing travel by Taliban leaders involved in violations of women's rights to be discontinued. Amnesty International, *Death in Slow Motion: Women and Girls Under Taliban Rule*, Amnesty International Index ASA 11/5685/2022 94 (July 27, 2022). These exemptions were not renewed due to a principled stand by Ireland. "UN Ends Taliban Travel Ban Exemptions," *Deutsche Welle* (Aug. 20, 2022) <https://www.dw.com/en/un-fails-to-reach-deal-to-extend-taliban-travel-ban-exemptions/a-62873851> [<https://perma.cc/BX8S-LJWQ>].

xxii. In contrast with this view, political scientist Hyeran Jo argues that the Taliban (along with some other Islamist armed groups) are "legitimacy-seeking," and therefore their compliance with international norms could be, at least minimally, shifted through direct engagement. Hyeran Jo, "Complaint Rebels: Rebel groups and International Law in world politics 269–272" (2015). However, the examples she provides suggest Taliban failure to live up to most compliance commitments, and that any shifts made are likely to be about issues (such as choice of munitions) not central to the Taliban agenda, unlike the subordination of women.

xxiii. Steven Ratner, "Complicity and Compromise in the Law of Nations," 10 *Criminal Law and Philosophy* 559, 568 (2016).

xxiv. For photos of these all-XY gatherings, involving more than 12 governments, as well as U.N. agencies and reputable aid organizations, see Heather Barr (@heatherbarr1), Twitter (Oct. 5, 2021, 11:21 PM), <https://twitter.com/heatherbarr1/status/1445635293873205254?s=20> [<https://perma.cc/H4UU-3LWA>].

xxv. Roderic Braithwaite, *Afgantsy: The Russians in Afghanistan, 1979-1989*, 123 (2012).

xxvi. See Janine Rich, "Saving" Muslim Women: Feminism, U.S Policy and the War on Terror," *International Affairs Review*, Fall 2014 (on file with the *Columbia Human Rights Law Review*).

xxvii. The classical approach to the human rights responsibility of a state focused solely on the area "within its territory and subject to its jurisdiction . . ." ICCPR, *supra* note 3, art. 2. Michael Dennis, *Application of Human Rights Treaties Extraterritorially During Times of Armed Conflict*, 99 *American Journal of International Law* 119 (2005). Even expanded approaches to "effective control" and "overall control" are too narrow and limited by the "territorial bias" in international human rights law to be helpful here. Janna Wessels, "The Boundaries of Universality – Migrant Women and Domestic Violence Before the Strasbourg Court," 37 *Netherlands Quarterly Human Rights* 336, 336–58 (2019).

For a useful review of norms on complicity in international law, see Ratner, *supra* note 9. "[I]nternational law does not evince any consistent criteria or principles on when a state will have an obligation to prevent evil acts by others, nor how firm that obligation will be in terms of the required conduct of the state." *Id.* at 569. However, Ratner notes that "the state has a duty under international law to stop certain harms, even if its link to them falls well short of the legal standard that would hold the state directly responsible for the acts." *Id.* at 570. None of the listed situations in which such duties arise is analogous to the fact pattern under discussion in this article.

xxviii. "Draft Articles on Responsibility of States for Internationally Wrongful Acts, with commentaries," [2001] 2 *Year Book of International Law Commission* 63, U.N. Doc. A/CN.4/SER.A/20021/Add.1 [hereinafter Draft Articles on Responsibility of States].

xxix. *Id.* at art. 40 ¶ 4. The Draft Articles were adopted after first and second readings from 1955–96 and 1998–2001. No woman from any country served on the International Law Commission until 2001. Miguel de Serpa Soares, Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, *Opening Remarks at the Roundtable Discussion on Achieving Gender Parity at the International Law Commission: Seven Women in Seventy Years* (May 24, 2018), https://legal.un.org/ola/media/info_from_lc/mss/speeches/MSS_ILC70_gender_side_event-24-May-2018.pdf [<https://perma.cc/7H5K-URGE>].

xxx. Zoom Interview with Shaharazad Akbar, *supra* note 2.

xxxi. On the doctrine of non-retrogression in human rights law, forbidding "backwards steps in human rights protection" by authorities, see Ben T.C. Warwick, "Unwinding Retrogression: Examining the Practice of the Committee on Economic, Social and Cultural Rights," 19 *Human Rights Law Review*. 467, 467 (2019).

xxxii. "De facto Taliban authorities" or simply "de facto authorities" is the formulation currently employed by the U.N.. See U.N. Deputy High Commissioner for Human Rights, *Oral Update on the Situation of Human Rights in Afghanistan*, U.N. Office of the High Commissioner for Human Rights. (Dec. 14, 2021), <https://www.ohchr.org/en/statements/2021/12/oral-update-situation-human-rights-afghanistan> [<https://perma.cc/Q2T3-E88L>] [hereinafter *Oral Update on the Situation of Human Rights in Afghanistan*].

xxxiii. To offer a single example, one 16-year-old girl told the BBC on December 8, 2021, as a Taliban official confirmed the ban on secondary school education for girls: "Not being able to study feels like a death penalty." Hugo Williams & Ali Hamedani, "Afghanistan: Girls' Despair as Taliban Confirm Secondary School Ban," *BBC News* (Dec. 8, 2021), <https://www.bbc.com/news/world-asia-59565558> [<https://perma.cc/N9ZY-2NXZ>].

xxxiv. The Commentary on the U.N. Declaration on Human Rights Defenders uses the term "women human rights defenders" to refer to anyone who "individually or in association with others, act[s] to promote or protect human rights, including women's rights . . . as well as . . . gender issues more generally." Special Rapporteur on the situation of human rights defenders, U.N. Office of the High Commissioner for Human Rights, *Commentary to the Declaration on the Right and*

Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, U.N. Document A/RES/53/144, at 7 (July 2011), <https://www.ohchr.org/sites/default/files/Documents/Issues/Defenders/CommentarytoDeclarationondefendersJuly2011.pdf> [<https://perma.cc/XHN7-PW84>].

Diverse religious fundamentalisms pose particular problems for Women Human Rights Defenders and are especially dangerous to tackle. Cassandra Balchin, “Association for Women’s Rights in Development”, *Towards a Future without Fundamentalisms: Analyzing Religious Fundamentalist Strategies and Feminist Responses*. (2011).

xxxv. Mira Patel, “Explained: The Taliban Plan to ‘Temporarily’ Adopt Parts of the 1964 Constitution; What it Could Mean,” *The Indian Express* (Sept. 30, 2021), <https://indianexpress.com/article/explained/taliban-plan-to-temporarily-adopt-parts-of-1964-constitution-what-it-could-mean-7542412/> [<https://perma.cc/5FKD-9WSM>].

xxxvi. Frud Bezhan, “Afghan Women’s Shelters Vanishing Under Taliban Rule,” *Gandhara*. (Sept. 26, 2021), <https://gandhara.rferl.org/a/afghanistan-taliban-women—shelters-disappearing/31477947.html> [<https://perma.cc/N965-UXUL>].

xxxvii. Telephone Follow Up Interview Two with Zubaida Akbar, *supra* note 6. The impact of this is especially severe when women aid workers are unable to work. “Afghanistan: Taliban Blocking Female Aid Workers,” *Human Rights Watch* (Nov. 4, 2021), <https://www.hrw.org/news/2021/11/04/afghanistan-taliban-blocking-female-aid-workers> [<https://perma.cc/6ZFR-3V96>]. On the numbers of displaced persons, see “Afghanistan: 270,000 Newly Displaced This Year, Warns UNHCR,” *UN news* (July 13, 2021), <https://news.un.org/en/story/2021/07/1095782> [<https://perma.cc/J7YL-Y8XL>]. 270,000 Afghans were displaced in the first six months of 2021 alone. *Id.* On the gender of displaced persons, see Press Release, U.N. Office of the High Commissioner for Human Rights, “Afghanistan: UN experts urge swift global action, to protect human rights and prevent ‘civilian slaughter’” (Aug. 16, 2021), <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=27384&LangID=E> [<https://perma.cc/6CGB-6T77>] [*hereinafter* Civilian Slaughter].

xxxviii. “Afghanistan: Taliban Tell Working Women to Stay at Home,” *BBC News* (Aug. 24, 2021), <https://www.bbc.com/news/world-asia-58315413> [<https://perma.cc/CBS6-3VG7>]. The U.N. Deputy High Commissioner noted the scale of the resulting harms in a December 2021 statement: “UN partners have estimated that restricting women from working could contribute an immediate economic loss of up to US\$1 billion – or up to 5% of the country’s GDP. As more . . . girls are held back and pushed further behind, that economic and social damage will accumulate for future generations.” *Oral Update on the Situation of Human Rights in Afghanistan, supra* note 18.

xxxix. Yalda Hakim, “Yalda Hakim’s Diary: Afghanistan’s New Regime, the Feminist Resistance, and the Horror of Famine,” *The New Statesman* (Dec. 1, 2021), <https://www.newstatesman.com/afghanistan/2021/12/yalda-hakims-diary-afghanistans-new-regime-the-feminist-resistance-and-the-horror-of-famine> [<https://perma.cc/P9SW-RKC6>].

xl. Williams & Hamedani, *supra* note 19.

xli. “Taliban Says Women Can Study in Gender-Segregated Universities,” *Al Jazeera* (Sept. 12, 2021), <https://www.aljazeera.com/news/2021/9/12/taliban-say-women-can-study-in-gender-segregated-universities> [<https://perma.cc/REH7-J5TS>] [*hereinafter* Afghan Students Return]; Samya Kullab, “Afghan Students Return to Kabul U, but With Restrictions,” *Associated Press* (Feb. 26, 2022), <https://apnews.com/article/afghanistan-education-higher-education-kabul-taliban-e57683e739550cb4a14687a96d5191dc> [<https://perma.cc/R63W-2ZEE>].

xlii. See, e.g., Frud Bezhan (@FrudBezhan), *Twitter* (July 22, 2022, 2:39 AM), <https://twitter.com/FrudBezhan/status/1550387635297947648> [<https://perma.cc/5BTC-3PVN>] (reporting that the Taliban passed a new decree banning criticism of its leaders and Islamic scholars); Frud Bezhan (@FrudBezhan), *Twitter* (July 22, 2022, 6:53 AM), <https://twitter.com/FrudBezhan/status/1550448938788028416> [<https://perma.cc/AZ75-UKQQ>]; Shaharзад Akbar (@ShaharзадAkbar), *Twitter* (July 22, 2022, 3:08 AM), <https://twitter.com/ShaharзадAkbar/status/1550392209991782404> [<https://perma.cc/22CG-PR3C>].

As this Article goes to press in December 2022, the Taliban have recently announced the application of what they term sharia law punishments. “Taliban Leader Orders Sharia Law Punishments,” *BBC News* (Nov. 15, 2022) <https://www.bbc.com/news/world-asia-63624400> (on file with the *Columbia Human Rights Law Review*).

xliii. Zeba Siddiqui & Parniyan Zemaryalai, “Protests Get Harder for Afghan Women Amid Risks and Red Tape,” *Reuters* (Oct. 4, 2021), <https://www.reuters.com/world/asia-pacific/protests-get-harder-afghan-women-amid-risks-red-tape-2021-10-04> [<https://perma.cc/S5QK-SPAC>].

xliv. United Nations Assistance Mission in Afghan Human Rights Service, “Human Rights in Afghanistan: 15 August 2021-15 June 2022 24–25” (2022); *Amnesty International, supra* note 7 at 68–79. Women Human Rights Defenders suggest that well-known violations of women’s rights, like the ban on girls’ education, must be understood in the context of other widespread abuses recently documented. Among these reported abuses are disappearances, killings, torture, and arbitrary detention of both women and men, including those from minorities or allegedly related to resistance to the Taliban. United Nations Assistance Mission in “Afghan Human Rights Service, Human Rights in Afghanistan: 15 August 2021-15 June 2022 24–25” (2022); *Amnesty International, supra* note 7.

xlvi. Feminist international law is a genre of international legal scholarship which has burgeoned since the 1990s. In their foundational 1993 article in this genre, “The Gender of Jus Cogens,” Hilary Charlesworth and Christine Chinkin insisted that “[c]onsiderations of gender should be fundamental to an analysis of international human rights law.” Hilary Charlesworth & Christine Chinkin, “The Gender of Jus Cogens,” *15 Human Rights Quarterly*, 63, 63–76 (1993). This is one of the central tenets of this group of legal scholars. Their work focuses primarily on fulfilling international law’s promises of universality and equality. “Fundamental norms designed to

protect individuals should be truly universal in application as well as rhetoric, and operate to protect both men and women from those harms they are in fact most likely to suffer. They should be genuine human rights, not male rights." *Id.* at 75.

The underlying questions posed by feminist international law in the field of human rights are whether or not international human rights law is now or has ever been gender inclusive, and how to enhance it in this regard so as to overcome the divide Charlesworth and Chinkin diagnosed as "dissonance between women's experiences and international legal principles." *Id.*

According to the analyses of feminist international lawyers, some classical approaches to international human rights law have overlooked women's concerns, such as in the gendered enumeration of which norms rise to the level of jus cogens, or employed a faulty private/public divide which relegates the sphere in which many women live much of their lives and face abuse to being outside the core of international legal concern. International standards have centered the family with a range of positive and negative consequences. See UDHR, *supra* note 3, art. 16 (listing the rights to marry and found a family); International Covenant on Economic, Social and Cultural Rights article 10, *opened for signature* Dec. 16, 1966, 993 U.N.T.S. 3, 7 (entered into force Jan. 3, 1976) [hereinafter ICESCR] (outlining the right to family life).

Feminist international law has set out to tackle each of these defects in the corpus of international law and in the way it has been interpreted, with great success both in academia and within international organizations and human rights mechanisms. For example, feminist international lawyers of Muslim heritage have gendered mainstream human rights concerns such as freedom of expression and extra-judicial executions. See, e.g., Irene Khan (Special Rapporteur on freedom of opinion and expression), "Report on Gender justice and freedom of expression," *U.N. Document A/76/258* (July 30, 2021) (reporting on the particular barriers to the enjoyment of freedom of expression that women face and arguing that "gender equality in freedom of expression remains a distant goal"); Asma Jahangir (Special Rapporteur on extrajudicial, summary or arbitrary executions), "Report on extrajudicial, summary or arbitrary executions," 74–75, *U.N. Document E/CN.4/1999/39* (Jan. 6, 1999) (recognizing certain "honor killings" as extrajudicial killings). Ultimately, one of the founding scholars of feminist international law, Hilary Charlesworth, was elected to the International Court of Justice (ICJ), the most august international judicial body, in 2021. "Veteran Australian judge Hilary Charlesworth Elected to the International Court of Justice," *UN News* (Nov. 5, 2021), <https://news.un.org/en/story/2021/11/1105002> [<https://perma.cc/4FQK-GE6S>]. This suggests that this school of thought has been increasingly accepted as a core approach to international jurisprudence. For an updated review of the development of feminist international law, see Symposium, "Feminist Approaches to International Law Thirty Years on: Still Alienating Oscar?," 117 *American Journal of International Law* 259 (2022).

For other foundational works in the field, by scholars from around the world, see, e.g., Penelope Andrews, *From Cape Town to Kabul: Rethinking Strategies for Pursuing Women's Human Rights* (2012); Hilary Charlesworth & Christine Chinkin, *The Boundaries of International Law: A Feminist Analysis* (2000); Dorinda G. Dallmeyer, *Reconceiving Reality: Women and International Law* (1993); Asma Mohamed Abdel Halim, "Challenges to the Application of International Women's Human Rights in the Sudan," in *Human Rights of Women: National and International Perspectives* 397 (Rebecca J. Cook ed., 1994); Chaloka Beyani, "Toward a More Effective Guarantee of Women's Rights in the African Human Rights System," in *Human Rights of Women: National and International Perspectives* 285 (Rebecca J. Cook ed., 1994); Radhika Coomaraswamy, "To Bellow Like a Cow: Women, Ethnicity and the Discourse of Rights," in *Human Rights of Women: National and International Perspectives* 39 (Rebecca J. Cook ed., 1994); Catharine A. MacKinnon, *Are Women Human? And Other International Dialogues* 41–43 (2007); Cecilia Medina, "Toward a More Effective Guarantee of the Enjoyment of Human Rights by Women in the Inter-American System," in *Human Rights of Women: National and International Perspectives* 257 (Rebecca J. Cook ed., 1994); Ruba Salih, "Toward an Understanding of Transnationalism and Gender," in *Gender and Human Rights* 231 (Karen Knop ed., 2004); and Fareda Banda, "Gender, Religion and Human Rights in Africa," in *Women's Rights and Religious Law: Domestic and International Perspectives* 45 (Fareda Banda & Lisa Fishbayn Joffe eds., 2016).

xlvi. Seventeen interviews were carried out for this study with sixteen Afghan women human rights defenders and one male human rights defender. Several additional follow up interviews also took place. Interviews were carried out with some still at home in Afghanistan, some displaced inside the country, and some in exile. They included people from most regions and from many different ethnic groups, including Hazaras, Pashtuns, Tajiks, and Uzbeks, as well as people with mixed identities. The discussions took place on Zoom, telephone, and Signal, in some cases through interpreters. All interviewees were offered the opportunity to give anonymous interviews. Those interviewed were located in ten different countries, including in safe houses inside Afghanistan, refugee centers and camps outside the country, and even in quarantine. All interviews are on file with the author.

Though fieldwork is rarely done in the discipline, it can make a critical contribution to human rights law scholarship and theorizing, bringing together theory and praxis. In relation to Afghan women, this methodology moves away from the much-criticized (usually by non-Afghans. See Lila Abu-Lughod, *Do Muslim Women Need Saving?* (2013)) "savior" narratives to a solidarity stance those critics overlook. It can go some way toward fulfilling the commitments of many areas of human rights law to consultation and participation of those most affected. See "International Day of Disabled Persons 2004: Nothing about Us, Without Us," *U.N. Department of Economic & Social Affairs* (Dec. 2, 2004), <https://www.un.org/development/desa/disabilities/international-day-of-persons-with-disabilities-3-december/international-day-of-disabled-persons-2004-nothing-about-us-without-us.html> [<https://perma.cc/47AV-RVXW>]. It is also a way to reflect marginalized perspectives more inclusively in the field of international law. Angela Harris argues generally that "[i]n order to energize legal theory, we need to subvert it with narratives and stories, accounts of the particular, the different, and the hitherto silenced." Angela P. Harris, "Race and Essentialism in Feminist Legal Theory," 42 *Stanford Law Review* 581, 615 (1990).

However, it is important not to overclaim. This set of interviews contains helpful insights that inform arguments in the Article, but it is a small set reflecting the specific constituency of Afghan WHRDs.

On methodological questions and ethical considerations relating to interview-based human rights research, see Denisa Kostovicova & Eleanor Knott, “Harm, Change and Unpredictability: the Ethics of Interviews in Conflict Research,” 22 *Qualitative Research* 56 (2022); “Chapter 11: Interviewing,” in *Manual on Human Rights Monitoring (Revised edition)* (U.N. Office of the High Commissioner for Human Rights, 2011).

xlvi. Celina Romany, “State Responsibility Goes Private: A Feminist Critique of the Public/Private Distinction in International Human Rights Law,” in *Human Rights of Women, supra* note 31, at 85; Donna Sullivan, “The Public/Private Distinction in International Human Rights Law,” in *Women’s Rights Human Rights: International Feminist Perspectives* 126 (Julie Peters & Andrea Wolper eds., 1995).

xlviii. Charlotte Bunch, “Women’s Rights as Human Rights: Toward a Re-Vision of Human Rights,” 12 *Human Rights Quarterly* 486 (1990).

xlix. *Id.* at 493–98. Examples of each method are explored below. See *infra* text accompanying notes 340–50.

i. For example, international human rights law borrows the concept of “due diligence” from the fields of corporate law and transnational law on state responsibility to noncitizens to respond to abuses by non-state actors. Maria Monnheimer, “Due Diligence Obligations,” in *International Human Rights Law* 78–115 (2021). Another example is the creation of the term “femicide” to correct the omission of women as a protected category in the Convention on the Prevention and Punishment of the Crime of Genocide. Rachel Phillips, “Toward A Safer Society: Guatemalan Responses to Femicide,” 33 *New York International Law Review* 45, 47–53 (2020).

ii. Henry J. Richardson, III, “International Law and the Continuation of Sanctions Against South Africa,” 3 *Temple International & Comparative Law Journal* 249 (1989).

iii. Isabelle R. Gunning, “Arrogant Perception, World-Travelling and Multicultural Feminism: The Case of Female Genital Surgeries,” 23 *Columbia Human Rights Law Review* 189, 190 (1992); Abu-Lughod, *supra* note 32.

liii. Nelson Mandela, Mandela’s Address After His Release from Prison (Feb. 11, 1990), in *Selected Speeches and Writings of Nelson Mandela: The End of Apartheid in South Africa* 141 (2010).

liv. Christine Byron, *War Crimes and Crimes Against Humanity in the Rome Statute of the International Criminal Court* 239 (2009).

lv. Nelson Mandela, *Long Walk to Freedom: The Autobiography of Nelson Mandela* 97 (1994).

lvi. See “Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276” (1970), *Advisory Opinion, 1971 International Court of Justice* 16, ¶ 130 (June 21) [hereinafter *Namibia Opinion*] (“It is undisputed, and is amply supported by documents annexed to South Africa’s written statement in these proceedings, that the official governmental policy pursued by South Africa in Namibia is to achieve a complete physical separation of races and ethnic groups in separate areas within the Territory.”).

lvii. Nancy L. Clark & William H. Worger, *South Africa: The Rise and Fall of Apartheid* 49 (Clive Emsley & Gordon Martel eds., 2d ed. 2011); Elizabeth S. Landis, “Apartheid Legislation,” 4 *Africa Today* 45, 46 (1957).

lviii. Clark & Worger, *supra* note 43, at 51.

lix. *Id.* at 49–50; “Apartheid Legislation 1850s-1970s,” *South African History Online*, <https://www.sahistory.org.za/article/apartheid-legislation-1850s-1970s> [<https://perma.cc/XT37-WC3F>].

lx. *Id.*; Landis, *supra* note 43.

lxi. See discussion *infra* notes 245–250 and accompanying text.

lxii. John Dugard, “Convention on the Suppression and Punishment of the Crime of Apartheid,” *U.N. Audiovisual Library of International Law* (Aug. 2008), <https://legal.un.org/avl/ha/cspca/cspca.html> [<https://perma.cc/65RF-K44Z>].

lxiii. This is how the International Law Commission characterized the relevant resolutions. *Draft Articles on Responsibility of States, supra* note 14, art. 41 cmt. 12. See, e.g., Security Council Resolution 418 (Nov. 4, 1977) (imposing an arms embargo against South Africa); S.C. Res. 569 (July 26, 1985) (calling on member states to restrict economic, sporting, cultural, and other relations with South Africa).

lxiv. David Welsh & J.E. Spence, *Ending Apartheid* 177–181 (2011); *General Assembly Resolution* 3280 (XXIX), “Co-operation between the United Nations and the Organization of African Unity,” 6 (Dec. 10, 1974); *General Assembly Resolution* 3412 (XXX), “Co-operation between the United Nations and the Organization of African Unity,” 7 (Nov. 28, 1975).

lxv. *Id.* at 86–92.

lxvi. Enuga Reddy, “The Struggle against Apartheid: Lessons for Today’s World,” *UN Chronicle*, June 27, 2013.

lxvii. Welsh & Spence, *supra* note 50, at 190.

lxviii. International Convention on the Suppression and Punishment of the Crime of Apartheid, *opened for signature* Nov. 30, 1973 (entered into force July 18, 1976) [hereinafter *Apartheid Convention*]. The General Assembly adopted the Apartheid Convention on Nov. 30, 1973, with 91 votes for, four votes against (Portugal, South Africa, the United Kingdom and the United States), and 26 abstentions. Dugard, *supra* note 48, at 1. It currently has 109 states parties, with the most recent adherence in 2014. Post-apartheid South Africa never became a party to the Convention. “International Convention on the Suppression and Punishment of the Crime of Apartheid,” *U.N. Treaty Collection*, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-7&chapter=4&clang=_en [<https://perma.cc/WG5N-EKQN>].

- lxix. Dugard, *supra* note 48, at 1.
- lxx. Apartheid Convention, *supra* note 54, “preamble”.
- lxxi. *Id.* art. II.
- lxxii. *Id.* art. II(a)–(d), (f).
- lxxiii. See discussion *infra* notes 111–163 and accompanying text.
- lxxiv. Dugard, *supra* note 48, at 1; R.S. Clark, “The Crime of Apartheid,” in *International Criminal Law* 299 (M. Cherif Bassiouni ed., 1986); Goler Butcher, “Legal Consequences for States of the Illegality of Apartheid,” 8 *Human Rights Quarterly* 404 (1986).
- lxxv. Apartheid Convention, *supra* note 54, art. IV(a).
- lxxvi. *Id.* art. IV(b).
- lxxvii. *Id.* art. VIII.
- lxxviii. *Id.* art. VI.
- lxxix. Dugard, *supra* note 48, at 2.
- lxxx. See Promotion of National Unity and Reconciliation Act 34 of 1995 (S. Afr.) (establishing the Truth and Reconciliation Commission in South Africa). For diverse views of this development, see Alex Boraine, *A Country Unmasked: Inside South Africa’s Truth and Reconciliation Commission* (2000); Richard Wilson, *The Politics of Truth and Reconciliation in South Africa: Legitimizing the Post-Apartheid State* (2001), and *Azanian Peoples Organisation (AZAPO) and others v. President of the Republic of South Africa* 1996 (4) SA 672 (CC) (South Africa) (rejecting an application for an order declaring unconstitutional section 20 of the Promotion of National Unity and Reconciliation Act which covers the granting of amnesty).
- lxxxi. Henry Richardson, “The Obligation to Withdraw Recognition from Pretoria as the Government of South Africa,” 1 *Temple International & Comparative Law Journal* 153 (1987).
- lxxxii. This drew from the position of the International Court of Justice in the Namibia Opinion, *supra* note 42.
- lxxxiii. Sanford J. Ungar & Peter Vale, “South Africa: Why Constructive Engagement Failed,” 64 *Foreign Affairs* 234 (1985) <https://www.foreignaffairs.com/articles/south-africa/1985-12-01/south-africa-why-constructive-engagement-failed> [<https://perma.cc/8V48-P325>].
- lxxxiv. “Article 19. – International Crimes and International Delicts,” [1976] 2 *Year Book International Court of Justice* 95–96, U.N. Document A/CN.4/SER.4/1976/Add.1.
- lxxxv. Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, article 85 4(c), June 8, 1977, 1125 U.N.T.S. 3, 42 (entered into force Dec. 7, 1987) [hereinafter “Protocol I”].
- lxxxvi. Dugard, *supra* note 48, at 2.
- lxxxvii. See, e.g., S.C. Res. 421 (Dec. 9, 1977) (terminated by S.C. Res. 919 (May 26, 1994)).
- lxxxviii. International Convention against Apartheid in Sports, *opened for signature* Dec. 10, 1985, 1500 U.N.T.S. 25822 (entered into force Apr. 1, 1988). Women and men play sports separately in many cases as an ordinary, non-human rights-violating practice. The ban on apartheid in athletics was aimed at rights-violating exclusion and segregation based on race. South Africa’s apartheid sports policy was an integral part of the apartheid system of excluding nonwhites from full and equal participation in society. Richard E. Lapchick, “South Africa: Sport and Apartheid Politics,” 445 *Contemporary Issues in Sport* 155 (1979). The Afghan context is even more exclusionary as stated Taliban policy is implemented, since women are banned from participation in sports entirely. See discussion *infra* note 148 and accompanying text.
- lxxxix. International Convention Against Apartheid in Sports, *supra* note 74, at pmb1.
- xc. *Id.*
- xc. “What Is Olympism,” *World Olympians Association*, <https://olympians.org/woa/olympism/> [<https://perma.cc/4YED-6FUN>].
- xcii. Parallel to normative developments in the prohibition of apartheid, a series of implementation mechanisms were created. See Comm. on Human Rights, *Study on Ways and Means of Insuring the Implementation of International Instruments Such as the Convention on the Suppression and Punishment of the Crime of Apartheid*, U.N. Doc. E/CN.4/1426 (Jan. 19, 1981); see also *General Assembly Resolution* 1761 (XVII) (Nov. 6, 1962) (establishing a Special Committee to periodically review racial policies in South Africa); U.N. Comm. on Human Rights, *Resolution* 2 XXIII (1967) (creating the Ad Hoc working group on violations of human rights in Southern Africa).
- xciii. Rome Statute of the International Criminal Court art. 7(1)(j), *opened for signature* July 17, 1998, 2187 *United Nations Treaty Collection* 90, 93 (entered into force July 1, 2002) [hereinafter Rome Statute].
- xciv. On genocide, see *The Genocide Convention: Travaux Préparatoires* (Hirad Abtahi and Philippa Webb, eds., 2009); see also Ana Cristina Rodríguez Pineda, “The Relay Race of Defining Crimes Against Humanity: From the International Tribunals to the Draft Articles,” *Just Security* (Sept. 27, 2021), <https://www.justsecurity.org/78360/the-relay-race-of-defining-crimes-against-humanity-from-the-international-tribunals-to-the-draft-articles/> [<https://perma.cc/PE7K-9SLV>] (“It is their large-scale or systematic nature that elevates the specific crimes (horrific on their own merits) to crimes that shock the conscience of the international community and constitute an affront to the very notion of humaneness.”).
- xcv. According to the Vienna Convention on the Law of Treaties, a *jus cogens* norm is “accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.” Vienna Convention on the

Law of Treaties arts. 26 and 53, *opened for signature* May 23, 1969, 1155 United Nations Treaty Collection 331, 339, 334 (entered into force Jan. 27, 1980).

xcvi. *Draft Articles on Responsibility of States*, *supra* note 14, at art. 40 ¶ 4.

xcvii. Zoom Interview with Shaharзад Akbar, *supra* note 2.

xcviii. Gender apartheid often also significantly constrains women's rights in the so-called private sphere. Feminist scholars have challenged the public/private divide classically employed in human rights law. Restrictions in public and private life are interdependent, their impacts interwoven. Romany, *supra* note 33. When women cannot access the public realm in equality, they cannot find remedies for harms in the family, and vice versa.

xcix. Committee on Economic, Social and Cultural Rights, "General Comment No. 16: The equal right of men and women to the enjoyment of all economic, social and cultural rights," 1, *U.N. Document E/C.12/2005/4* (Aug. 11, 2005) [hereinafter General Comment No. 16].

c. See review of these norms *infra* notes 243–51.

ci. See *infra* notes 240–290 and accompanying text.

cii. Moreover, women trying to leave are hindered from doing so by apartheid restrictions. Kathy Gannon, "Officials: Taliban Blocked Unaccompanied Women from Flights," *PBS News* (Mar. 26, 2022, 11:29 AM), <https://www.pbs.org/newshour/world/officials-taliban-blocked-unaccompanied-women-from-flights> [<https://perma.cc/5FW5-DNP5>].

ciii. *Draft Articles on Responsibility of States*, *supra* note 14, art. 15 cmt. 4.

civ. Anthony Löwstedt, *Apartheid – Ancient, Past, And Present: Gross Human Rights Violations In Graeco-Roman Egypt, South Africa, Israel/Palestine And Beyond* 164, 230 (2016).

cv. This explains why the United Nations did not simply focus on the abuses attendant on apartheid, but sought to dislodge the idea of racial superiority itself. See General Assembly Resolution 395 (V), *Preamble*. (Dec. 2, 1950) ("a policy of 'racial segregation' (Apartheid) is necessarily based on doctrines of racial discrimination"). In the preamble to the International Convention on All Forms of Racial Discrimination, states parties commit to preventing and combating "racist doctrines." International Convention on the Elimination of All Forms of Racial Discrimination preamble, *opened for signature* Mar. 7, 1966, S. Exec. Doc. C, 95-2, at 2 (1978), 660 United Nations Treaty Collection 195, 212–16 (entered into force Jan. 4, 1969) [hereinafter ICERD].

cvi. Implementation remains a significant challenge in the field of international law generally, and in international human rights law specifically. However, there have been significant advances in this regard that are too often overlooked. See Lori F. Damrosch, "Enforcing International Law Through Non-Forcible Measures," in 269 *Collected Courses Of The Hague Academy Of International Law* 9 (1997); David C. Baluarte & Christian M. Devos, Open Society Foundation, *From Judgment To Justice: Implementing International And Regional Human Rights Decisions* (2010).

cvii. For a summary and critique of this view, see Rebecca Cook, "Accountability in International Law for Violations of Women's Rights by Non-State Actors," in Dallmeyer, *supra* note 31, at 93–116.

cviii. Such change looks virtually impossible at the moment in Afghanistan. Military intervention has already been tried. Local human rights advocacy is important but insufficient. The one realistic possibility on the political horizon is a shift to an even worse regime close to the so-called "Islamic State" if the Taliban government falls. Victor J. Blue et al., "ISIS Poses a Growing Threat to

New Taliban Government in Afghanistan," *New York Times* (Nov. 3, 2021),

<https://www.nytimes.com/2021/11/03/world/asia/isis-afghanistan-taliban.html> [<https://perma.cc/Z6GG-MUW3>].

cix. Dan Morgan & David B. Ottaway, "Women's Fury Toward Taliban Stalls Pipeline," *Washington Post* (Jan. 11, 1998), <https://www.washingtonpost.com/archive/politics/1998/01/11/womens-fury-toward-taliban-stalls-pipeline/8a3d9be1-33ee-4922-84bd-3840baa95f13/> [<https://perma.cc/5X2Y-XVNO>].

cx. Nancy Gallagher, "The International Campaign Against Gender Apartheid in Afghanistan," 5 *UCLA Journal of International Law & Foreign Affairs* 367, 378 (2000).

cxii. See, e.g., Lisa M. Ayoub, "The Crisis in Afghanistan: When Will Gender Apartheid End?," 7 *Tulsa Journal of Comparative & International Law*, 513 (2000).

cxiii. Mahnaz Afkhami, "Gender Apartheid and the Discourse of Relativity of Rights in Muslim Societies," in *Religious Fundamentalisms and the Human Rights of Women* 67, 68 (Courtney W. Howland ed., 1999).

cxiiii. "Taliban Have Created 'Apartheid System' for Women: UN Report," *Agence France Presse* (Mar. 12, 1999) (on file with the *Columbia Human Rights Law Review*); Press Release, Human Rights Commissioner, Special Rapporteurs on Religious Intolerance and Judicial Independence, Independent Expert on Compensation Address Commission on Human Rights, U.N. Press Release HR/CN/99/32 (Apr. 12, 1999), <https://www.ohchr.org/en/press-releases/2009/10/special-rapporteurs-religious-intolerance-and-judicial-independence> [<https://perma.cc/HJ43-7565>].

cxv. Press Release, Special Rapporteurs on Religious Intolerance and Judicial Independence, Independent Expert on Compensation Address Human Rights Commission, U.N. Press Release HR/CN/908 (Apr. 13, 1999).

cxvi. Abdelfattah Amor (Special Rapporteur on the elimination of intolerance and all forms of discrimination based on religion or belief), "Civil and Political Rights, Including Religious Intolerance," 26, U.N. Document E/CN.4/1999/58 (Jan. 11, 1999).

cxvii. See *infra* notes 201–208 and accompanying text.

cxviii. Ann Elizabeth Mayer, "A 'Benign' Apartheid: How Gender Apartheid Has Been Rationalized," 5 *UCLA Journal International Law & Foreign Affairs*. 237, 237–388 (2000).

cxviii. This counterargument will be addressed *infra* Part IV.

cxix. Mayer, *supra* note 103.

cxx. Relevant standards on each topic are contained in the U.N. Charter, in numerous treaties, and in repeated U.N. General Assembly declarations. *Key UN Documents Related to Decolonization*, Dag Hammarskjöld Library, <https://research.un.org/en/docs/decolonization/keydocs> [<https://perma.cc/D6PL-SWJK>].

cxix. Huma Ahmed-Ghosh, "A History of Women in Afghanistan," *4 Journal of International Women's Studies*. 1, 5–7 (2003).

cxix. Unfortunately, the Taliban have not been alone in engaging in widespread and systematic de jure discrimination against women. The Kingdom of Saudi Arabia, a wealthy sponsor of mujahideen groups and one of only three states to recognize the Taliban 1.0 authorities, does so as well. A state party to the CEDAW Convention since 2000, it banned women from driving until 2017. Jamie Tarabay, "Women in Saudi Arabia Still Can't Do These Things," CNN (Dec. 6, 2017, 4:23 AM), <https://www.cnn.com/2017/09/27/middleeast/saudi-women-still-cant-do-this/index.html> [<https://perma.cc/RB55-DUEQ>]. The Kingdom still practices sweeping sex segregation, maintaining a male guardianship system requiring permission for women to travel, choose a residence, or access health care. Commission on the Elimination of Discrimination against Women, Concluding observations on the combined third and fourth periodic reports of Saudi Arabia, 15, 61, U.N. Document CEDAW/C/SAU/CO/3-4 (Mar. 14, 2018). The notorious Saudi Commission for the Promotion of Virtue and Prevention of Vice or religious police (mutawa) have even ordered stores to build sex segregation walls in the workplace. "'Wall-Mart?' Saudi Shops to Build Sex-Segregation Walls," *Alarabiya News* (Jan. 29, 2013), <https://english.alarabiya.net/articles/2013/01/29/263211> [<https://perma.cc/U6EW-6EX4>]. In public places, women must use separate entrances off to the side and can only visit if there is a family section separate from single men. Henry Hanks, "Women Welcome at a Saudi Arabia Starbucks Shop After Temporary Ban," CNN (Feb. 8, 2016), <https://www.cnn.com/2016/02/07/world/saudi-starbucks-women-ban-feat/index.html> [<https://perma.cc/VU9C-EA98>].

Of late, Saudi Arabia has taken modest steps toward loosening its gender apartheid regime, something Afghan WHRDs interviewed pointed to as a positive example. However, the international community has acquiesced to this posh version of gender apartheid due to the wealth and power of those who practice it. See the discussion of the problems arising from Saudi Arabia's voluntary contributions to the U.N. in Kristina B. Daugirdas, "Funding Global Governance," *29 New York University Environment Law Journal* 639, 646–47 (2021). It is more difficult to convince the Taliban to change when a Western ally engages in practices reminiscent of theirs. While distinguishable from the Taliban, which largely excludes women and girls from sectors such as education, the Saudi government actively promotes gender segregation in other Muslim majority contexts outside its borders. See Karima Bennoune, *Your Fatwa Does Not Apply Here* 105–06 (2013).

cxixiii. Ahmed Rashid, *Taliban: Militant Islam, Oil and Fundamentalism in Central Asia* 17–30 (2010).

cxixiv. Note that the Taliban did not hold Afghanistan's seat in the U.N. General Assembly. Instead, the Northern Alliance, which represented the former government and controlled some territory, maintained the seat. Michelle Nichols, "Taliban Names Afghan U.N. Envoy, Asks to Speak to World Leaders," *Reuters* (Sept. 21, 2021, 4:19 PM), <https://www.reuters.com/world/asia-pacific/exclusive-taliban-names-afghan-un-envoy-asks-speak-world-leaders-2021-09-21/> (on file with the *Columbia Human Rights Law Review*).

cxixv. Meri Melissi Hartley-Blecic, "The Invisible Women: The Taliban's Oppression of Women in Afghanistan," *7 ILSA Journal International & Comparative Law* 553 (2001). Reportedly, a small number of girls' schools remained open in two areas of the country. Telephone Follow Up Interview Two with Zubaida Akbar, *supra* note 23.

cxixvi. Anastasia Telesetsky, "In the Shadows and Behind the Veil: Women in Afghanistan Under Taliban Rule," *13 Berkeley Women's Law Journal* 293, 296–98 (1998); Lindsay M. Gray, "Changing Asylum Law for Afghan Women Under the Taliban: Desperate Times, Moderate Measures," *40 Brandeis Law Journal* 557, 557–60 (2001); Widney Brown & Laura Grenfell, "The International Crime of Gender-Based Persecution and the Taliban," *5 Melbourne Journal International Law* 347, 350–51 (2003).

cxixvii. "The Taliban & Afghan Women," *Feminist Majority Foundation*, <https://feminist.org/our-work/afghan-women-and-girls/the-taliban-afghan-women/> [<https://perma.cc/H3RB-T8LX>].

cxixviii. Women human rights defenders devised an elaborate scheme of clandestine schools and risked severe punishment for doing so. Latifa, *My Forbidden Face: Growing Up Under the Taliban* (Linda Coverdale trans., 2001).

cxixix. See U.S. Department of State, Bureau of Democracy, Human Rights and Labour, *Report on the Taliban's War Against Women* (2001) ("As many as 50,000 women, who had lost husbands and other male relatives during Afghanistan's long civil war, had no source of income. Many were reduced to selling all of their possessions and begging in the streets, or worse, to feed their families.").

cxixx. See *The Taliban & Afghan Women*, *supra* note 113; *Report on the Taliban's War Against Women*, *supra* note 115. Over time, a few women doctors and nurses were allowed to work in segregated wards. However, women and girls died from lack of medical treatment due to these restrictions.

cxixxi. *Report on the Taliban's War Against Women*, *supra* note 115.

cxixxii. John R. Allen & Vanda Felbab-Brown, "The Fate of Women's Rights in Afghanistan," *Brookings Institute*. (2020), <https://www.brookings.edu/essay/the-fate-of-womens-rights-in-afghanistan> [<https://perma.cc/4RL8-HASN>].

cxixxiii. *Report on the Taliban's War Against Women*, *supra* note 115.

cxixxiv. The impact of these punishments was graphically depicted by Afghan writers in Khaled Hosseini, *A Thousand Splendid Suns* (2008) and Maryam Mahboob, *Gum [The Invisible]* (1999).

cxixxv. *The Taliban & Afghan Women*, *supra* note 113.

cxixxvi. *Report on the Taliban's War Against Women*, *supra* note 115.

cxxxvii. *Id.*

cxxxviii. WHRDs, including those of Muslim heritage, have warned of the dire consequences of the international community failing to take fundamentalist violence against women seriously as a “warning sign.” Ayesha Imam, Jenny Morgan & Nira Yuval-Davis, *Warning Signs of Fundamentalisms: Women Living Under Muslim Laws* (2004).

cxxxix. In contrast to the 2003 Iraq war, a strong case can be made for the *jus ad bellum* legality of the conflict which overthrew the Taliban. Monica Hakimi, “Defensive Force Against Non-State Actors: The State of Play,” 91 *Journal of International Legal Studies* 1, 9–14 (2015). When I visited Afghanistan in 2005, I was also struck by the degree of support there was for this intervention, from Kabul to Kandahar.

However, with regard to the *jus in bello*, there is also credible evidence that the United States and other international actors violated provisions of humanitarian and human rights law during the course of the conflict, causing great suffering even while justifiably seeking to hold the Taliban at bay. Shaharзад Akbar, “Ending the Forever War, But Leaving a Legacy of Impunity in Afghanistan,” *Just Security* (June 30, 2021), <https://www.justsecurity.org/77207/ending-the-forever-war-but-leaving-a-legacy-of-impunity-in-afghanistan/> [<https://perma.cc/2ZN4-WXV8>]; Office of the Prosecutor, International Criminal Court, “Situation in Afghanistan: Summary of the Prosecutor’s Request for authorization of an investigation pursuant to article 15,” (2017). Though providing no justification for abuses by other actors, the data shows that the Taliban’s war crimes were far more widespread, and were a deliberate tactic in many circumstances. “Civilian Casualties Set to Hit Unprecedented Highs in 2021 Unless Urgent Action To Stem Violence – UN Report,” *United Nations Assistance Mission in Afghanistan* (July 26, 2021), <https://unama.unmissions.org/civilian-casualties-set-hit-unprecedented-highs-2021-unless-urgent-action-stem-violence-%E2%80%93-un-report> [<https://perma.cc/XTS7-BGC2>]. During this time, the Taliban carried out many targeted attacks—involving bombing and even acid—on women and girls, including on women human rights defenders and on girls’ schools. They directed particular ferocity against women members of minority groups, such as the Hazara. Najim Rahim & David Zucchino, “Attacks on Girls’ Schools on the Rise as Taliban Make Gains,” *N.Y. Times* (May 20, 2019), <https://www.nytimes.com/2019/05/21/world/asia/taliban-girls-schools.html> (on file with the *Columbia Human Rights Law Review*). There were 185 attacks on girls’ schools alone in 2016. Allie Torgan, “Acid Attacks, Poison: What Afghan Girls Risk by Going to School,” *CNN* (Mar. 17, 2016), <https://www.cnn.com/2012/08/02/world/meast/cnnheroes-jan-afghan-school/index.html>. [<https://perma.cc/3UT7-XRKK>]. There has been near total impunity for all of these abuses by all actors. Andrew Hilland & Catherina Gilfedder, “The International Criminal Court and Afghanistan,” *Just Security* (Sept. 3, 2021), <https://www.justsecurity.org/78080/the-international-criminal-court-and-afghanistan/> [<https://perma.cc/N7NF-FQ7F>].

cxl. For example, Shia women were subjected to a separate and highly criticized Shia Personal Status Law in Afghanistan, adopted in 2009. See analysis in Deniz Kandiyoti, “Disentangling Gender and Politics: Whither Gender Equality?,” 42 *IDS Bulletin* 11 (Jan. 2011), https://opendocs.ids.ac.uk/opendocs/bitstream/handle/20.500.12413/7566/IDSB_42_1_10.1111-j.1759-5436.2011.00195.x.pdf. [<https://perma.cc/C99V-7B82>].

Rural Afghan women often did not benefit as substantially from advances that were made at the national level, continuing to face male domination and grave impacts from the ongoing conflict with the Taliban, and, in increasing parts of the territory, de facto Taliban rule. In Fall 2021, a widely read article in the *New Yorker* pitted the rights of urban Afghan women against those in rural areas (based largely on one interview with one woman in Helmand province), suggesting that women’s rights in the cities had been bought at the price of the suffering of those in the provinces. Anand Gopal, “*The Other Afghan Women*,” *New Yorker* (Sept. 6, 2021), <https://www.newyorker.com/magazine/2021/09/13/the-other-afghan-women> [<https://perma.cc/6MMT-YWJP>]. While an important reminder of differences among Afghan women, it also dovetailed in unfortunate ways with the Taliban view that “women in urban areas are infidels.” Zoom Interview with Shaharзад Akbar, *supra* note 2.

Some Afghan women human rights defenders responded vigorously to Gopal’s assessment, but without an equal audience. A few reported particular work carried out precisely with women in villages who have now lost their services due to the new environment, and many reported that such interlocutors are still asking them for help, though they are now powerless to provide it. Zubaida Akbar stressed that WHRDs from Helmand were actively trying to maintain girls’ education on the ground, but were not interviewed for the *New Yorker* article. Zoom Follow Up Interview One with Zubaida Akbar, (Dec. 9, 2021). As WHRD Samira Hamidi riposted, “this article highlights the divisions among Afghan women and says that we didn’t do anything for the provinces. But, it didn’t say why we couldn’t go to the provinces. Our lack of access was often due to Taliban violence in those areas.” Zoom Interview with Samira Hamidi, South Asia Campaigner, Amnesty International (Oct. 8, 2021).

Shaharзад Akbar commented on the article as follows:

Afghan women are not a homogenous group. Does that mean the battle for women’s rights is an isolated idea? I disagree. What about women in Hazarajat [the mountainous, largely rural region populated by the Hazara Shia minority, that have faced discrimination and Taliban targeting]? There, women with nonliterate parents were joining the army and the police and pursuing their educations. . . . Despite the conflict, aspirations of many women changed, including those of women in rural areas such as Helmand and Kandahar, who want to be pilots and engineers. The majority want lives different from their mothers. Now, the most prominent activists are outside the country, but women are still demonstrating.

Zoom Interview with Shaharзад Akbar, *supra* note 2.

cxli. Ashley Lenderman, "We Are All Farkhunda: An Examination of the Treatment of Women Within Afghanistan's Formal Legal System," 3 *Indian Journal of Constitutional Design* 1 (2018); Susan Forooqi, "Misogyny and Lawlessness in Afghanistan: The Women's Fight for Equal Rights," 32 *Journal of Civil Rights and Economic Development* 105 (2018); Benazeer Roshan, "The More Things Change, the More They Stay the Same: The Plight of Afghan Women Two Years After the Overthrow of the Taliban," 19 *Berkeley Women's Law Journal* 270 (2004); Shafiqah Ahmadi, "Theory v. Practice: Women's Rights and Gender Equity in Afghanistan," 18 *Journal of Gender Race & Justice* 361 (2016); Mark A. Drumbl, "Rights, Culture, and Crime: The Role of Rule of Law for the Women of Afghanistan," 42 *Columbia Journal of Transnational Law* 349, 356 (2004).

cxlii. Makhfi Azizi, "Afghans' Views on the Doha Peace Process and the Biden Administration's Review of the US-Taliban Peace Agreement," *Atlantic Council* (Feb. 25, 2021), <https://www.atlanticcouncil.org/blogs/southasiasource/what-do-afghans-think-of-the-ongoing-doha-peace-process-as-well-as-the-us-taliban-peace-deal-and-what-do-they-expect-from-the-biden-administrations-review/> [<https://perma.cc/KSK3-73V2>].

cxliii. See Sari Kouvo & Corey Levine, "Who Defines the Red Lines?: The Prospects for Safeguarding Women's Rights and Securing Their Future in Post-Transition Afghanistan," in *The Oxford Handbook of Gender and Gender and Armed Conflict* 485 (Fionnuala Ní Aoláin et al. eds., 2018).

cxliv. See Azizi, *supra* note 128; Patricia Gossman, "US Should Help Afghan Civil Society Partners at Risk," *Human Rights Watch* (July 13, 2021), <https://www.hrw.org/news/2021/07/13/us-should-help-afghan-civil-society-partners-risk> [<https://perma.cc/LU4A-WQ96>].

cxlv. Sanam N. Anderlini, "Why Don't Afghan Lives Matter?," *Newsweek* (Sept. 3, 2021), <https://www.newsweek.com/why-dont-afghan-lives-matter-opinion-1625563> [<https://perma.cc/F8ZR-87FW>]. The way the evacuations were conducted added to the trauma. As one WHRD interviewed recounted the impact: "Evacuation changed me as a person. There is a version of me from before the evacuations and a different version from afterwards." Zoom Interview with Zubaida Akbar (Oct. 9, 2021). On the obligations of states to withdraw from armed conflicts in a way that prevents violations of international humanitarian law and human rights law, see Paul Strauch & Beatrice Walton, *Jus ex Bello and International Humanitarian Law: States' Obligations When Withdrawing From Armed Conflict*, 102 *International Review Red Cross* 923, 947 (2020).

cxlvi. Azizi, *supra* note 128.

cxlvii. Donald Francis Donovan, "Retrospective on International Law in the First Obama Administration," 107 *ASIL Proceedings* 131, 144, 150 (2013); ASIL 1906, *Youtube* (Apr. 4, 2013), <https://www.youtube.com/watch?v=2Dx7ucfmbKs> [<https://perma.cc/ER8N-4F72>].

cxlviii. Alex Crawford, "Afghanistan: Taliban Fighters Claim They 'Have Changed' and Afghanistan Now 'Safest Country in the World'," *Sky News* (Sept. 13, 2021), <https://news.sky.com/story/afghanistan-taliban-fighters-claim-they-have-changed-and-afghanistan-now-safest-country-in-the-world-12404378> [<https://perma.cc/VRW8-SAH6>]; Gavin Cordon, *Afghanistan Could Be 'More Inclusive' Under Taliban, Says Forces Chief*, *EVENING STANDARD* (Nov. 9, 2021), <https://www.standard.co.uk/news/uk/nick-carter-afghanistan-taliban-british-kabul-b965302.html> [<https://perma.cc/RN8K-Z6SK>].

cxlix. Bennoune, *supra* note 108, at 259.

cl. Zoom Interview with Zubaida Akbar, *supra* note 131. Note, for example, the extraordinary opening of the New York Times Op Ed pages to a U.N.-sanctioned Taliban leader, who claimed that his organization has been acting in self-defense, with no recognition of its atrocities or its role in terrorism. Sirajuddin Haqqani, "What We, The Taliban, Want," *N.Y. TIMES* (Feb. 20, 2020), <https://www.nytimes.com/2020/02/20/opinion/taliban-afghanistan-war-haqqani.html> (on file with the *Columbia Human Rights Law Review*).

cli. Signal Interview with Zahra Sepehr, Journalist and Founder, Development and Support of Afghan Women and Children (Nov. 4, 2021).

clii. Mariz Tadros, *Who is Afraid of the Taliban*, Institute of Development Studies (Aug. 19, 2021), <https://www.ids.ac.uk/opinions/who-is-afraid-of-the-taliban/> [<https://perma.cc/7C4G-YH77>].

cliii. *Id.*

cliv. *Id.*

clv. *Hardliners Get Key Posts in New Taliban Government*, *supra* note 7.

clvi. *Id.* Some women have reportedly been returning to segregated university classes as of February 2022. *Afghan Students Return*, *supra* note 27.

clvii. Zoom Interview with Anonymous I (Nov. 9, 2021).

clviii. Zoom Interview with Kubra Balooch, Director, Afghan Civil Society Forum in Balkh Province (Oct. 16, 2021).

clix. *Oral Update on the Situation of Human Rights in Afghanistan*, *supra* note 18. These are not ad hoc violations but the implementation of Taliban ideology. According to a senior figure in the Taliban, Waheedullah Hashimi: "We have fought for almost 40 years to bring [the] sharia law system to Afghanistan . . . Sharia . . . does not allow men and women to get together or sit together under one roof." Alasdair Pal, "Exclusive: Afghan Women Should Not Work Alongside Men, Senior Taliban Figure Says," *Reuters* (Sept. 13, 2021), <https://www.reuters.com/world/asia-pacific/exclusive-afghan-women-should-not-work-alongside-men-senior-taliban-figure-says-2021-09-13/> [<https://perma.cc/V2MA-MGJY>]. In November 2022, the Taliban prohibited women from entering public parks. "Taliban Ban Women From Parks, Morality Ministry Says," *REUTERS* (Nov. 11, 2022), <https://www.reuters.com/world/asia-pacific/taliban-ban-women-parks-morality-ministry-says-2022-11-11/> [<https://perma.cc/K2VR-CV3Q>].

clx. Following the overthrow of the Taliban in 2001, the Afghan government, as flawed as it was, created space for juridical and practical advances, such as through the adoption of a robust new constitutional framework in 2004 which guaranteed both women's equality and the application of international treaties. It simultaneously ratified the CEDAW Convention, without limiting reservations. Eva Herzer, *Equal Rights for Women in Afghanistan*, 89 *WOMEN LAW. J.* 11 (2004). The 2004 constitution went beyond previous constitutions in the specificity of its rights guarantees for women, stipulating that "citizens of Afghanistan, man and woman, have equal rights and duties before the law." THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF AFGHANISTAN, Jan. 26, 2004, art. 22. This was important both for women and for members of minorities such as the Hazara. See also discussion in Allen & Felbab-Brown, *supra* note 118.

Razia Sayad argued in November 2021 that the Taliban have not yet decided on the legal system of Afghanistan, and they consider that "our laws are Islam." Zoom Interview with Razia Sayad, Former Commissioner and Children's Rts. Expert, Afghan Independent Human Rights Commission (Nov. 3, 2021). She further noted that the suggestion regarding the abrogation of the 2004 constitution in favor of the Zahir Shah constitution came from the Taliban's Acting Minister of Justice and was later denied by the group. "We cannot analyze the legal system of Afghanistan based on the talk of a few Mullahs." *Id.*

clxi. The 2009 Elimination of Violence against Women law banned certain forms of gender-based violence against women. This led to an increase in reporting even if such practices continued to be widespread. Law on Elimination of Violence against Women, Official Gazette No. 989 of 2009 (Afg.). On its impact, see HUM. RTS. WATCH, "I THOUGHT OUR LIFE MIGHT GET BETTER": IMPLEMENTING AFGHANISTAN'S ELIMINATION OF VIOLENCE AGAINST WOMEN LAW (2021), <https://www.hrw.org/report/2021/08/05/i-thought-our-life-might-get-better/implementing-afghanistans-elimination> [<https://perma.cc/ZN8H-XBQ8>].

clxii. Press Release, U.N. Off. of the High Comm'r for Hum. Rts., Afghanistan: UN experts deplore women sports ban, call for vigorous response (Sept. 14, 2021), <https://www.ohchr.org/en/press-releases/2021/09/afghanistan-un-experts-deplore-women-sports-ban-call-vigorous-response> [<https://perma.cc/S2K9-XQSB>]; Rashida Yosufazi, Anna Henderson, Adrian Arciuli & Abdullah Alikhil, *Afghanistan's Cricket Board Signals Taliban Backtrack on Women's Cricket Ban*, SBS NEWS (Sept. 10, 2021), <https://www.sbs.com.au/news/afghanistan-s-cricket-board-signals-taliban-backtrack-on-women-s-cricket-ban/5b917714-3d1a-4dd0-80c2-2326f9447c4c> [<https://perma.cc/36XW-F8TU>]. The Taliban are likely to rule by proclamation and to thrive on confusion by announcing negative policy changes domestically, then later expressing uncertainty about their application when faced with international criticism, as they have done both with the possibility of repealing laws and the sports ban.

clxiii. Islamic Emirate of Afghanistan, Commission for Cultural Affairs, Office of the Spokesperson, Special Decree Issued by Amir al-Momenin on Women's Rights, Decree No. 395 (Dec. 3, 2021).

clxiv. *Oral Update on the Situation of Human Rights in Afghanistan*, *supra* note 18.

clxv. Philip Smucker, *The Taliban's Forced Marriages*, THE DIPLOMAT (Oct. 12, 2021), <https://thediplomat.com/2021/10/the-talibans-forced-marriages/> [<https://perma.cc/Z8HU-BFT8>].

clxvi. Frud Bezhan, *supra* note 22.

clxvii. Welsey Dockery, *Afghan Women's Rights Activist: The Taliban 'Will Come and Kill Me'*, DEUTSCHE WELLE (Aug. 14, 2021), <https://www.dw.com/en/afghan-womens-rights-activist-the-taliban-will-come-and-kill-me/a-58861827> [<https://perma.cc/S837-LFNB>].

clxviii. This was demonstrated during interviews carried out with those who had to stand outside in the cold in military camps to have telephone reception or to speak while in one room with their families in refugee accommodation.

clxix. Zoom Interview with Kubra Balooch, *supra* note 144.

clxx. Heather Barr, *List of Taliban Policies Violating Women's Rights in Afghanistan*, HUM. RTS. WATCH (Sept. 29, 2021), <https://www.hrw.org/news/2021/09/29/list-taliban-policies-violating-womens-rights-afghanistan> [<https://perma.cc/Y9B6-XEZS>]; David Zucchini & Yaqoob Akbary, *Threatened and Beaten, Afghan Women Defy Taliban With Protests*, N.Y. TIMES (Jan. 26, 2022), <https://www.nytimes.com/2022/01/24/world/asia/afghan-women-taliban-protests.html> (on file with the *Columbia Human Rights Law Review*).

clxxi. Zoom Interview with Massouda Kohistani, Senior Research Assistant, Gender, Afghanistan Research and Evaluation Unit (Oct. 29, 2021).

clxxii. Hakim, *supra* note 25; *780,000 Afghan Children Without Shelter: Save The Children*, TOLONEWS (Dec. 3, 2021), <https://tolonews.com/afghanistan-175733> [<https://perma.cc/K9CU-N87H>]. Afghan WHRDs pointed out in interviews that despite the scale of the humanitarian crisis, the Taliban have spent more time regulating women's behavior than responding to the crisis.

clxxiii. *Afghanistan Facing Famine*, HUMAN RIGHTS WATCH (Nov. 11, 2021), <https://www.hrw.org/news/2021/11/11/afghanistan-facing-famine> [<https://perma.cc/3AQC-533Q>]. Many WHRDs interviewed for this Article expressed concern about the humanitarian situation, and called for an urgent and effective international response which would protect the population without empowering the Taliban.

clxxiv. Zoom Interview with Kubra Balooch, *supra* note 144.

clxxv. Yalda Hakim (@BBCYaldaHakim), TWITTER (Dec. 2, 2021, 2:46 PM), <https://twitter.com/BBCYaldaHakim/status/1466539333486219272?s=20> [<https://perma.cc/D7YM-ERZW>]. [Throughout 2022, the Taliban have continued to place additional restrictions on women, including limits on their ability to leave their homes and a rigid dress code.](#) Press Release, U.N. Off. of the High Comm'r for Hum. Rts., [facing critical human rights challenges, Afghanistan at a crossroads](#), says UN expert in Kabul (May 26, 2022), <https://www.ohchr.org/en/>

press-releases/2022/05/facing-critical-human-rights-challenges-afghanistan-crossroads-says-un [https://perma.cc/6VYJ-YBGD].

clxxvi. Ray Furlong, *Afghanistan Faces 'Worst Violations of Women's Rights on Earth,' Says German Foreign Minister*, RADIO FREE EUROPE (July 26, 2022), <https://gandhara.rferl.org/a/germany-afghanistan-taliban-human-rights-women/31960655.html> [https://perma.cc/356J-MZ99].

clxxvii. AMNESTY INT'L, *supra* note 7.

clxxviii. Telephone Interview with Yalda Royan, Country Technical Team Lead, Voice Amplified (Oct. 21, 2021).

clxxix. *Id.*

clxxx. Zoom Interview with Zarqa Yaftali, Executive Director, Women and Children Legal Research Foundation (Oct. 16, 2021).

clxxxi. Telephone Interview with Palwasha Hassan, Director, Afghan Women's Education Center (Oct. 9, 2021).

clxxxii. *Id.*

clxxxiii. "Gender apartheid happens when . . . discrimination happens systematically. The Taliban does not have a system. This is only a terrorist group which, based on their Islamic opinion and perspective, denies women and girls education. We cannot call it gender apartheid because right now the laws of Afghanistan guarantee women's rights." Zoom Interview with Razia Sayad, *supra* note 146.

clxxxiv. Zoom Interview with Kubra Balooch, *supra* note 144.

clxxxv. Zoom Interview with Zarqa Yaftali, *supra* note 166.

clxxxvi. Telephone Interview with Mary Akrami, former director, Afghan Women Skills Development Center, (Oct. 17, 2021). The Afghan Women Skills Development Center ran the first women's shelter in Kabul. Shirin Jaafari, *Women's Shelters in Afghanistan Face an Uncertain Future*, THE WORLD (Aug. 30, 2021, 5:45 PM), <https://theworld.org/stories/2021-08-30/women-s-shelters-afghanistan-face-uncertain-future>. [https://perma.cc/2ARY-RVKB].

clxxxvii. Signal Interview with Zahra Sepehr, *supra* note 137.

clxxxviii. Telephone Interview with Yalda Royan, *supra* note 164.

clxxxix. Zoom Interview with Zarqa Yaftali, *supra* note 166.

cx. *Id.*

cxci. Telephone Interview with Yalda Royan, *supra* note 164.

cxcii. Zoom Interview with Mobina Sai, Northern Regional Director, Nai Supporting Open Media in Afghanistan (Oct. 16, 2021).

cxci. Zoom Interview with Zarqa Yaftali, *supra* note 166.

cxci. *Id.*

cxci. Telephone Interview with Mary Akrami, *supra* note 172.

cxvi. Butcher, *supra* note 60, at 429. For example, the Security Council passed Resolution 181 in 1963, with abstentions from the United Kingdom and France. Sir Patrick Dean, then-permanent representative of the United Kingdom to the United Nations, stated that his country could not participate in a full embargo due to its military cooperation with South Africa. U.N. Security Council Official Records, 18th Sess., 1056th mtg. at 8 33, U.N. Doc. S/PV.1056 (Apr. 7, 1963).

cxvii. Butcher, *supra* note 60, at 429, citing Namibia Opinion, *supra* note 42, para. 126.

cxviii. Tess Bridgeman & Ryan Goodman, "Expert Backgrounder: Recognition and the Taliban," *Just Security* (Aug. 17, 2021), <https://www.justsecurity.org/77794/expert-backgrounder-recognition-and-the-taliban/> [https://perma.cc/C4KN-BNL7]; Michelle Nichols, "Exclusive: Taliban Names Afghan U.N. Envoy, Asks to Speak to World Leaders," *Reuters* (Sept. 21, 2021), <https://www.reuters.com/world/asia-pacific/exclusive-taliban-names-afghan-un-envoy-asks-speak-world-leaders-2021-09-21/> [https://perma.cc/DBW2-XV3V]; Catherine Amirfar et al., "Representation of Member States at the United Nations: Recent Challenges," *26 American Society of International Legal Insights* (Aug. 10, 2022), <https://www.asil.org/insights/volume/26/issue/6> [https://perma.cc/XZ56-8A57].

cxix. Press Release, Organisation of Islamic Cooperation, OIC Concerned Over Afghan Interim Government's Ban on Girls' Schools (Mar. 24, 2022), https://www.oic-oci.org/topic/?t_id=33958&t_ref=22699&lan=en [https://perma.cc/93FX-SFB9].

cc. Peter Hilpold, "The Afghan War and the Responsibility to Rebuild," *European Journal of International Law: Talk!* (Aug. 25, 2021), <https://www.ejiltalk.org/the-afghan-war-and-the-responsibility-to-rebuild/> [https://perma.cc/AUC5-TD9F].

cci. Steven Lee Meyers, "China Offers the Taliban a Warm Welcome While Urging Peace Talks," *The New York Times* (Sept. 21, 2021), <https://www.nytimes.com/2021/07/28/world/asia/china-taliban-afghanistan.html> (on file with the *Columbia Human Rights Law Review*).

ccii. Asim Kashgarian, "With US Away, China Gets Friendly With Afghanistan's Taliban," *Voice Of America News* (Feb. 1, 2022), <https://www.voanews.com/a/with-us-away-china-gets-friendly-with-afghanistan-s-taliban/6422284.html> [https://perma.cc/55YE-JNXX].

cciii. See discussion of complicity in Steven Ratner & Jason Abrams, *Accountability for Human Rights Atrocities in International Law: Beyond the Nuremberg Legacy* 129–32 (2d ed. 2001). According to the commentary on the Rome Statute, the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia has stated that "[T]he most marginal act of assistance' can constitute complicity." William Schabas, *The International Criminal Court: A commentary on the Rome Statute* 577 (2d ed. 2016).

- cciv. Samuel Ramani, "Russia and the Taliban: Prospective Partners?" *Rusi* (Sept. 14, 2021), <https://rusi.org/explore-our-research/publications/commentary/russia-and-taliban-prospective-partners> [<https://perma.cc/AUJ9-K6E3>].
- ccv. See Heather Barr (@heatherbarr1), *supra* note 10 for photos of these meetings.
- ccvi. "'Grotesque And Wrong': Foreign Diplomats Called Out for Meeting Taliban Without Women," *Gandhara* (Nov. 19, 2021), <https://gandhara.rferl.org/a/foreign-diplomats-taliban-meetings-no-women/31570045.html> [<https://perma.cc/Z28A-8H7K>].
- ccvii. Shaharзад Akbar (@ShaharзадAkbar), *Twitter* (Oct. 6, 2021, 11:33 PM), https://twitter.com/ShaharзадAkbar/status/144600066385517700?s=20&t=-8esQC6_AxAzHUHhp1r12w [<https://perma.cc/5N2W-USAR>].
- ccviii. Zoom Interview with Zubaida Akbar, *supra* note 131.
- ccix. Acts of complicity "exist along a continuum" in international law, and may include mere facilitation. Beth van Schaack & Ronald C. Slye, *International Criminal Law and Its Enforcement* 713 (2007).
- ccx. Somayeh Malekian, "Afghanistan's Women's Rights Activists Tested Taliban in Oslo, But Expect Few Advancements," *ABC News* (Feb. 3, 2022, 3:31 AM), <https://abcnews.go.com/International/afghanistans-womens-rights-activists-tested-taliban-oslo-expect/story?id=82584874> [<https://perma.cc/3C3Y-U3EL>]; "PHOTO: Taliban Delegation On its Way to Oslo in Chartered Private Plane," *Norway Today* (Jan. 22, 2022), <https://norwaytoday.info/news/photo-taliban-delegation-on-its-way-to-oslo-in-chartered-private-plane/> [<https://perma.cc/9R8P-UXRE>].
- ccxi. Zoom Interview with Anonymous II (Feb. 11, 2022).
- ccxii. See *supra* text accompanying notes 60-64.
- ccxiii. Steven L. B. Jensen, *The Making of International Human Rights: The 1960s, Decolonization, and the Reconstruction of Global Values* 99 (2016).
- ccxiv. With regard to the International Covenant on Civil and Political Rights (ICCPR), the Human Rights Committee has made clear that "once the people are accorded the protection of the rights under the Covenant, such protection devolves with territory and continues to belong to them, notwithstanding change in government of the State Party." U.N. Human Rights Commission, "General Comment No. 26: Continuity of Obligations," 4, U.N. Documents CCPR/C/21/Rev.1/Add.8/Rev.1 (Dec. 8, 1997). Neither the CEDAW Convention nor the ICESCR contains any provision about withdrawal, which means that, under Article 56 of the Vienna Convention on the Law of Treaties, withdrawal is only possible if "(a) it is established that the parties intended to admit the possibility of denunciation or withdrawal; or (b) a right of denunciation or withdrawal may be implied by the nature of the treaty." Vienna Convention on the Law of Treaties, *supra* note 81, art. 56(1). The Human Rights Committee's analysis should be applied to also prohibit withdrawal from these foundational treaties.
- ccxv. See, e.g., Report of the Working Group on discrimination against women and girls, *Women's and Girls' Sexual and Reproductive Health Rights in Crisis*, 63, U.N. Document A/HRC/47/38 (Apr. 28, 2021). The CEDAW Convention's own preamble "Emphasiz[es] that the eradication of apartheid, all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination . . . is essential to the full enjoyment of the rights of men and women." CEDAW, *supra* note 3, pmbl.
- ccxvi. Press Release, U.N. Geneva, Committee on the Elimination of Discrimination against Women Opens Eighty-First Session: *Meeting Summary* (Feb. 7, 2022), <https://www.ungeneva.org/en/news-media/meeting-summary/2022/02/le-comite-pour-lelimination-de-la-discrimination-legard-des> [<https://perma.cc/QSM6-P2H6>].
- ccxvii. Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Combined Initial and Second Periodic Reports of Afghanistan*, U.N. Document CEDAW/C/AFG/CO/1-2 (July 30, 2013). One of the processes used to promote implementation of human rights treaty norms is the review of state party reports by the expert U.N. treaty monitoring bodies, such as the CEDAW Committee.
- ccxviii. Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Third Periodic Report of Afghanistan*, U.N. Document CEDAW/C/AFG/CO/3 (Mar. 10, 2020).
- ccxix. Ms. Gladys Acosta Vargas (Chairperson of the CEDAW), "Closing Remarks at the Eightieth Session of the Committee on the Elimination of Discrimination against Women" 1 (Feb. 9, 2022) (on file with the *Columbia Human Rights Law Review*). The Committee established a task force "to consider the impact of the evolving political, economic and social situation in Afghanistan on the rights of women and girls in the country . . ." *Id.*
- ccxx. For mandate homepage, see Special Rapporteur on Afghanistan, U.N. Office of the High Commissioner for Human Rights, <https://www.ohchr.org/en/special-procedures/sr-afghanistan> [<https://perma.cc/X4Q6-8T32>]. In his public statement on his first mission to Afghanistan, the Special Rapporteur decried "the advancing erasure of women from public life . . . and a pattern of absolute gender segregation . . . aimed at making women invisible in society . . ." Press Release, Special Rapporteur on the situation of human rights in Afghanistan, Afghanistan at a Crossroads, says UN expert in Kabul (May 26, 2022), <https://www.ohchr.org/en/press-releases/2022/05/facing-critical-human-rights-challenges-afghanistan-crossroads-says-un> [<https://perma.cc/GZ22-TZLC>]. Notably, there has never been a female U.N. Special Rapporteur on Afghanistan. Stephanie Farrior, "U.N. Special Rapporteurship on Afghanistan," *IntLawGrrls* (Apr. 3, 2022), <https://ilg2.org/2022/04/03/un-special-rapporteurship-on-afghanistan/> [<https://perma.cc/WN6P-QPCT>]. For a list of individuals who have held the mandate, see Special Rapporteur on the situation of human rights in Afghanistan, U.N. Office of the High Commissioner for Human Rights, <https://www.ohchr.org/>

en/special-procedures-human-rights-council/special-rapporteur-situation-human-rights-afghanistan [https://perma.cc/KQB8-5UFP].

ccxxi. *Civilian Slaughter*, *supra* note 23; U.N. Human Rights Experts, *Statement on Women's Full Participation in Afghanistan's Public and Political Life as a Guarantee of Their Fundamental Human Rights (Sept. 15, 2021)*, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27466&LangID=E> [https://perma.cc/E9HT-WW67] [hereinafter *Statement on Women's Full Participation*]. The one truly worrying note in the approach of Special Procedures mandate holders has been the unprecedented initiative of the Special Rapporteur on violence against women to use her interpretation of sharia law as a standard to hold the Taliban accountable, rather than using only international human rights norms as the benchmark for determining compliance (which is the *modus operandi* of the U.N. system with regard to all countries, including those that are Muslim-majority). Letter from the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on minority issues, and the Special Rapporteur on violence against women, its causes and consequences to Mr. Khan Muttaqi (Nov. 4, 2021), <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26763> [https://perma.cc/5SJJ-DAXY]. While some WHRDs carry out important work around the world within a religious paradigm, this approach by a Special Rapporteur is a radical departure from the practice of the U.N. human rights system with potentially grave implications, and one that has been criticized to this author by some Afghan and international WHRDs.

ccxxii. Note the International Law Commission's assertion, in its commentary on the Draft Articles, on the Responsibility of States, when emphasizing the cumulative nature of certain breaches that "apartheid is different in kind from individual acts of racial discrimination, and genocide is different in kind from individual acts even of ethnically or racially motivated killing." *Draft Articles on Responsibility of States*, *supra* note 14, at 63.

ccxxiii. Löwstedt, *supra* note 90, at 89.

ccxxiv. See Human Rights Watch, "Caste Discrimination: A Global Concern," 6, Human Rights Watch 13/3(G) (Aug. 29, 2001); Sandy Rao, *India's Hidden Apartheid: The Caste System and Its Continuation to the Caribbean and America*, cited in *idem*.

ccxxv. "Final Declaration of the Global Conference Against Racism and Caste-based Discrimination: Occupation and Descent-based Discrimination Against Dalits," Human Rights Watch, 2, 44, 45 (Mar. 1–4, 2001), https://www.hrw.org/legacy/campaigns/caste/final_declaration.htm [https://perma.cc/HWQ5-JQST].

ccxxvi. Löwstedt, *supra* note 90, at 82.

ccxxvii. Rashid, *supra* note 109, at 17–30. See *infra* text at notes 295–305.

ccxxviii. See, e.g., Hurst Hannum, "Book Review: Michael Ignatieff, *Human Rights and Idolatry*," 97 *American Journal of International Law* 1006, 1007 (2003) (stating that Ignatieff "suggests that too great an emphasis on human rights broadly defined may lead to instability and, perversely, to greater violations of human rights in the short and medium term").

ccxxix. For example, from 1946 until the 2021 election of Hilary Charlesworth, only 3.7% of ICJ judges were female. Fionnuala Ní Aoláin, "Gendering the International Court of Justice," *Just Security* (Nov. 2, 2021), <https://www.justsecurity.org/78839/gendering-the-international-court-of-justice> [https://perma.cc/RK7B-SSGX].

ccxxx. Alexandra Bakker, "Gender-Based Persecution at the International Criminal Court: Questions and Implications," *Public International Law & Policy Group*. (Nov. 25, 2020), <https://www.publicinternationallawandpolicygroup.org/lawyering-justice-blog/2020/11/25/gender-based-persecution-at-the-international-criminal-court-questions-and-implications> [https://perma.cc/4QSB-KSFM]; see also Lisa Davis, "Dusting Off the Law Books: Recognizing Gender Persecution in Conflicts and Atrocities," 20 *Northwest Journal of Human Rights*. 2–3 (2021).

ccxxxi. Prosecutor v. Al Hassan, ICC-01/12-01/18, *Rectificatif à la Décision relative à la confirmation de charges portées contre Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, 667, 697 (Nov. 13, 2019). For updates, see Mali, *International Criminal Court*, <https://www.icc-cpi.int/mali> [https://perma.cc/ME87-LAUP] (last visited Nov. 19, 2022). Two other country situations are being considered for prosecutions of this charge: Ukraine and Nigeria. "Accountability for Sexual and Gender-Based Crimes at the ICC: An Analysis of Prosecutor Bensouda's Legacy," 9 *Federation Internationale pour les Droites Humains (FIDH)* (2021), <https://www.fidh.org/IMG/pdf/cpiproc772ang-1.pdf> [https://perma.cc/9MZK-ES8Y].

ccxxxii. These restrictions included segregation from men, being unable to leave home, and some prohibitions on employment, infractions of which were punishable by severe sanctions. Such acts were also accompanied by sexual violence. *Id.* at 13.

ccxxxiii. *Id.* at 16, 22. For updates, see "Afghanistan," *International Criminal Court*, <https://www.icc-cpi.int/afghanistan> [https://perma.cc/NK5H-TUYZ] (last visited Nov. 19, 2022). According to the Court's website, "On 31 October 2022, Pre-Trial Chamber II of the International Criminal Court (ICC) authorised the Prosecution to resume investigation into the Afghanistan Situation. The judges considered that Afghanistan is not presently carrying out genuine investigations in a manner that would justify a deferral of the Court's investigations . . ." *Id.*

ccxxxiv. FIDH, *supra* note 217, at 16.

ccxxxv. "Statement of the Prosecutor of the International Criminal Court, Karim A. A. Khan QC, Following the Application for an Expedited Order Under Article 18(2) Seeking Authorisation to Resume Investigations in the Situation in

Afghanistan,” *International Criminal Court* (Sept. 27, 2021), <https://www.icc-cpi.int/Pages/item.aspx?name=2021-09-27-otp-statement-afghanistan> [<https://perma.cc/P8YB-4SJU>].

ccxxvi. Rome Statute, *supra* note 79, art. 7(2)(g).

ccxxvii. *Id.* art. 7(2)(a).

ccxxviii. *Id.* art. 7(2)(h).

ccxxix. See International Labour Organization, Discrimination (Employment and Occupation) Convention, June 25, 1958, ILO No. 111, 362 U.N.T.S. 31.

ccxl. *Id.* art. 2 (“Each Member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.”).

ccxli. See Jensen, *supra* note 199, at 97–99. In 1967, the U.N.’s Economic and Social Council adopted resolution 1235 authorizing the then-Commission on Human Rights to “make a thorough study of situations which reveal a consistent pattern of violations of human rights, as exemplified by the policy of apartheid as practised in the Republic of South Africa” Economic and Social Council Res. 1235 (XLII), ¶ 3 (June 6, 1967). Notably, the title of the resolution uses the phrase “in all countries”: “Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, *in all countries*, with particular reference to colonial and other dependent countries and territories” (emphasis added). This created a basis for action on a wide range of country situations. Three years later, ECOSOC built on this precedent to give the Commission and its subsidiary body the capacity to take up cases that demonstrated “a consistent pattern of gross and reliably attested violations of human rights” Economic and Social Council Resolution. 1503 (XLVIII), ¶ 1 (May 27, 1970).

ccxlii. Lori Fisler Damrosch & Sean D. Murphy, *International Law: Cases and Materials* 911 (Lori Fisler Damrosch & Sean D. Murphy eds., 7th ed. 2019).

ccxliii. William Blum, “South Africa: Voting for Apartheid at the UN,” *New Africa Magazine*, 32 (2003). Some saw certain Western countries as “active allies of the White supremacist regimes.” Ayi Kwei Armah, “South Africa: Liberating Mandela’s Memory,” *New Africa Magazine*. (Dec. 18, 2013), <https://newafricanmagazine.com/4106/> [<https://perma.cc/4VJU-PL96>]. Those countries’ positions evolved, for example, with the advent of the Carter administration in the United States and its emphasis on human rights. Welsh & Spence, *supra* note 50 at 43.

ccxliv. UNIFEM, Integration of Women’s Human Rights into the Work of the Special Rapporteurs (1996); Report of the Expert Group Meeting on the Development of Guidelines for the Integration of Gender Perspectives into United Nations Human Rights Activities and Programmes, U.N. Document E/CN.4/1996/105 (July 3–7, 1995). Feminist international lawyers drew from developments in other areas of human rights, such as disappearances by non-state actors. See Case of Velásquez Rodríguez v. Honduras, Merits, Judgement, Inter-American Court of Human Rights (series C) No. 4 (July 29, 1988).

ccxlv. In 2021, the 193 U.N. member states had a total of twelve women ambassadors at the U.N. in New York and eight at the U.N. in Geneva, which represented an improvement over past numbers. Anwar Gardash, Diplomatic Institute, *Women in Diplomacy Index 2021* 4 (2021), <https://www.agda.ac.ae/docs/default-source/Publications/agda-women-in-diplomacy-mar-2021.pdf?sfvrsn=4> [<https://perma.cc/A4Z6-G6C8>].

ccxlv. General Assembly Resolution 32/105, *Policies of Apartheid of the Government of South Africa*, B 5.

ccxlvii. Signal Interview with Zahra Sepehr, *supra* note 137.

ccxlviii. The European Court of Human Rights used this terminology to describe torture. Ireland v. United Kingdom, 25 European Court of Human Rights (ser. A) at 59 (1978).

ccxlix. Damrosch, *supra* note 92, at 19–20.

ccli. Note the lawsuits brought against various foreign banks for allegedly financing apartheid in South Africa.

Apartheid Victims Sue Big

Business, BBC (June 17, 2002), <http://news.bbc.co.uk/2/hi/africa/2049809.stm> [<https://perma.cc/D37V-LMK4>]. Today, the gender apartheid approach could be used, for example, to pressure Twitter to heed the widespread #BanTaliban campaign and remove the group’s leaders—perpetrators of apartheid—from its platform. See “Afghans Launch Ban Taliban Campaign on Twitter, Receive Massive Support,” *Business Standard* (July 23, 2022), https://www.business-standard.com/article/international/afghans-launch-ban-taliban-campaign-on-twitter-receive-massive-support-122072300145_1.html [<https://perma.cc/E8E8-GGN3>]. This possibility is subject to developments in the unpredictable situation at Twitter as this Article goes to press in December 2022.

ccli. To give one example of this, human rights treaties had traditionally focused on the obligations of states and limiting state conduct. However, the International Convention on the Elimination of All Forms of Racial Discrimination clearly encompassed the conduct of private entities. See related discussion in Stephanie Farrior, *Challenges to Dominant Conceptions of International Law Presented by the International Law on Racial Discrimination* (forthcoming) (on file with author).

cclii. Andrews, *supra* note 31, at 159.

ccliii. See *infra* text accompanying note 341.

ccliv. Omar Shakir, Human Rights Watch, “A Threshold Crossed” 5–6 (2021).

cclv. See Andrews, *supra* note 31, at 156–57.

cclvi. See *supra* text accompanying notes 95–101.

cclvii. Thomas Buergenthal, “The Evolving International Human Rights System,” 100 *American Journal of International Law* 783, 784 (2006) (referencing U.N. Charter arts. 1, 3, 55, b).

cclviii. UDHR, *supra* note 3, Preamble. This language was included due to advocacy by Minerva Bernardino of the Dominican Republic. Rebecca Adami, *Women and the Universal Declaration of Human Rights* 8 (2020).

cclix. This category includes the UDHR, the two covenants which codify most of the rights it contains (the ICCPR and the ICESCR), and the optional protocols thereto, which are primarily implementation mechanisms.

cclx. ICCPR, *supra* note 3, arts. 2 and 3; ICESCR, *supra* note 31, arts. 2 and 3. The implications of the interwoven nature of sex equality are far-reaching. As the Human Rights Committee, which oversees the implementation of the ICCPR, noted in 2000, “Article 3 implies that all human beings should enjoy the rights provided for in the Covenant, on an equal basis and in their totality.” U.N. Human Rights Commission, General Comment No. 28: Article 3 (The Equality of Rights Between Men and Women), 2, U.N. Doc. CCPR/C/21Rev.1/Add.10 (Mar. 29, 2000) [hereinafter General Comment No. 28]. Hence, sex equality is deeply embedded within the corpus of general human rights law and not just in standards specific to women’s rights.

cclxi. ICCPR, *supra* note 3, art. 2.

cclxii. *Id.*, art. 3.

cclxiii. See discussion of Article 3 in Manfred Nowak, *U.N. Covenant on Civil and Political Rights: CCPR Commentary* 76–82 (2005).

cclxiv. ICESCR, *supra* note 31, arts. 2 and 3.

cclxv. See *supra* text accompanying note 200.

cclxvi. CEDAW, *supra* note 3. The states parties are fully bound to implement the convention in good faith. Vienna Convention on the Law of Treaties, *supra* note 81, art. 26. There are only 6 states which have taken no action in relation to this convention due to a range of factors, including ideological opposition and lack of technical capacity: Holy See, Iran, Niue, Somalia, Sudan and Tonga.

The text of the CEDAW Convention was prepared by a working group of the Third Committee of the General Assembly from 1977 to 1979. *Short History of CEDAW Convention*, U.N. Women, <https://www.un.org/womenwatch/daw/cedaw/history.htm> [<https://perma.cc/S79R-8P2P>]. It was not a Western-driven process. In fact, many Asian countries took a particularly active role. THE UN CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN: A COMMENTARY (Marsha A. Freeman et al. eds., 2012). The final text of the Convention was adopted by the General Assembly in 1979 by a vote of 130 to none, with 10 abstentions, in Resolution 34/180. *Id.* Only two years later, on September 3, 1981, 30 days after the twentieth member state had ratified it, the Convention entered into force—faster than any previous human rights convention had. *Id.*

cclxvii. *Ratification of 18 International Human Rights Treaties*, U.N. Office of the High Commissioner for Human Rights, <https://indicators.ohchr.org/> [<https://perma.cc/2FJC-BD3N>]. Only the Convention on the Rights of the Child has more ratifications, with 196 states parties. See also Rebecca Cook, “The Reservations to the Convention on the Elimination of All Forms of Discrimination Against Women,” 30 *Virginia Journal of International Law* 643–44 (1989–1990) (noting that “[t]he rate and extent of ratification are tempered . . . by recognition of the acute problem of substantive reservations”).

cclxviii. CEDAW, *supra* note 3, art. 2.

cclxix. The July 2019 Report of the Special Rapporteur in the field of cultural rights, written by the author and presented to the U.N. General Assembly, states the following:

The full participation of women in public spaces allows them . . . to visibly manifest equal citizenship. . . . Taken together, articles 3, 7 and 13 of the [CEDAW Convention] guarantee equality in public and cultural life, underscoring that women have equal rights to access and enjoy public spaces De facto and de jure norms which exclude women altogether from certain public spaces . . . are incompatible with international human rights norms and must be abrogated.

Karima Bennoune (Special Rapporteur in the field of cultural rights), *Report of the Special Rapporteur in the field of cultural rights*, 38–40, U.N. Doc. A/74/255 (July 30, 2019). No member of the U.N. General Assembly questioned these assertions when this report was presented.

cclxx. CEDAW, *supra* note 3, art. 13.

cclxxi. *Id.* art. 5(a). In the early years of the Convention’s existence, Theodor Meron critiqued this provision, arguing that it could lead to violations of privacy and freedom of religion or belief. Theodor Meron, *Human Rights Law-Making in the United Nations: A Critique of Instruments and Process* 66–67 (1986). This is a passé view in an era when the international community has accepted as a formal legal matter that religious beliefs and culture are not justifications for discrimination and rights violations. However, it remains relevant to consider how to mitigate possible human rights costs of the transformative agenda of human rights law. Donna J. Sullivan, “Gender Equality and Religious Freedom: Toward a Framework for Conflict Resolution,” 24 *New York University Journal of International Law & Politics* 795, 805 (1992) [hereinafter Sullivan, *Gender Equality and Religious Freedom*].

cclxxii. An example is the reference made to this by the All India Women’s Democratic Association when intervening in the recent case of Indian Young Lawyers Association v. The State of Kerala, (2018) 11 SCC 1, 11, 38 (India).

cclxxiii. See *infra* notes 313–318 and accompanying text.

cclxxiv. The UN Convention on the Elimination of All Forms of Discrimination Against Women: A Commentary, *supra* note 252, at 31.

cclxxv. Nazila Ghanea, *Women and Religious Freedom: Synergies and Opportunities*, 1–2 (2017).

cclxxvi. General Comment No. 16, *supra* note 85, ¶ 1.

cclxxvii. UDHR, *supra* note 3, art. 2; ICCPR, *supra* note 3, arts. 2(1), 4(1), 26; ICESCR, *supra* note 31, art. 2(2).

- cclxxviii. ICERD, *supra* note 91, pmb1.
- cclxxix. *Id.* art. 3.
- cclxxx. Sean D. Murphy, *Principles of International Law* 411, 413 (3rd ed. 2018).
- cclxxxi. Ved P. Nanda & Dawn M. McKnight, “The International Convention on the Elimination of All Forms of Racial Discrimination,” in 2 *Women and International Human Rights Law* 285 (Kelly D. Askin & Dorean M. Koenig eds., 2000); Laura A. Donner, “Gender Bias in Drafting International Discrimination Conventions: The 1979 Convention Compared with the 1965 Racial Convention,” 24 *California Western International Law Journal*, 241, 248 (1994).
- cclxxxii. Compare ICERD, *supra* note 91, art. 20(2) with CEDAW, *supra* note 3, art. 28(2).
- cclxxxiii. Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, adopted Oct. 6, 1999, 2131 U.N.T.S. 83 (entered into force Dec. 22, 2000).
- cclxxxiv. Mayer, *supra* note 103, at 245–248.
- cclxxxv. *Id.* at 245.
- cclxxxvi. See *infra* notes 348–351 and accompanying text.
- cclxxxvii. Charlesworth & Chinkin, *supra* note 31.
- cclxxxviii. International Law Commission, Report on the Work of Its Seventy-First Session, U.N. Document A/74/10 (2019) at 146–147. This approach has been strongly criticized by Patricia Sellers, the former Special Advisor on gender to the former Prosecutor of the International Criminal Court, who cited the distinct approach of the ICC in the *Ntaganda* case. Sellers stressed the way in which the International Law Commission’s approach perpetuated unacceptable gendered bias in international law. Patricia Sellers, *Jus Cogens: Redux*, 116 *American Journal of International Law, Unbound* 281 (2022) (“Neither normative nor positivist legal conceptualizations of *jus cogens* have grappled substantively with gender or other values that are prioritized by females. . . . By default, a masculine approach to peremptory norms persists. . . . Apparently, freedom from gender discrimination would disrupt and dislodge the gender hierarchies still embedded in *jus cogens*.”)
- cclxxxix. International Law Commission, *supra* note 274, note 760.
- ccxc. Juridical Condition and Rights of Undocumented Migrants, Advisory Opinion OC-18/03, *Inter-American Court of Human Rights* (ser. A) No. 18, 101 (Sept. 17, 2003). The opinion states:
 Nowadays, no legal act that is in conflict with this fundamental principle is acceptable, and discriminatory treatment of any person, owing to gender, race, color, language, religion or belief, political or other opinion, national, ethnic or social origin, nationality, age, economic situation, property, civil status, birth or any other status is unacceptable. This principle (equality and non-discrimination) forms part of general international law. At the existing stage of the development of international law, the fundamental principle of equality and non-discrimination has entered the realm of *jus cogens*.
- Id.* Some countries have also endorsed this approach. See, e.g., *Gender Equality Unit of the National Supreme Court of Mexico, Judicial Decision-Making With a Gender Perspective: A Protocol* 26 (2013), https://www.unodc.org/res/ji/import/guide/judicial_decision_making_gender_protocol/judicial_decision_making_gender_protocol.pdf [<https://perma.cc/N2XV-EL2H>] (affirming that the right to equality is a peremptory norm); see also Patricia Palacios Zuloaga, “The Path to Gender Justice in the Inter-American Court of Human Rights,” 17 *Texas Journal of Women & Law* 227 (2008).
- ccxci. Mary H. Hansel, ““Magic” or Smoke and Mirrors? The Gendered Illusion of *Jus Cogens*,” in *Peremptory Norms of General International Law (Jus Cogens): Disquisitions and Disputations* 471, 490 (Dire Tladi ed., 2021).
- ccxcii. Alice Edwards, “Violence Against Women as Sex Discrimination: Judging the Jurisprudence of the United Nations Human Rights Treaty Bodies,” 18 *Texas Journal of Women & Law*, 1, 14 (2008). This argument is not to minimize the grave harm and persistence of race discrimination, or to suggest that it is a solved problem in international human rights law, nor to suggest that race and sex discrimination amount to the same experience. On the perils (and promise) of analogizing other marginalizing factors to race as a human rights strategy, see Russell Robinson, “Marriage Equality and Postracialism,” 61 *UCLA Law Review*, 1010 (2014).
- ccxciii. U.N. Charter arts. 55 and 56.
- ccxciv. For example, in the Treaty on the Functioning of the European Union (TFEU), article 19 now reads that the European Commission may take action to combat “discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.” Consolidated Version of the Treaty on the Functioning of the European Union art. 19, December 13, 2007, 2016 O.J. (C 202) 47.
- ccxcv. Elisabeth Holzleithner, “Mainstreaming Equality: Dis/Entangling Grounds of Discrimination,” 14 *Transnational Law and Contemporary Problems*. 927, 943 (2005).
- ccxcvi. Kimberle Crenshaw, “Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color,” 43 *Stanford Law Review* 1241 (1991). Similar perspectives have now been adopted by U.N. human rights bodies. See, e.g., U.N. Committee on the Elimination of Racial Discrimination, General Recommendation No. 25: Gender-Related Dimensions of Racial Discrimination, ¶13, U.N. Doc. A/55/18, annex V (Mar. 20, 2000) (“Recognizing that some forms of racial discrimination have a unique and specific impact on women, the Committee will endeavour in its work to take into account gender factors or issues which may be interlinked with racial discrimination.”).
- ccxcvii. Penelope E. Andrews, *From Gender Apartheid to Non-Sexism: The Pursuit of Women’s Rights in South Africa*, 26 *North Carolina Journal of International Law & Community Regulations* 693, 698 (2001); see also Shireen Hassim, “Decolonising Equality: The Radical Roots of the Gender Equality Clause in the South African Constitution,” 34 *South*

African Journal on Human Rights. 342 (2018) (detailing efforts of diverse South African WHRDs to raise questions of both race and sex-based exclusions during the apartheid era).

ccxcviii. Andrews, *supra* note 31, at 100-102.

ccxcix. Telephone Interview with Yalda Royan, *supra* note 164 (“Hazara women have to suffer two times over.”).

ccc. This term was reportedly first used in Angela Y. Davis & Elizabeth Martínez, “Coalition Building Among People of Color,” *UC Santa Cruz Centre of Cultural Studies* (May 12, 1993), <https://culturalstudies.ucsc.edu/inscriptions/volume-7/angela-y-davis-elizabeth-martinez/> [<https://perma.cc/D9H5-7LPN>] (“[T]he general idea is no competition of hierarchies should prevail.”).

ccci. U.N. Comm. on Rights of Persons with Disabilities, General Comment No. 3 on women and girls with disabilities, 10, 13 and 16, U.N. Document CRPD/C/GC/3 (Sept. 2, 2016).

cccii. The most recent example of this is the December 2021 call by then-Pakistani Prime Minister Imran Khan, a supporter of the Taliban, for the international community to be sensitive to the “cultural traditions” of Afghanistan, including in the debate about girls’ education, at a summit of the Organization of Islamic Cooperation. Afghanistan International (@AFIntlBrk), *Twitter* (Dec. 19, 2021, 4:16 AM), <https://twitter.com/AFIntlBrk/status/1472541273139597314?s=20> [<https://perma.cc/RU5U-FYBQ>]. These comments have been widely derided by Afghan human rights defenders on social media.

See, e.g., Nilofar Sakhi (@NilofarSakhi), *Twitter* (Dec. 19, 2021, 7:22 AM),

<https://twitter.com/NilofarSakhi/status/1472588035225235458?s=20> [<https://perma.cc/VZ5A-FZR4>].

ccciiii. António Guterres (@antonioguterres), *Twitter* (Feb. 27, 2020, 3:43 PM),

<https://twitter.com/antonioguterres/status/1233175874138230789?s=20&t=iOZJd1FAXBq0pPRgrlO8Nw>

[<https://perma.cc/CAY3-ECSC>]; “Make This the Century of Women’s Equality: UN Chief,” *UN News* (Feb. 27, 2020), <https://news.un.org/en/story/2020/02/1058271> [<https://perma.cc/YJU3-LTWH>].

ccciiii. Welsh & Spence, *supra* note 50, at 190.

ccciv. Welsh & Spence, *supra* note 50, at 190.

cccv. This part draws from Karima Bennouna (Special Rapporteur in the field of cultural rights), “Rep. on Universality, Cultural Diversity and Cultural Rights,” *U.N. Document A/73/227* (July 25, 2018) [hereinafter Bennouna Report].

cccvi. Afkhami, *supra* note 98, at 18.

cccvii. Dr. Sima Samar (Former Minister for Women’s Affairs in Afghanistan), Comments at “Women’s Human Rights and Security in Afghanistan: A Dialogue on Next Steps,” *Women’s Learning Partnership* (Dec. 8, 2021), <https://learningpartnership.org/resource/womens-human-rights-afghanistan-dialogue-next-steps> [<https://perma.cc/8XNU-6QX3>].

cccviii. Yalda Hakim (@BBCYaldaHakim), *Twitter* (Dec. 5, 2021, 11:46 AM),

<https://twitter.com/BBCYaldaHakim/status/1467581188533633034?s=20> [<https://perma.cc/EGW7-VBDU>]; see also Taliban “education minister” Abdul Baqi Haqqani’s assertion that co-education violates not only Islam, but also “is in conflict with national values and is against the customs and traditions of Afghans.” “Afghanistan: Taliban Announce New Rules for Women and Girls’ Education,” *Die Welte* (Sept. 12, 2021), <https://www.dw.com/en/afghanistan-taliban-announce-new-rules-for-women-and-girls-education/a-59157395> [<https://perma.cc/R2X7-BKR9>].

cccix. Omid Sobhani, “A Motorcycle Campaign Reopens 100 Schools in Afghanistan’s War Prone Regions,” *Transcontinental Times* (May 2, 2021), <https://www.transcontinentaltimes.com/a-motorcycle-campaign-reopens-100-schools-in-afghanistans-war-prone-regions/> [<https://perma.cc/AL7Q-95L9>].

cccix. For example, the Former Deputy Minister of Women’s Affairs shared the story of an Afghan Pashtun man in rural Paktia Province who walked his daughters to school three hours every day. Hosna Jalil (@hosnajalil), *Twitter* (Dec. 19, 2021, 11:11 AM), <https://twitter.com/hosnajalil/status/1472645904440172544?s=20> [<https://perma.cc/C2HY-M6XB>]. In the same vein, note the work of Matiullah Wesa, a man campaigning for girls’ education in southern Afghanistan. Matiullah Wesa (@matiullahwesa), *Twitter* (Dec. 19, 2021, 2:24 PM),

<https://twitter.com/matiullahwesa/status/1472694338270466051?s=20> [<https://perma.cc/ZPT4-2WRR>].

cccxi. Telephone Interview with Palwasha Hassan, *supra* note 167.

cccxi. *Id.*

cccxi. *Id.*

cccxi. Telephone Interview with Humaira Rasuli, Human Rights Lawyer, Visiting Scholar, William & Mary Law School (Oct. 16, 2021).

cccxi. Zoom Interview with Zarqa Yaftali, *supra* note 166.

cccxi. Telephone Interview with Mary Akrami, *supra* note 172.

cccxi. Telephone Interview with Yalda Royan, *supra* note 164.

cccxi. Zoom Interview with Zarqa Yaftali, *supra* note 166.

cccxi. Zoom Interview with Razia Sayad, *supra* note 146.

cccxi. *Id.*

cccxi. Cultural relativism may also suggest that transcultural rights cannot exist. Jack Donnelly, “Cultural Relativism and Universal Human Rights,” 6 *Human Rights Quarterly* 400 (1984).

cccxi. There is also a significant human rights challenge posed by discrimination against Muslims, which complicates the task of addressing gender apartheid internationally when its most infamous (but not only) perpetrators today are Muslim fundamentalists. Using a multidirectional framework critical along multiple axes at once, and sensitive to both sex discrimination and discrimination on the basis of religion, is essential. Many of those advocating the use of the

gender apartheid framework are feminist anti-racists, often from marginalized groups. See Pragna Patel, “The Story of a Feminist Victory Against Fundamentalists and Gender Segregation in UK Schools,” *Open Democracy* (Jan. 11, 2018), <https://www.opendemocracy.net/en/5050/feminist-victory-fundamentalists-gender-segregation-uk-schools/> [<https://perma.cc/PP7N-93RY>]. The problem of anti-Muslim hatred in the West, which cultural sensitivity is sometimes deployed to address, cannot be solved by diluting the human rights of half the Muslim population: women. Unfortunately, the move of some critical theorists has amounted to precisely that. See the critique of this approach in Fatiha Agag-Boudjahlat, *Le grand Détournement: Féminisme, Tolérance, Racisme, Culture* (2017).

cccxxiii. Courtney Howland has argued that the International Court of Justice implicitly refused to entertain religious justifications for racial apartheid—which were in circulation in apartheid South Africa—in the Namibia advisory opinion. She writes:

Afrikaners believed that they were the chosen people with a divine mission to rule over all others, and from this followed their belief in white supremacy and a policy of racial segregation. . . . [T]he ICJ found as a matter of law that the government’s intent and motives concerning its systematic discrimination were irrelevant. . . . [N]o motive or intent, whatever the source, could justify such systematic discrimination . . . under the Charter.

See Courtney Howland, “The Challenge of Religious Fundamentalism to the Liberty and Equality Rights of Women: An Analysis Under the United Nations Charter,” 35 *Column Journal Transnational Law* 271, 347–348 (1997) (citations omitted).

cccxxiv. Farida Shaheed (Special Rapporteur in the field of cultural rights), “Report on cultural rights,” 3, U.N. Document A/67/287 (Aug. 10, 2012). Such misuses of cultural claims often involve “politicised appropriations of imagined cultures and traditions [and] homogenised religious norms”. Mariz Tadros and Ayesha Khan, “Challenging Binaries to Promote Women’s Equality,” 3 *Feminist Dissent* 1, 4 (2018).

cccxxv. U.N. Human Rights Council Advisory Committee, “Study of the Human Rights Council Advisory Committee on promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind,” 40, U.N. Document A/HRC/22/71 (Dec. 6, 2012).

cccxxvi. On the attempts by some governments to use “traditional values” to override universal human rights in the United Nations, see Maggie Murphy, “‘Traditional values’ vs Human Rights at the UN,” *Open Democracy* (Feb. 18, 2013), <https://www.opendemocracy.net/en/5050/traditional-values-vs-human-rights-at-un/> [<https://perma.cc/84CW-CPMG>].

cccxxvii. UDHR, *supra* note 3, art. 27; ICESCR, *supra* note 31, art. 15.

cccxxviii. See Bennoune Report, *supra* note 291, at 6.

cccxxix. Bhe v. Khayelitsha Magistrate 2004 (1) SA 580 (CC) ¶ 50-51 (S. Afr.).

cccxxx. Shaheed, *supra* note 310, at ¶ 5.

cccxxxi. *Id.*

cccxxxii. Tuqa Khalid, “Afghan women rebel against Taliban strict dress code: ‘Do not touch my clothes,’” *Al Arabiya* (Sept. 14, 2021), <https://english.alarabiya.net/News/world/2021/09/14/Afghan-women-rebel-against-Taliban-strict-dress-code-Do-not-touch-my-clothes-> [<https://perma.cc/9CQS-QQEE>].

cccxxxiii. Bennoune, *supra* note 108, at 197.

cccxxxiv. For blistering critiques of the treatment of women by fundamentalists, authored by feminist scholars and advocates of Muslim heritage (including some practicing Muslims), see Djemila Benhabib, *Les Soldats d’Allah à l’assaut de l’Occident* (2011); Amel Grami, *L’Apostasie Dans La Pensée Islamique Moderne* (2018); Elham Manea, *Women and Shari’a Law* (2016); and Wassyla Tamzali, *Une Femme en Colère* (2009).

cccxxxv. See Agag-Boudjahlat, *supra* note 308, at 86 (translated by the author).

cccxxxvi. See Karima Bennoune, “In Defense of Human Rights,” 52 *Vanderbilt Journal of Transnational Law* 1209, 1231 (2019) (arguing that “[h]uman rights advocates and experts must redouble their efforts to defend the universality of human rights”).

cccxxxvii. Shaheed, *supra* note 310, ¶ 56 (“It is essential to recall that international human rights norms provide a clear negative answer to the question of whether restrictions on the cultural rights of women . . . may be legitimately imposed under international law to preserve cultural diversity.”); see also *id.*, ¶¶ 60, 75; Karima Bennoune (Special Rapporteur in the field of cultural rights), *Rep. of the Special Rapporteur in the field of cultural rights*, ¶ 27, U.N. Doc. A/HRC/31/59 (Feb. 3, 2016) (“[Cultural rights] are not tantamount to cultural relativism. They are not an excuse for violations of other . . . rights. . . . They are firmly embedded in the universal human rights framework.”).

cccxxxviii. General Comment No. 28, *supra* note 246, ¶ 21.

cccxxxix. Heiner Bielefeldt (Special Rapporteur on freedom of religion or belief), “Elimination of All Forms of Religious Intolerance,” 30, U.N. Document A/68/290 (Aug. 7, 2013).

cccxl. Ahmed Shaheed (Special Rapporteur on freedom of religion or belief), “Gender-based violence and discrimination in the name of religion or belief,” 68, U.N. Document A/HRC/43/48 (Aug. 24, 2020) (“The Special Rapporteur . . . stresses that the universal right to equality is unqualified in a way that the obligation to promote the right to manifest religion or belief, which can be subject to limitation where necessary to protect the rights of others, is not.”).

cccxli. See Sullivan, *Gender Equality and Religious Freedom*, *supra* note 257, at 805; Anat Scolnicov, *The Right to Religious Freedom in International Law: Between Group Rights and Individual Rights* 126–29 (2011).

cccxlii. ICCPR, *supra* note 3, art. 18(3).

cccxlili. Sullivan, *Gender Equality and Religious Freedom*, *supra* note 257, at 810.

- cccxliv. Rikki Holtmaat, *Article 5, in The UN Convention on the Elimination of All Forms of Discrimination Against Women: A Commentary*, *supra* note 252, at 141, 159 (citing Commission on the Elimination of Discrimination against Women, Concluding Comments of the Comm.: Morocco, 64, *U.N. Document A/52/38/Rev.1* (Jan. 13–31, 1997)).
- cccxlv. Commission On the Elimination of Violence against Women, “General Recommendation No. 23,” 10, *U.N. Document A/52/38/Rev.1* (1997).
- cccxlvi. General Assembly Resolution 48/104, “Declaration on the Elimination of Violence against Women,” *U.N. Document A/RES/48/104*, Art. 4 (Dec. 20, 1993).
- cccxlvii. Marieme Hélie-Lucas, “What Is Your Tribe?: Women’s Struggles and the Construction of Muslimness,” in *Women Living Under Muslim Laws, Dossier 23/24* (Harsh Kapoor, ed., 2001).
- cccxlviii. Ann Elizabeth Mayer, “Religious Reservations to the Convention on the Elimination of All Forms of Discrimination Against Women: What Do They Really Mean?” in *Religious Fundamentalisms and the Human Rights of Women*, *supra* note 98, at 105.
- cccclix. *Id.*
- ccccli. U.N. Secretary-General, “*In-Depth Study on All Forms of Violence Against Women*,” 81, *U.N. Document A/61/122/Add.1* (July 6, 2006).
- ccccli. *See, e.g.*, General Assembly Resolution 61/106, “Convention on the Rights of Persons with Disabilities,” *U.N. Document 61/106*, Preamble. 2-3 (Dec. 13, 2006) (“*Reaffirming* the universality . . . of all human rights and fundamental freedoms . . .”).
- cccclii. Economic and Social Council Resolution 2006/61/Add.5, 9, 20, 76, 80 (Feb. 15, 2006); Human Rights Council Resolution 4/34, 47 (Jan. 17, 2007); Human Rights Council Resolution 18/35/Add.5, 67 (July 11, 2011); U.N. Office of the High Commissioner for Human Rights, *Fact Sheet No. 23, Harmful Traditional Practices Affecting the Health of Women and Children* (Aug. 1995).
- ccccliii. Chetan Bhatt, Presentation on the Challenges to Universalism at the Expert Consultation held by the Special Rapporteur in the field of cultural rights (Feb. 28, 2018).
- ccccliv. General Assembly Resolution 70/1, *Transforming Our World: The 2030 Agenda for Sustainable Development* (Sept. 25, 2015). An ambitious global development framework, the Sustainable Development Goals (SDGs) are today the dominant referent in U.N. debates on development. *OHCHR and the 2030 Agenda for Sustainable Development*, U.N. Office of the High Commissioner for Human Rights, <https://www.ohchr.org/en/issues/SDGS/pages/the2030agenda.aspx> [<https://perma.cc/9BDL-UPVG>]. They are championed by many states that might oppose a move to adapt the law on racial apartheid to challenge gender apartheid. Though not formally binding, the SDGs represent a kind of “soft law plus” which can “help to lay the groundwork for codification and help to constitute new customary international law.” Markus Kaltenborn & Heike Kuhn, “Acceptance, Not Enforcement,” *Development and Cooperation* (Apr. 6, 2017), <https://www.dandc.eu/en/article/2030-agenda-largely-reflects-and-reinforces-existing-international-law> [<https://perma.cc/PK5M-3P2S>]. The former German Minister for Economic Cooperation and Development called them “a contract for the future of the world.” *Id.*
- cccclv. G.A. Res. 70/1, *supra* note 340, 8.
- cccclvi. *Id.* at 18.
- cccclvii. Methodologically, it is instructive to consider the analysis of Rosalyn Higgins (the first woman to serve on the U.N. Human Rights Committee and on the International Court of Justice) on the boundaries of legal argument:
- The making of legal choices will not even contribute to justice if it purports totally to ignore political and social contexts. To remain ‘legal’ is not to ignore everything that is not ‘rules’. To remain ‘legal’ is to ensure that decisions are made by those authorized to do so, with important guiding reliance on past decisions, and with available choices being made on the basis of community interests and for the promotion of common values.
- Rosalyn Higgins, *Problems & Process: International Law and How We Use It*, 9 (1994).
- cccclviii. There have been serious omissions due to non-gender inclusive interpretations of human rights law in the past. For example, it took until 1992 for the U.N. Special Rapporteur on torture to make explicit that rape of women in the custody of state officials could constitute a form of torture. Peter Kooijmans (Special Rapporteur on torture), “Report on Torture and Ill Treatment,” 35, *U.N. Document E/CN.4.1992/SR.21* (Feb. 21, 1992). Even some in human rights organizations previously saw this as different than other forms of custodial abuse. See discussion in Karima Bennoune, “Productive Tensions: Women’s Rights NGOs, the “Mainstream” Human Rights Movement, and International Law-Making,” in *Non-State Actors, Soft Law and Protective Regimes: From the Margins* 125, 136-40 (Cecilia M. Bailliet ed., 2012). Moreover, it took protracted campaigning for certain forms of gendered violence by non-state actors, to which the state fails to respond with due diligence, to be recognized as forms of torture or ill-treatment. MACKINNON, *supra* note 31, at 28-40; Radhika Coomaraswamy (Special Rapporteur on violence against women, its causes and consequences), “*Report of the Special Rapporteur on violence against women, its causes and consequences*,” 42–50, *U.N. Document E/CN.4/1996/53* (Feb. 5, 1996). Unfortunately, this progress is now imperiled. See Felice Gaer, “Engendering Torture: The Experience of the Committee Against Torture,” 27 *Australian Journal Human Rights*. 554 (2021).
- cccclix. This is an archetypal example of Bunch’s first and second strategies for advancing women’s human rights in the international human rights system: fitting women’s human rights concerns within established frameworks of civil and political rights, and of economic and social rights respectively. Taken together, these efforts could lead to her fourth and most comprehensive approach, which is feminist transformation of international law. *See* Bunch, *supra* note 34. The same is true of many of the possible strategies described in this part of the Article, except as noted.

ccclx. The U.N. Working Group on discrimination against women and girls is a body comprising prominent international lawyers from many regions of the world. “Working Group on discrimination against women and girls,” *U.N. Office of the High Commissioner for Human Rights*, <https://www.ohchr.org/en/special-procedures/wg-women-and-girls> [<https://perma.cc/MR64-FTB8>].

ccclxi. Press Release, U.N. Off. of the High Commissioner for Human Rights, “Afghanistan: UN experts deplore women sports ban, call for vigorous response” (Sept. 14, 2021), <https://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=27454&LangID=E> [<https://perma.cc/54WB-H5FM>]; see also Andrew Wu, “‘Gender apartheid’: UN Experts Call for International Ban on Afghan Sporting Teams,” *The Sydney Morning Herald* (Sept. 15, 2021), <https://www.smh.com.au/sport/cricket/gender-apartheid-un-experts-call-for-international-ban-on-afghan-sporting-teams-20210915-p58ryr.html> [<https://perma.cc/8DDU-FYDS>].

ccclxii. Comm. on the Elimination of Discrimination against Women, General Recommendation No. 19: Violence against women, U.N. Doc. A/47/38 (1992).

ccclxiii. See the reconfirmation and expansion of General Recommendation No. 19’s advances in Comm. on the Elimination of Discrimination against Women, General Recommendation No. 35: on gender-based violence against women, updating general recommendation No. 19, ¶ 2, U.N. Doc. CEDAW/C/GC/35 (July 14, 2017). (“For more than 25 years, in their practice, States parties have endorsed the Committee’s interpretation. The *opinio juris* and State practice suggest that the prohibition of gender-based violence against women has evolved into a principle of customary international law. General recommendation No. 19 has been a key catalyst for that process.”). This was a highly successful example of deploying Bunch’s first and second enumerated techniques, involving the interpretation of women’s human rights into existing human rights legal frameworks, leading to a markedly successful feminist transformation of international law. Bunch, *supra* note 34.

ccclxiv. The Prosecutor v. Jean-Paul Akayesu, Case No. ICTR-96-4-T, Trial Judgement (Sept. 2, 1998). See discussion in MacKinnon, *supra* note 31, at 209.

ccclxv. This would be analogous to the Committee’s work to bring the impact of climate change on women within the ambit of the Convention. Commission on the Elimination of Discrimination against Women, General recommendation No. 37: “Gender-related dimensions of disaster risk reduction in the context of climate change,” U.N. Document CEDAW/C/GC/37 (Mar. 13, 2018).

ccclxvi. Charli Carpenter, “The Taliban’s Gender Apartheid Is a Case for the International Criminal Court,” *World Politics Review* (Oct. 29, 2021), <https://www.worldpoliticsreview.com/articles/30079/for-women-afghanistan-s-gender-apartheid-is-a-case-for-the-icc> [<https://perma.cc/2NQC-ZWFQ>]. It is worth recalling that the ICC’s own statute requires that the Court’s “application and interpretation of law . . . must . . . be without any adverse distinction founded on grounds such as gender [as defined by the statute] . . .” Rome Statute, *supra* note 79, art. 21(3). See discussion of opportunities and challenges related to the ICC’s engagement on Afghanistan *supra* text accompanying notes 216-224.

ccclxvii. Carpenter, *supra* note 352.

ccclxviii. There is a precedent for expanding categories of protection this way in the 1967 Protocol to the Refugee Convention, which “removed the Refugee Convention’s temporal and geographical restrictions so that the Convention applied universally.” *The 1967 Protocol Factsheet*, Andrew and Renata Kaldor Centre for International Refugee Law, 1 (Sept. 2018), https://www.kaldorcentre.unsw.edu.au/sites/kaldorcentre.unsw.edu.au/files/Factsheet_1967%20Protocol_Sep2018.pdf [<https://perma.cc/2XZH-G7W9>].

ccclxix. In contradistinction to other strategies explored here, such a bold step would bring into play Bunch’s third method of mainstreaming women’s human rights (and one of the most difficult): the creation of new legal mechanisms for combatting sex discrimination. Bunch, *supra* note 34.

ccclxx. Zoom Interview with Zubaida Akbar, *supra* note 131.

ccclxxi. Mandela, *supra* note 41, at 139.

ccclxxii. U.N. experts expressed concerns about retrogression in Statement on **Women’s Full Participation**, *supra* note 207.

ccclxxiii. On complicity, see Ratner, *supra* note 9.

ccclxxiv. Babatunde Osotimehin, *Confronting Gender Apartheid in 21st Century*, *Reuters* (Mar. 1, 2011), <https://www.reuters.com/article/uk-women-unfpa/confronting-gender-apartheid-in-21st-century-idUSLNE72007J20110301> [<https://perma.cc/K43M-FHGZ>].

ccclxxv. Mahfoud Bennoune, *Les Algériennes: Victimes d’Une Société Néopatriarcale: Une Etude Socio-Anthropologique* (1999).

ccclxxvi. Guterres, *supra* note 289.

ccclxxvii. *Talibans Everywhere*, *MPV Newsletter* (Sept. 2021), <https://app.robly.com/archive?id=4e88c42718cc87e76d0f847219977b22&v=true> [<https://perma.cc/G5GH-4WWY>].

ccclxxviii. Heather Barr (@heatherbarr1), *Twitter* (Dec. 19, 2021, 10:19 PM), <https://twitter.com/heatherbarr1/status/1472813860017029122?s=20> [<https://perma.cc/5NHY-L8DG>].

ccclxxix. Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion, 1949 I.C.J. 174, at 182 (1949); Jean-Marc Sorel & Valérie Boré Eveno, *Article 31 of the Convention of 1969, in 1 The Vienna Convention on the Law of Treaties: A Commentary* 804, 804–37 (Olivier Corten and Pierre Klein eds., 2011).

ccclxxx. The Council is the highest political body in the field of human rights in the U.N. system and is comprised of states. *Welcome to the Human Rights Council*, U.N. Human Rights Council, <https://www.ohchr.org/en/hr-bodies/hrc/about-council> [<https://perma.cc/LZ87-UXL9>].

ccclxxxi. Human Rights Council Res. 48/1, U.N. Document A/HRC/48/L.24/Rev.1, ¶ 3 (Oct. 13, 2021). In July 2022, the Council adopted a further resolution, without a vote, which repeats this language and underscores that the “ongoing oppression of women and girls in Afghanistan is grave, institutionalized, widespread and systematic.” Human Rights Council Resolution 50/14, “Situation of Human Rights of Women and Girls in Afghanistan,” U.N. Document A/HRC/50/L.62, Preamble (July 8, 2022). The resolution “Calls upon the Taliban in particular to reverse the policies and practices that currently restrict the human rights and fundamental freedoms of Afghan women and girls.” ¶ 4.

ccclxxxii. Bennoune, *supra* note 108, at 264.

ccclxxxiii. In Fall 2022, increasing reference was made to the concept of gender apartheid in discussions of Afghanistan at the United Nations and beyond, including by Afghan WHRDs, other civil society representatives, UN experts and even government representatives. See Heather Barr (@heatherbarr1), *Twitter* (Oct. 21, 2022, 8:21 AM), <https://twitter.com/heatherbarr1/status/1583433288915783681?s=20&t=AnIip8DkMnrPxyI21g03MA> [<https://perma.cc/PPY5-VUVS>] (detailing use of the term by WHRDs, the Special Rapporteur on the situation of human rights in Afghanistan, and representatives of Canada and the United Arab Emirates).

ccclxxxiv. Mandela, *supra* note 41, at 139.



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Women's Struggles in Afghanistan: Past and Present

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Abstract

This article begins with the current situation of women in Afghanistan and their resistance against the complete takeover of power by the Taliban in August 2021. It reviews the ways in which prior Afghan governments, various imperialist occupations, wars between religious fundamentalist forces, sexism and prejudices within the Afghan Left and progressives have made it impossible to develop a coherent and persistent women's movement.

I am Kobra Sultani, a physician from Afghanistan, a country which the international community has declared to be the worst place for women.

This pronouncement was made at the time when the US-backed government of Ashraf Ghani (r. 2014–2021) ruled the country. Today however, Afghanistan is speedily regressing even further. Women have been pushed out of all social activities and have been denied their most basic individual and social rights.

Under the new Taliban regime, girls are not allowed an education beyond the fifth grade. Women are not allowed to work in offices, in non-Governmental Organizations, or engage in sports or in cultural work. They are not even allowed to leave the house without a male relative as chaperon. Even beauty salons were closed. The compulsory hijab or *burqa* has been forced upon us. Even the color of the burqa is chosen by the Taliban. These oppressive rules are imposed on women at a time when the country remains in a state of shock and is suffering from unimaginable poverty. Families who have sold their property and basic

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means of living for the sake of a meal, now resort to selling their children, mostly little girls. Women who have lost their husbands to the Covid-19 pandemic, the war, or terrorist attacks by Islamic Jihadist groups, and have become the sole breadwinners for their families are facing multiple draconian problems. After selling their meager livelihood, they do hard and onerous labor, peddle on the streets, beg and work as domestic laborers for more well-to-do people. In addition to the stress of hard labor, when they leave the house, these destitute women often have to endure the lashes and rifle butts of the Taliban on their bodies, because the Taliban ideologically oppose women's work and social activity outside the home.

But women in Afghanistan continue to resist the repressive rule of the Taliban. They have gone out into the streets in protest, giving voice to the destitute of Afghanistan, and screaming that they want freedom. These protests are spontaneous and arise from the depth of poverty and deprivation that these women have faced. Protesters continue to endure violence and beatings from the Taliban, who blame women for the international community's refusal to give them diplomatic recognition. The Taliban dismiss women's protests and label them illegal. They have responded with intense violence against not only the protesters but also the reporters who have tried to cover the women's protests for various global media.

The Taliban have shot female protesters. In the state of Badakhshan and the cities of Bamiyan and Mazar-e Sharif, they have abducted female protesters. Afghan women's protests have also spread beyond the borders of Afghanistan into Pakistan and Iran. Refugee and migrant women have had gatherings and protests to tell the freedom-seeking people of the world about the realities that Afghan women are forced to endure in the twenty-first century, as a result of the shameful manner in which the US government, first under Donald Trump and later under Biden, made a deal with the Taliban and left the country in their hands.

The Taliban have also been organizing targeted assassinations to silence women. On November 5, 2022, four women campaigning on behalf of women's rights and civil society groups in Mazar-e Sharif were executed by firing squad. Among them was Forouzan Safi, a professor at Balkh University. The identities of the other three female victims have not been revealed. Their families have not spoken out for fear of the Taliban's reprisals, and have gone into hiding.

The One-Hundred-Year History of Women's Struggles in Afghanistan

Afghanistan's history has always been about political changes and upheavals. This country has rarely experienced any harmony or peace in the last century. This might be one of the reasons for the scant attention given to the creation and development of a women's movement. Thus, today women's protests do not appear as a coherent, organized, and persistent movement with specific demands and a program, making them less effective.

The history of women's struggles in Afghanistan is a hundred years old. These struggles began during the period of the reforms by King Amanullah (r. 1919–1929), which included compulsory elementary education for girls, banning of polygamy, banning of marriage for girls under the age of sixteen, and ending the use of female household slaves. During this period, and for the first time, women university students were sent to Europe and Turkey to continue their education.

In 1920, the first Association for the Defense of Women was established to promote women's rights within the family. The first elementary adult education classes for married women, including pregnant ones, was established. On March 17, 1921, the first issue of the women's journal *Ershād-e Nesvān* (ارشاد نسوان) *Enlightenment for Women* was published. This journal was dedicated to issues of women's rights and continued publication until 1925.

This was the beginning of women's participation in the social and political life of Afghanistan. Most of these reforms addressed the concerns of upper- and middle-class women and remained limited to the elite circle around Amanullah and his wife's court. Nevertheless, they created a basis for women's participation in the social and political life of Afghanistan. The reforms did not last long and faced many barriers, because there was great opposition to such measures among the ordinary people, and because reactionary religious and tribal leaders, with their highly conservative ideas, ruled society.

When Queen Soraya traveled abroad without her burqa in 1927–28, the Mojadadis, an influential clerical family in Kabul, used photos of the queen without her burqa to accuse the king of blasphemy. Their edict was signed by 400 clerics throughout Afghanistan. The fall of Amanullah was followed by a period of regression in which all reforms, especially those concerning women, were ended.

During the rule of King Nader (r. 1929–1933) and the beginning of the rule of King Zaher (r. 1933–1973), there were no attempts to address women's issues. During the premiership of Mohammad Daoud Khan (r. 1973–1978), the state enacted some reforms related to women. In what is known as the 'Decade of Democracy,' beginning in 1964, gender reforms were once again implemented. These included the expansion of girls' elementary schools, women's employment, enrollment of women in universities, especially in the fields of medicine, though not in engineering or law.

In the 1960s and early 1970s, Afghan women became involved in leftist politics, both pro-USSR and Maoist parties. The leftist women's movement was very active in Kabul University. At the same time, some women were elected members of parliament. Once again, gender reforms were limited to the urban areas and were not extended to the masses of women in rural areas.

At the time of the pro-USSR government of the People's Democratic Party (1978–1992), some progressive reforms were carried out. These included land and other economic reforms, a literacy campaign, as well as reforms specifically aimed at women and children, such as a ban on bride price and forced marriage, as well as raising the minimum age of marriage for girls. However, the glaring errors of the leadership, their use of force in implementing these policies, the dictatorship they imposed, and the severe restrictions they placed on intellectuals and dissidents led to deep popular dissatisfaction with this party and the rise and growth of political Islam.

Afghan leftists had a rather moderate view of women's rights, and it would be more accurate to characterize them as bourgeois nationalist. They did not address the subject of compulsory hijab, and justified many sharia laws concerning marriage, divorce, custody of children, inheritance, as well as customary views regarding parental involvement in selection of partners in marriage.

In 1978, Hafezullah Amin, a communist politician, launched the Saur Revolution and co-founded the Democratic Republic of Afghanistan, of which he was the secretary general. In December 1979 the Soviet Union invaded Afghanistan. Amin was assassinated and replaced by Babrak Kamal (r. 1979–1986). The Russian imperialist military occupation lasted from 1979 to 1989, a period when Afghanistan became the scene of a bloody civil war and a proxy war between the United States and Pakistan on the one hand, and the Soviet Union on the other hand.

After the overthrow of Mohammad Najibullah Ahmadzai (r. 1986–1992), the last leader of the People's Democratic Party, the Islamic fundamentalist Mujahedeen took over the reins of power. Soon, there was greater retrogression in women's rights: The wearing of the hijab became compulsory, limitations were placed on women's attendance in universities and their employment in government offices. Laws were further Islamized, and clerics regained control over people's lives.

In September 1996 the Taliban took over. They established the Islamic Emirate of Afghanistan and ruled the country from 1996 to 2001, soon becoming known for their infamous and diabolical treatment of women. The goal of the Islamic Emirate of the Taliban was to deprive women of their political, social, economic, cultural, and most basic human rights. Thus, we saw all women prohibited from attending schools or working outside the home. Women were flogged and stoned in public for minor violations of segregation rules. They were prevented from leaving their homes without a male relative, denied health care and educational services, and soon vanished from the cultural scene as well.

When the Taliban were overthrown in September 2001 by the United States and its allies, the U.S.-installed governments of Hamid Karzai (r. 2002-2014)) and Ashraf Ghani, despite their claims to establishing a new democratic order, saw the continuation of many patriarchal norms in the name of religion, culture, tradition, and law. While a new generation of young women benefited from the twenty-year US occupation and were able to go to school, receive college degrees, and find employment, violence against women continued.

New laws attempted to ameliorate women's lives. Stoning became illegal and the new constitution included clauses in support of women's rights. However, in parts of the country some women were still stoned by edicts from clerics. Extremist Islamist groups flogged women and continued to promote forced marriage and child marriage. Various NGOs created shelters for battered women, but domestic violence continued unabated. In addition, now that women were working outside the house, especially the ones who were the sole breadwinners for their family, began to face sexual harassment and sexual violence at work. Indeed, many had to comply with the sexual demands of their bosses to keep their jobs. In effect, the rulers of Afghanistan were ideologically in agreement with the religious extremists and misogynist clerics.

Women who belonged to elite families of the new state were placed in key posts, as tokens of equality, and on the basis of previously arranged ethnic quotas. Many were obedient and determined to protect their rank and status. At the same time, they were used as a means of giving the government an image of progress, suggesting that the new government was promoting women's emancipation and countering protests by human rights groups which pointed to institutional violence and prejudices against women.

In my view, many of these elite women damaged and derailed the actual struggles of women. They participated in peace negotiations with the Taliban, and when the Americans left the country, they also left Afghanistan at the first opportunity, on US planes, and abandoned over fifteen million women and girls. Today Afghan women are at the mercy of the criminal Taliban, a group that sees women as an evil force and limits women's role to staying at home, procreating, and providing services for their husband.

Why Was the United States Willing to Make a Deal with the Taliban?

Many analysts have asked why the U.S. was willing to make a deal with the Taliban. Some have pointed to the corruption and weak administration of the Afghan national government and the reluctance of Afghan soldiers and their lack of morale. We can say that the victory of the Taliban was to some extent due to the lack of resistance from hungry soldiers. However, to a larger extent, it was due to the continuing undercover negotiations between the U.S. and the Taliban which began during the presidency of Barak Obama in 2013 and was accelerated during the presidency of Donald Trump (2016-2020). The Trump administration took these negotiations to a new level in 2020 when Trump met directly with Taliban representatives and promised the release of 5000 imprisoned Taliban fighters and a May 2021 US

withdrawal date. The Biden administration continued Trump's policy and simply delayed the withdrawal date by a few months (Tankel 2018; Whitlock 2021).

The US peace negotiations with the Taliban completely ignored the Afghan people. . President Joseph Biden continued this policy of extricating the United States from its entanglement in Afghanistan as soon as possible. Biden said that the United States had not occupied Afghanistan for a nation-building mission. He emphasized that the United States had spent over two trillion dollars on a totally corrupt and inefficient government in Kabul and that he believed it was up to the Afghan people themselves, and not the US soldiers, to fight for Afghan rights, including the rights of women and children. After twenty years of US imperialist occupation, which led to the bombing that killed over 65,000 innocent civilians, US peace with the Taliban became the continuation of death and misery for the people of Afghanistan.

The US withdrawal agreement with the Taliban involved two issues: first, that the Taliban would not harm US interests and US soldiers. Second, that the Taliban would not allow al-Qaeda and other terrorist groups to use Afghan territory to threaten the United States. Pressured by the Taliban during President Trump's presidency, the United States also forced the Afghan government of Ghani to release the 5000 imprisoned Taliban fighters, which Trump had agreed to.

What shocked the Afghan people more than anything else was that their fate had been decided in these secret negotiations. Once people realized what had happened, they were overtaken by fear. Hence, we saw tragic scenes such as people hanging from airplanes as they took off from the Kabul airport runway, and falling to their deaths. Many who abhor living under the Taliban have since fled the country, while others have gone into hiding.

Despite all these hardships, Afghan women have refused to stand by and witness the destruction of their future. They have appeared on the streets and have faced repression. Afghan women need to gain a deep understanding of the roots of their oppression. With a better understanding of the tyrannical religious rule of the Taliban, they can stand up for their rights. These rights include education, work, choice of clothing, travel, and choice in marriage, among others. With these rights, women will not be forcibly bought and sold like commodities in a business transaction. These rights are the prerequisite for women's achievement of greater social freedoms.

However, attaining these rights in a theocratic Afghanistan will not be possible. Afghan working-class and middle-class women are unemployed. They cannot afford to pay for their basic needs, including food and clothing for themselves and their children. Sharia law is used as a tool to force women to stay home and be obedient to their husbands. Women are coming into the streets with slogans such as, 'Bread, Work, Freedom.' It is the responsibility of leftists and socialist forces to bring this movement out of its divided and confused state and help it gain coherence.

What Do Afghan Women Demand from Freedom-Seeking Women around the World?

Support for Afghan women has to be for the purpose of changing their lives. However, the help they are receiving today from the international community cannot even reduce the violence and repression they are enduring under the Taliban. Rule by political Islam and the coming to power of Jihadist groups, are serious threats to all progressive forces, especially to women and children around the world. Since misogyny is deeply ingrained in many religions, confronting religion should be a priority for women. In my view, focusing on modernizing or reforming

religious laws will be a waste of our energy. All women around the world suffer from gender oppression. Women who live in war zones are crushed by the armies of ignorance, religion, semi-feudal regimes, as well as capitalism. Women's emancipation is only possible if we get to the roots of the oppression of women and if there is complete separation of religion and the state, so that the sharia is not the basis of the law of the land.

Female workers who try to stand up and express their identity as human beings in a class society cannot separate their participation in the class struggle from the struggle against compulsory hijab or, for that matter, from the right to choose whom they marry, the right to custody of their children, and the right to the most basic personal freedoms. These struggles are not easy but will become easier with solidarity from freedom-seeking women around the globe.

Kobra Sultani is an Afghan socialist, a writer, and an activist for the rights of women and children. She was a physician in Afghanistan and is currently a researcher in neurophysiology in Europe.

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We Are All Afghanistan: Afghan Women Leaders Reflect on the Past and the Way Forward

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Abstract

On October 15, 2021, Women’s Learning Partnership (WLP) convened an online, public conversation with former Minister for Women’s Affairs in Afghanistan, Sima Samar, and former Governor of Bamyan Province, Habiba Sarabi, moderated by former UNFPA Executive Director Thoraya Obaid and WLP Founder and President Mahnaz Afkhami. Audience members were from around the world, including directors of WLP’s partner organizations in Asia, Central Asia, Latin America, and the Middle East. A Question & Answer session, moderated by WLP Executive Director, Allison Horowski, followed the conversation.

The conversation and Q & A session have been edited for length and clarity.

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Mahnaz Afkhami:

Greetings to all of you wherever you are, and welcome to today's dialogue. We call this event “We are all Afghanistan,” based on our understanding that whoever we are and wherever we live, we are inescapably interconnected in every possible way. Our health, our jobs, our politics, our social fabric, our survival on planet Earth are all interconnected, so Afghanistan is *all* of us. We have with us today two women who have experienced Afghanistan firsthand—as children, as young girls attending school, during the first Taliban takeover, and life in exile—and who returned to Afghanistan to rebuild a demolished country, only to be thrown into exile again. Sima Samar and Habiba Sarabi have experienced this history personally, from their grassroots beginnings to the highest

offices in the land and in international fora. It will be an honor and a learning experience to hear from them and engage in dialogue with them.

The four of us, with Thoraya Obaid, have a lot in common, including the culture, the region we come from, our passion for human rights and women's rights, as well as our work in multiple non-governmental and governmental arenas. Thoraya Obaid and I each began by studying English literature and moved into civic activism. In my case, the government, and in hers the United Nations. Her service to the human rights community and especially to women has been amazing. Her primary focus, one that has helped us all in the international community, has been on the significance of local culture and values in the fight for women's rights.

Studying English literature has helped Thoraya and me to connect West and East through art and literature. She has been invaluable in understanding the global situation, the connections between East and West, and how we can mobilize both parts of the globe for women's rights. I will turn to Thoraya Obaid, former Executive Director of the UN Population Fund and Under Secretary General of the UN, and ask her to introduce our guests today.

Thoraya Obaid:

Thank you very much, Mahnaz. I think what brings us all together is that we are soul sisters in one way or another. All four of us speaking today come from similar backgrounds. We hope that together we can make a difference for the younger generation who are looking forward to a better life.

My role today is to introduce our distinguished guests. It's an honor for me to be able to do that. I'll start with Sima Samar. Sima, you are our sister in so many ways. As a medical doctor, you had a certain vision of what it meant to be a doctor and why you became one. You also became Minister of Women's Affairs in Afghanistan and you were formerly Chairperson of the Afghanistan Independent Human Rights Commission. You advocated for human rights, and the UN was able to receive some of the wisdom of your experience by having you as a member in the UN Secretary-General's High-Level Panel on Internal Displacement.

Sima is also a member of the UN Secretary-General's High-Level Advisory Board on Mediation. In addition to her official positions in Afghanistan, she has held the position of Vice Chair of the Emergency Loya Jirga, a very important, consultative body in Afghanistan. From 2005 until 2009, Sima was the UN Special Rapporteur of Human Rights in Sudan, bringing some of her experience in Afghanistan to another country. Sima, it's really an honor for me to see you here.

The other sister we have is Habiba Sarabi, the former Governor of Bamyan Province and former Minister of Women's Affairs in Afghanistan. Of course, it is not easy to be the first woman governor of any province in Afghanistan, and Bamyan in particular in 2005. She held the position of Minister of Women's Affairs from 2002 to 2004. In addition, she was appointed Deputy Head of the Afghanistan Government High Peace Council, a very important body that was established to negotiate with the Taliban. She was also a member of the Peace Negotiation Team for the Islamic Republic of Afghanistan. Habiba received the UN's N-Peace Award in 2016, and this great honor shows the centrality of peace development in her life.

So, my first question is to both of you about your childhood. Give us insight into your background. How did you grow up in Afghanistan before the Taliban? I'll start with Sima.

Sima Samar:

Good morning, good afternoon, good evening to everybody who is part of the program and thanks to you Thoraya and Mahnaz for organizing this program.

I grew up in Helmand before it was an insecure and more violent province. Afghanistan was not a very developed country and not rich, but it was a peaceful country. Fifty-seven years ago, I went to a co-educational school in Helmand until I graduated from 12th grade. Then I participated in the entrance exams for university and I was able to join the medical faculty at Kabul University. At that time, the medical school was also co-educational.

I remember that in Helmand, where people are more conservative, nobody opposed what the young women were wearing and studying. We

didn't have to wear a specific uniform or a burqa or the hijab, but there was a uniform for the school, which was a black dress and black socks.

We were able to travel. When I was at Kabul University, we traveled from Kabul to Helmand by bus at night and nobody would bother us. Whether in our jeans or in skirts, people did not bother us. Kandahar was on our route, and we were able to walk there and go to the local kebab restaurant and have lunch or breakfast and nobody bothered us.

This is no longer the case, unfortunately. The change started after the war began in 1978. After the coup d'état, the new communist regime started to restrict people's freedom and violate their human rights, which was the reason people started fighting.¹ But fighting, even if it is called a "just war" and people fight for their freedom, is still very destructive. What has happened to Afghanistan is not only the destruction of physical infrastructure such as roads, buildings, and hospitals, but the destruction of the people's behavior, which is very disturbing.

In the last 44 years, different groups of people have come to power. The people of Afghanistan were caught between the extreme left, which was the Khalq and Parcham,² and the extreme right that we have today. In the middle, the rights of the people were violated without any accountability and without any justice. So that is something that is very sad for the country. I think if accountability and justice are forgotten, then we are not going to have peace.

Thoraya Obaid:

Thank you, Sima. I'll move to Habiba. Habiba, can you give us the highlights of your childhood, your background, and so on?

¹ What is frequently referred to as the Saur Revolution occurred in April 1978 when People's Democratic Party of Afghanistan (PDPA) violently took over the government. Hundreds were killed in the fighting. The PDPA created a leftist government, which was aligned with the USSR and paved the way for the Soviet invasion in 1979.

² These were two factions of the PDPA.

Habiba Sarabi:

Salam to you and all the other friends and good morning, good evening, and good afternoon to everyone. Thank you very much, for having me at this event and for this opportunity.

I grew up in different provinces, because of my father's job. I lived all over Afghanistan from provinces in the north to the center of Kabul. So, I experienced what school was like in several provinces. I also studied pharmacy at Kabul University.

But I did have to start fighting for my own rights beginning in my childhood, and also for the rights of my mother. In Afghanistan we had many freedoms, as Sima-jan³ has mentioned. However, in some areas and in some families, people were still not very open-minded. My mother was under pressure from her family and especially my father, so that was why I started my struggle and fight during my childhood and in my family. I wanted to get my own freedom and also to fight for my mother's rights.

But generally, as Sima-jan said, no one really bothered us in public. We had the freedom to continue our education and there were no boundaries for that, or for higher education. Even with regards to our *poushesh*, i.e., the clothes that we wore. There were no restrictions on which sort of hijab or clothes we had to wear. Of course, there were some differences between the rural areas and the urban areas. Gradually we were moving towards greater rights. According to the law we had the right to choose our clothes, to get an education, or to seek higher education.

I am someone who has seen what life was like for the Afghan people, and especially Afghan women, before the collapse of the regime, starting from the Khalq—Parcham parties' feud and up to today. As these different regimes came to power, the Islamist mujahideen fought all of them, from the leftist Khalq and Parcham parties, to the regime of Dr. Najib, and the other regimes.⁴ The mujahideen were fighting them, claiming they were

³ Jan is a term of endearment in Persian/Dari.

⁴ The mujahideen in Afghanistan were fighters allied with different tribal groups, from diverse ethnicities and with different ideologies, who fought against the communists and Soviets. The US provided extensive funding

not good Muslims. They were fighting in the name of “Allahu Akbar” and killing the people. They were also fighting each other. Then when the Taliban came to power, *they* fought the mujahideen. Whenever they killed someone, the Taliban also said, “Allahu Akbar.” During the 20-year period between the governments of Hamid Karzai-Ashraf Ghani and that of the Taliban, they are all still saying “Allahu Akbar.” We are confused by all of these statements and claims of “Allahu Akbar” when they are killing people! They are destroying the city. They are destroying the infrastructure in the name of “Allahu Akbar.” This is really something that we are very tired of.

After the first Taliban occupation of Kabul, I left with my three children and went to Pakistan. In Pakistan I started working in the refugee camps, as a teacher and training others to teach in the refugee camps.

Thoraya Obaid:

Thank you, Habiba.

Mahnaz Afkhami:

I would like to ask both Habiba-jan and Sima-jan about their first experiences of exile. Having lived in exile myself, and having written a book about others in exile, I know what a tremendously trying, tense, and horrible experience it can be, as well as the uncertainty it brings. I would like for each of you to tell us how that felt the first time.

Habiba, you just mentioned the work that you did in refugee camps in Pakistan. I had the pleasure of working with you when you were in Pakistan. You used our manual *Claiming Our Rights*, which we had prepared in Persian, and you were very happy with it.⁵ It was such a good

and weaponry to the mujahideen, who eventually prevailed against the Soviet military in 1989, and then the communist Afghan government in 1992.

⁵ *Claiming Our Rights* (1996), by Mahnaz Afkhami and Haleh Vaziri, was written as an adaptable training tool for women in Muslim societies to discuss their rights, using local idiom and culturally relevant stories and traditions to spark conversation. Its material was tested in a number of countries, including Afghanistan. *Claiming Our Rights* has been translated into a dozen languages.

thing to hear from you after you went back, what the experience had been. So, let's start with Habiba and then we'll go to Sima.

Habiba Sarabi:

The first time that the Taliban occupied Kabul in 1996, I left Afghanistan and went to Peshawar and there we started to work in refugee camps. Not only did we train the teachers so that they could educate the refugee children, but we had so many good programs with the Afghan Institute of Learning (AIL), and with Sakeena Yacoobi regarding women's human rights.⁶ The manual really opened the way for our teachers to talk with the women living in refugee camps about how they could get their education and know about their rights. This started from basic rights, the right to education, the right to health services, to so many economic rights, up to the political rights. This was something that we worked on inside the refugee camps.

At the same time, we focused on girls' education in Pakistan and in Peshawar City. But we also wanted to focus on children in the refugee camps. We wanted to enable the children and also enable the women to know about their rights and ways of securing their rights.

Mahnaz Afkhami:

Thank you, Habiba. And Sima-jan?

Sima Samar:

Thank you Mahnaz-jan. When I graduated from university, I worked for a few months in Wazir Akbar Khan hospital in Kabul. Then I left and went to the village in Jaghori, a district of Ghazni⁷ where I was born. I was internally displaced, as I mentioned before. It was interesting because there was a big difference between the rural and urban areas, as Habiba-jan said before. I was there for almost three years trying to help people and I vividly saw the discrimination. I am a warrior and I started to fight in the same way Habiba-jan shared earlier. Starting when I was in the sixth

⁶ Sakeena Yacoobi is the founder and CEO of the Afghan Institute of Learning. AIL, an early partner of Women's Learning Partnership, focused on education and healthcare for Afghan girls and women.

⁷ Ghazni is located Between Kabul and Kandahar.

grade, I fought for my mother's rights. But that is an aside. When I was in this province helping people, the area was not under government control from 1982 to 1984. I saw the poverty and the very difficult role of women in society. Then in 1984 I had to move to Pakistan because I had a son and there were no schools for him in that region.

I was a refugee in Pakistan in November 1984 and it was a difficult experience. I started to work in a hospital where they had a female wing for the Afghan refugees. It was a very old hospital, which was built by the British in 1885, when Pakistan and India were still together. I started work there and then went to a refugee camp twice a week and saw the suffering of women and felt it personally. It was kind of a revolutionary act—I would go into the hospital early and stay very late with the last patients, because these patients were my own people. One early morning, when I went to the hospital a young woman came in with eclampsia [a life-threatening condition causing seizures during pregnancy.] I ran to the pharmacy, but it was closed. The delivery room was also closed. That was when I decided to start a hospital for women and children.

I started the first hospital for women and children in 1987 in the city of Quetta [in Baluchistan Province] in Pakistan. Then, after almost two years of working at that hospital and another that I founded, I moved back to Afghanistan. Along with the hospital, I also started a training program for female nurses and midwives. I also started a girls' school, because there were too few girls' schools.

In 1988, the Norwegian foreign minister visited the hospital I was running in Quetta for refugees. He said, "Sima, what can I do for you?" I said, "Can you pay for a hospital in my village?" He said, "Can you bring me a proposal tomorrow morning?" That was the first time in my life that I heard the word proposal. So, I called an Afghan engineer and said, "Can you draw something for me by tomorrow morning and calculate the cost?" Before the foreign minister left for the airport, I gave him this so-called proposal, which was two pages long. He accepted it and gave me the money, and I started the hospital in the Jaghori District in Ghazni, and then also slowly opened a school.

I do believe that education is the key to changing peoples' mentalities. So, I also started schools in Pakistan for the refugees. Some of my students have gone on to graduate and receive PhDs in institutions such as Harvard,

and some of them are now teaching there themselves. And then I started a school in Afghanistan for boys and girls. My efforts have been very focused on helping women. I advocated for women's rights, and got very involved in the regional networks working for women's rights and women's development. It was very important to me.

Mahnaz Afkhami:

You were telling us what you did on your first return, which is going to be very helpful as we think about how we're going to help this generation of second exiles from Afghanistan.

Sima Samar:

Thank you so much Mahnaz-jan. I think the experience of being in exile, particularly in Pakistan or in Iran, is very difficult because you don't have an identity. It's tough. Being in Pakistan for 17 years was not easy.

Mahnaz Afkhami:

Do you think it was harder than if you were, for instance, in a Western country?

Sima Samar:

Yes. Pakistan had not ratified or joined the UN refugee convention, so they did not provide the refugees with any legal status.⁸ You can also see how the policies of Western countries and Arab countries in Pakistan helped promote these very extreme right-wing, conservative people. In Pakistan for women to be active in work was not easy at all. It was quite difficult.

Mahnaz Afkhami:

Thank you.

Thoraya Obaid:

⁸ Pakistan is not a party to the 1951 Geneva Convention Relating to the Status of Refugees, or the 1967 Protocol.

Both of you have been very active inside Afghanistan. Can each of you just highlight the main challenges that you personally lived through? Can you describe the challenges you felt in your work, in your advocacy, in relationships, in building institutions? I am sure women leaders will continue to face similar challenges. Let's start with Habiba.

Habiba Sarabi:

Working as a leader inside Afghanistan, a country that is male dominated especially within the past 40 years, government leaders focused on men and wanted to sideline women. Working for women's rights and empowerment was not easy work. When I returned to Afghanistan in 2001, I was appointed Minister of Women's Affairs, a position that Simajan had held before me, and worked on gender issues and women's issues. The ministry position was very new in Afghanistan after the Taliban regime. It was not easy working with all of the cabinet members, all of whom were men and had their own ideas.

After that, I became governor of Bamyan province and I was the first female governor in the country. I was working with men in the society and community. Even though the Hazara people⁹ and their community that I was working with in Bamyan were much more open-minded than others, it still was not easy.

Every step, I faced so many problems, but the one that I want to share here is an interesting one. During the Eids (religious festivals), the governor usually gave a sort of political speech. The imam also preached to the people, but the governor would deliver a political speech. As governor, I gave a political speech in front of the Islamic Council. They then accused me of doing something against the *Sharia*. A delegation came from Kabul, from the Supreme Court, to accuse me of wrongdoing after I delivered this speech. Fortunately, one of my colleagues had a video of my speech, and when they started the investigation, he shared it with them. Also, there were other Shi'a imams who stood up for me. They said that women have their own rights and that they believed that is not against Islam. If Shi'a imams or scholars say something is not against Islam, then it is not. As a result, I was free from that accusation.

⁹ Persecuted native population of Afghanistan. They speak Dari/Persian and a majority are Shi'a.

However, I received this kind of accusation a lot from male colleagues. I spent time working with them, talking with them, and convincing them, so that we could have better governance. It was not easy. I always faced a lot of challenges, especially as a negotiator with the whole peace negotiation team, which had only four women. It was challenging work for me to convince them that the female members had something to say and that we must be present for *each* conversation and for *each* meeting. Sometimes, a chief negotiator planned a meeting with certain Taliban leaders, but avoided having women as part of the meeting. This was another challenging aspect of the work—always convincing them that we had to be present for every meeting. Working with men, while I think it is a challenge all over the world, was particularly difficult in Afghanistan.

Sima Samar:

When in 2002 I went to Afghanistan as Minister of Women's Affairs and also as Vice Chair for President Karzai, they thought that I would be a shy woman, but I tried not to be. It was very difficult because there were no offices or infrastructure for the Ministry of Women's Affairs. I had to find a building. After two months, a great deal of diplomacy, and much pressure, I was able to locate a building. But the building was falling down and filled with *naswar* (tobacco). I had to find money to repair it. So, after four months, in July 2002 when I handed over the ministry to Habiba-jan, it was fully furnished.

Cabinet members, particularly the first Cabinet, were mainly commanders of different political parties. It was not easy working with them, but I was able to make a space for myself and for the women in the country. It was tough and I had a lot of sleepless nights while establishing the Ministry of Women's Affairs. Then, upon their return to power, [the Taliban] just abolished the Ministry [of Women's Affairs] in one day and gave the building to Vice and Virtue [the Ministry for the Propagation of Virtue and the Prevention of Vice]. It was the same for our Human Rights Commission. In the Emergency Loya Jirga, they had organized a big group, which stood against me and called me the "Salman Rushdie of Afghanistan." They wanted to kill me and they didn't want me to be part of the Cabinet. So, it was very difficult.

But still, I ran for election and I won. There were twenty-seven or twenty-eight people who ran for that position, mainly the commanders of different political parties. But I won. Members of fundamentalist Jihadi

groups were against me. It was a very difficult time, but I did not give up. I was on the stage and they were shouting, “We do not want Sima Samar!” However, I smiled at them and when it was my turn at the microphone I told them, “You did not vote for me, so you don't have the right to shout. Go and see what you did to Kabul. This destruction was done by you people.” It was tough.

Then I was appointed to lead the Human Rights Commission, which I had already been responsible for. Many believed that the Human Rights Commission was not a very important position, so they were happy to give that position to me. Once again, I started from scratch. The Afghanistan Independent Human Rights Commission was one of the best human rights commissions in the world. Again, it was abolished by the Taliban in 2021. Working with the Human Rights Commission was even more difficult because we were dealing with all these conservative men, and they were trying to use religion and tradition to control us.

However, we stood firm and we changed a lot of things. I will give you an example. We were able to ban the forced virginity test in Afghanistan. Women who were running away from an abusive family, or forced marriage, or child marriage, had been made to undergo virginity tests at least two to three times, and without permission of the courts. We changed that law and we changed many other laws. We also passed a law calling for the elimination of violence against women. Although it was not a perfect law, it was still good. But now it is all gone.

What is left, and what I think is a sign of hope, is that people’s *knowledge* about their human rights is something the Taliban cannot take away. The Taliban cannot take away that knowledge or take away what people learned at universities. That knowledge is a tool to struggle for a better society in Afghanistan.

Thoraya Obaid:

Thank you, Sima. I think of those last words that you just said—that once one is aware of their rights, that awareness can never be taken away. I think this is a very important lesson for all of us to remember.

Mahnaz Afkhani:

Yes, that is a great lesson. Actually, I see so much of this replicated in Iran and how much the consciousness raising that was achieved by the women activists before the Islamic Revolution is still there after all the years of pressure.

The next thing we wanted to know, and it is really important for our audience, is what is the priority right now? What are the most urgent needs of women in Afghanistan? How can we support education, security, survival, health care, etc.? Please do give us that, and let's begin with Habiba.

Habiba Sarabi:

Thank you. Of course, the first priority at the moment for women inside Afghanistan is education. Humanitarian assistance is another critical issue because of the economic crisis and the poverty that exists inside of Afghanistan. But the people, and the women inside Afghanistan, are so brave because, as Sima-jan said, they are aware of their rights. That is why the Taliban cannot stop them. Every week, protestors are holding demonstrations and saying they want their rights. So, something that we can do is to listen to their voices and share them with a network outside of Afghanistan. This network should take their concerns and ideas to decision-makers everywhere and to any institutions that can make decisions regarding Afghanistan. Their voices should be taken to networks and policy-makers.

Education is key, so we have to think about how we can support the educational system inside the country and how we can put pressure on the Taliban from other countries. There are some countries that have influence over the Taliban. For example, Pakistan, Qatar, Iran, China, and Russia. Maybe through the Islamic countries, the best way to put pressure on the Taliban is to tell the Taliban that education is not something against Islam. Why have they not opened the secondary girls' schools? At the moment there are separate boys' schools and girls' schools. There is no co-education, so why are the secondary schools for girls not allowed to open? There should be pressure on the Taliban to open them. Schools should be open to girls so they can go on to university. It will be very difficult to push back a generation that has fought for two decades. They will not stay back and just watch.

Also, through international NGOs¹⁰ or international organizations, there should be support for women's organizations inside the country. When there is support for the women's organizations, the Taliban will be forced to recognize the power of women. That is why it is important to support women's organizations *inside* the country. The people or organizations outside of the country can also support women's organizations inside Afghanistan that empower women and also support women's businesses so that they can earn money and support other women.

Mahnaz Afkhami:

Thank you, Habiba-jan. Sima-jan, what are your thoughts on that?

Sima Samar:

I would say that currently the people of Afghanistan face three crises. One is the political crisis, which stems from the lack of trust and confidence in the leadership of the political system, and lack of trust in the future. This is really a problem.

The second crisis is the humanitarian crisis. Poverty was already an issue in Afghanistan. A lot of people were displaced and poverty has increased. Nobody can, even if they have money in the bank, get access to their money. Including myself, for example—I don't have access to my bank account.

The third crisis is COVID-19 and the health situation in the country.

I think these three crises need to be tackled in a proper way. I fully agree with the idea of education. Education must continue in *any* possible way. If it is in the mosque, if it is at a home, if it is under a tree, education should continue. The second point is humanitarian support. I believe that we should not make people dependent more on relief. The whole program should be designed in such a way that people feel that they have dignity and can live in a dignified way. Local NGOs should be used, and the United Nations and international NGOs should establish a clear mechanism to monitor the distribution of aid and not allow discrimination and corruption within the support organizations. I would urge the creation of job

¹⁰ Non-governmental organizations.

opportunities—buy products introduced and made by women, and give them the self-confidence so that they can [stand up against this regime].

The third point is the health of people in Afghanistan. We really need to help people have access to healthcare and reproductive healthcare, including contraception. We need to give them the possibility to choose the number of their children, because we have more children than the resources in the country can support. That increases poverty and also leads to a radicalization of the young, particularly boys.

Fourth, I think [the international community] should put a lot of pressure on the countries that are supporting the Taliban. There should be engagement with the Taliban but not recognition, and they should not be bribed. We must not recognize the Taliban, but engage with them and put conditions on any support—conditions on the Taliban, not the people. The people should not be punished because of the bad leadership that we have in Afghanistan, whether it is Ghani or the Taliban.

The final point I would like to make is that war crimes and crimes against humanity should be condemned loudly. For example, look at what happened today in Kandahar.¹¹ There should be no negotiation on the principle of human rights. Human rights are not *Western* values. They are *human* values. Who does not deserve to have access to clean water? Everyone deserves to be free from fear and want, and that is the right of the people of Afghanistan, and particularly the women in Afghanistan. The current situation has increased violence against women and promotes child marriage, the selling of girls, and forced marriage, as well as forced prostitution. We need to stop this violence against women and girls if they are to live in a better and more dignified way.

Thoraya Obaid:

I think you are both, Sima-jan and Habiba-jan, very clear in terms of the needs in Afghanistan and both of you are talking about human rights. The right of people to a life of health, dignity, education, respect, and so on, is central.

¹¹ On October 15, 2021, suicide bombers attacked a Shi'ite mosque in Kandahar, killing at least 50 people. It was the second such attack in a single week.

We move now to people who had to leave the country or who were stuck, like you Sima, outside Afghanistan. How can people outside be assisted wherever they are? Habiba is in one place, you [Sima] are in another place. There are many who are not of your stature who are trying to live anywhere they can. How can they be helped, wherever they are? In other words, what can the host countries and the NGOs in the host countries do? Other than welcoming them, what kind of help should they provide?

Habiba Sarabi:

Life is not easy for those who left the country. The first time the Taliban occupied Kabul in the 1990s, it was a little bit easier than this time. The first time we left Afghanistan we settled in regions that were closer to Afghanistan. But this time, many people who left Afghanistan are not located close to the country—thousands more than the first time. So, it is very tough for them, and for the people such as myself and Sima-jan. This is traumatic for the people who are outside the country.

First of all, I want to request or to suggest that we motivate Afghan refugees to be active in social engagement, social activity, and creating a social network. This is very, very important. When the refugees share their problems and their pains, it will make it easier for them to live. Encourage them to be part of their new community, because if they are not part of the new community, and they do not accept this new community, it will be difficult for them to know how to live there and how to help pass the time. They have to be engaged and enter their new communities wherever they have settled. Creating webinars, seminars, or gatherings will help them find their own way. If the host city can set up different workshops for them, it will help meet the refugees' needs. If the host city conducts a survey or needs assessment, it will be much easier to know what to do for them.

Mahnaz Afkhami:

Thank you, Habiba.

Sima Samar:

Yes. I think that I fully agree with Habiba-jan. But again, I would say that the refugees should be treated with respect and dignity. It's good that the

host communities receive them, but the Afghan refugees are traumatized. They have left everything. Personally, I prefer the muddy house we own in Afghanistan, and would rather live there. I think everybody prefers the life they had in Afghanistan instead of even a luxurious one outside their country. So, it is really important that they are treated with respect and with dignity.

The second point that we should focus on is that life [outside Afghanistan] will be harder for older people. For the young it will be easier. But some people, let's say those who are above 40, come with their family. They will be lost between two cultures—the one they left and the one they encounter in the West. The men have a lot of problems and sometimes commit acts of aggression, or violence, against female members of the family. They need a proper orientation to the new culture. There is this expectation that they come to America and everything will be solved. They have to be told the truth and the reality, not to be disappointed but to be encouraged in order to become an active part of the new society.

For women particularly, job opportunities will give them greater confidence. If they are able to work, they would not have to use food stamps every day, or wait for social security in European countries. Having a job would be something positive that would help them build their [life] within that society for themselves. Of course, it's not easy, but it's not impossible either. It is possible with some patience, with some understanding, and with listening to the Afghans themselves. The Western observers might think, “human rights is a Western value. Afghans do not understand it, and they do not care. They're conservative people. They've been violent. They never had a government to control or rule.” I think these kinds of judgements should be put aside, and host countries should listen to the people and help them fulfill their basic needs so refugees can live with pride.

Mahnaz Afkhami:

Thank you. The last question. We do not have too much time, but it is the most important.

You've told us what the issues and the priorities are, so the question is—how do we mobilize the NGOs and the international community? And actually, I think that in some ways it's horrific, right—this moment for all

Afghans. I keep comparing the Afghan situation with the Iranian situation. Sima-jan, you and I talked about this. The one thing you have that is positive, at least, is that you are not being demonized—everybody has a heartfelt sympathy for what you are going through. When women from Iran were sent into exile, so many of them were demonized. Even those who ostensibly were well informed about international affairs misjudged the new government in Iran. They viewed the Islamic Revolution's leaders as liberators and paragons of human rights, even as laws were being enacted forcing women back into the domestic sphere as subjects of men, dependent on men for their legal and financial status. Many of us in exile—our lives threatened in our homeland and friends and relatives under scrutiny by the security forces because of their association with us—were accused of being enemies of Iran's "real" culture.

At least in the case of Afghan refugees, everybody is embracing them with open arms, listening and wanting to hear what they have to say and what needs to be done. We now have the digital component, which we didn't have forty years ago, so there are more possibilities for inside-outside communications and learning. Please tell us what the solution might be, and ways in which we can provide support to Afghans inside and outside the country.

Sima Samar:

I think we are at the beginning of a crisis. I would imagine that we will have more serious crises in the coming months, particularly, with the winter starting in Afghanistan. It's not possible to sustain the country this way, the way they want to run it. And I think, again, we need to focus on human rights. We need to focus on the promotion of democratic values. I think the good part with the Iranian exile—although yes, it was difficult—was that Iranians were more educated than the Afghans. Iran, economically, was in a better shape, with the oil and so on. We don't have that. Although there might have been misuse of those resources in Iran, the situation was much better than the condition that we have in Afghanistan. All of our social services, including the education and health system, depend on outside support.

So, one of the excuses that the Taliban is trying to use is that they cannot pay the teachers or the health workers. That makes the situation so much more difficult. But for ordinary people, it is the government that is responsible for basic social services, education, and health. And in every

country, not only in Afghanistan, but in countries such as Afghanistan, those two basic social services are what give people hope that, yes, there is a government that is taking care of them.

We need to advocate for an inclusive regime and promotion of democracy in Afghanistan. And, of course, we also need to warn [people] that the problem in Afghanistan will not stay in Afghanistan. History shows this, and we have to learn from history. I think what is really needed is that all the countries that were engaged in Afghanistan need to assess what went wrong. They should not repeat their mistake in another country. That is something that we all should do.

Mahnaz Afkhami

Thank you so much Sima-jan, and now Habiba-jan.

Habiba Sarabi:

I would like to discuss the priorities that Sima-jan mentioned, humanitarian initiatives and also education and health. We have to focus—all our friends, our networks, and our partners that are outside the country or in the Western countries—on these three areas. But there are also some possibilities or some opportunities for our sisterhood, our network that is supporting Afghan women, to have a strong voice. For instance, on October 27, 2021, there will be a European Parliament that will hold a meeting for those who want to listen to the advice of Afghan women who are in European countries.

We request that the demands of Afghan people be the central platform that is presented at international meetings. If there is no advice from Afghan people, and support for Afghan women is not mentioned, of course the Taliban will not take women's issues seriously. It is better to push these countries, whenever there is a platform, whenever there is an opportunity. They *have* to listen to Afghan women's voices. And also, as Sima-jan mentioned, the countries that are supporting the Taliban, they have to be pushed by the international community, especially by women.

Thoraya Obaid:

Habiba pointed very clearly to what I think needs to be done as a whole to mobilize support.

We will now open up the conversation to questions from the participants who have joined us today. Allison will take over the Q & A.

Following the conversation, WLP's Executive Director Allison Horowski moderated a Question and Answer Session

Allison Horowski:

Here is a question from the audience. Given the tough experiences and the amazing perseverance of women in Afghanistan, is everything lost with the Taliban takeover? What can be done by Afghan women inside and outside, and what can Muslim women and men from elsewhere do?

Sima Samar:

I think everything is not lost. As I said, the knowledge that the people have gained cannot be taken away from them. But of course, the situation is quite desperate and quite difficult. The other point that I would like to mention is that as we call for more political support, we also need more financial support for the people of Afghanistan. Again, I insist that we must create some job opportunities, particularly for women.

Allison Horowski:

Participants from Malaysia and Jordan have similar questions: How can women's funds best and safely support Afghan women and girls in Kabul, Afghanistan, as well as the refugees in surrounding countries? And, how do you think international aid can reach, at least partially, the women in Afghanistan rather than the Taliban?

Habiba Sarabi:

Aid should be conditional. The Taliban should receive support only if the aid can reach the women's groups. Also, there should be aid from women to women. If there are women's organizations outside the country and in Western countries supporting the women's organizations inside the country, then we can be hopeful.

Sima Samar:

I just want to add one thing. Muslim women and Muslim men can help a lot, because what they [the Taliban] do has nothing to do with Islam. So, in order to protect our own religion, Muslim women and men have to interfere in these issues. The last time Taliban were in power, unfortunately, we did not receive a great deal of solidarity from our Muslim sisters. This time, it should be different.

Allison Horowski:

Our next questioner asks, what do our panelists think about the diplomatic talks with the Taliban? I think this question is specifically referencing to the Turkish and Indonesian foreign ministers who are planning to go to Kabul. They say that they will talk with the Taliban to advocate for inclusion of different ethnic groups and women's rights. What are your thoughts?

Sima Samar:

As I said before, the Taliban should be engaged but not recognized. One thing that I have to say, honestly, is that I'm afraid that there are people who are trying to reduce the negative image of the Taliban, trying to show how good they are and covering up their violations of human rights. We have to loudly object to this.

The Afghan state cannot run in this way, where one exclusive group, such as the Taliban, are in charge. For example, the Dean of the Kabul University and administrators who have PhDs must now work under a *mawlawi* [a cleric] who has never been to school. Such things ought to be loudly criticized.

Habiba Sarabi:

The Taliban, of course, seek legitimacy; they are always talking about it. They suggest that they might even appoint a woman minister, etc., in order to gain global legitimacy. The international community should know that the Taliban is looking for legitimacy. The international community does need to *engage* them, as Sima-jan said, but should pay special attention when the Taliban say they are helping women. Also, there should be joint pressure from the international community on other Islamic countries that

support the Taliban. They should demand that the Taliban become more inclusive and support girl's education and human rights.

Allison Horowski:

Thank you. The next question comes from our partner in Nigeria and an ally in Turkey. They ask, what advice would you give women's organizations in other countries that are facing similar extremist actions or takeover? And, if you could go back before the takeover of the Taliban in 2021 what would you recommend that women and men do? She is asking, as she says, to find out what should, for instance, Turkish women do [about their situation now].

I think these questions get at the theme of this meeting, that we are all Afghanistan. This is not something that is happening in Afghanistan in isolation. I'd also like to open up that question to Mahnaz and Thoraya. Given your experiences, if you would like to comment.

Sima Samar:

We need to continue our solidarity and support one another. One thing that other countries should learn from Afghanistan is that they have to resist violations and promote human rights and democracy; also, they should not be quiet against nepotism and discrimination, and especially corruption. When there's inclusivity in government, either in relation to women or to a different religion, that itself gives a lot of legitimacy to the government and gives a lot of ownership to the people. So that is something we also need to emphasize. Women in other countries should stand up for those values. Our values should not be based on discrimination and superiority. Our values should be based on equality, human rights, and human dignity.

Habiba Sarabi:

If I may share my thoughts on extremism. I think women's organizations in other countries, if they are facing similar practices, have to educate their people not to attend the very extremist *madrasas*. These extremist *madrasas* are what brought us such problems. If education is undertaken in a proper way and in the right way, it would be much better than these *madrasas*. We have to fight extremism and to educate people to be more open minded. I think Turkish women can do a lot if they lobby for us, stand

besides us, and advise their government to engage constructively with the Taliban. For example, I have worked with a woman who is working with the Ministry of Foreign Affairs of Qatar. I talked with her about the recent meeting they had with the Taliban, and also with the US, regarding women's education. As a result, in so far as girls' education is concerned, Qatar's support for women's education in Afghanistan is much stronger now than it was two months ago. Two months or three months ago Qatar supported the Taliban more uncritically. Qatar is now talking about inclusivity and also about education. So, this is a good example with regard to Qatari leadership. The Turkish leadership also can do more, but women in Turkey must push their leadership to stand for inclusivity and for girls' education.

Allison Horowski:

I'd like to have Mahnaz's and Thoraya's input. If you have anything to add with regard to what other countries can do in their own societies to push back against some of the extremist elements that we have been seeing around the world.

Thoraya Obaid:

Well, to push back, I think there has to be a change of dialogue in the society itself. There have to be campaigns explaining what extremism is about and how it hurts societies. Such discussions have to be included in the school curriculum. And, here in Saudi Arabia, we're having new curricula being put in place in contrast to the previous curricula that promoted extremism. So, we really need to have an official change of the dialogue, of the way teachers speak, the way doctors speak, anyone with some position of authority in society. It's not an easy process. We are still going through it. It is something that has to be done through a strategy with consciousness and awareness. The dialogue needs to change; the dignity of human beings can be protected within the culture as well as with the overall universality of human rights. I think this is a very important national change that has to take place, and a global change as well.

Sima Samar:

I think it requires strong political will and that political will should come from pressure that is exerted by women within society. Of course, access to health and reproductive health is also something that we should work on, because we have all these young, jobless, uneducated, frustrated men

in Afghanistan who seem to be taking out their frustration through violence.

Mahnaz Afkhami:

I would like to suggest something that you, our partners in this dialogue and our leaders in this discussion, may not be ready to engage in. I would like to invite the two of you to take the lead for us. All of what you said is amazing. It really tells us things that many of us did not know. This whole trajectory of change in Afghanistan, and what you've gone through during the last two decades, leading to the current situation is largely the outcome of international decisions and not solely the result of actions inside of the country. But I think now that we are facing this horrific situation, we need an entity, a collaborative effort, that can organize those with knowledge and experience in Afghanistan to give advice and assist in bringing together the people who are really dedicated to helping.

We need to do something, not simply because it is Afghanistan, but because the Afghan women's situation is a prelude to a global backlash against women's rights throughout the world. The global women's movement from the developing world especially, and some in the Western world, would like to help. But leadership is needed inside *and* outside. Iranian women have done this time and time again, creating an "outside/inside" connection and exchange between the diaspora and those in the country that has pushed back on the authorities in the country. We need help from an entity to provide advice and training. We need an entity to guide the diaspora in their advocacy efforts and to provide employment opportunities and to direct funding for various areas. People are interested in helping. Your knowledge of the situation and your knowledge of the international community, as well as how the government works and your cultural knowledge, is priceless. So please guide us.

Sima Samar:

Habiba-jan, as you remember, we cried before the fall of the government. It was tough for us. And so, yes, Mahnaz-jan, we will do it with your support and all of the other sisters' support. But I think we have to be careful not to do harm, rather than rushing into something quickly and causing harm to the people.

Thoraya Obaid:

A few reactions to conclude on. One issue that was raised was that we should ask what went wrong. I think this is a very important question. Since the Afghanistan crisis started, I've been delving into Afghan history, US relations, all types of things. What I learned was that nobody understood Afghanistan as a country or as a structure, including its social values. It just was not understood. Many of the decisions that were made about Afghanistan were linked to what was going on in Iraq. In other words, the country's history, culture, and well-being were not understood. I think in the Middle East the word *democracy* has come with a gun, with bombs, and that has made it a pejorative word. People are skeptical. They think that democracy is for others, not themselves. To allow democracy to flourish, we need to have demonstrations of democracy that come with peace, not democracy that comes with bombs and guns over the heads of people. I think this is one lesson we are learning as we go along.

The second lesson that I learned was the definition of extremism. There are so many definitions of extremism. Who is extreme, according to what standards, and who should be killed? Is it Al-Qaeda? Is it the Taliban? I think we should not kill people, abstractly, under the guise of fighting extremism. People's lives have value, and my feeling is that in this past decade or so, people's lives really had no value. That, I believe, was what Sima and Habiba were also emphasizing. We have to consider the value of human beings, how they can have a better life in their countries, and live with dignity.

The third lesson that came up in some of the chat was about the role of Afghan men. We've talked about Afghan women, we've talked about men and women, but maybe this is an area that needs special attention. How can we bring more men on board to support the struggle of women in Afghanistan?

The fourth lesson is that conflicts *always* have a greater impact on women and little girls. Even COVID impacted little girls more in our region. Because of COVID, girls are not going to school. They are being married early, or they're being sold. So, it is another war on human beings that COVID has brought. But again, little girls are the victims, and this is where we need to protect them with education and health, as Sima and Habiba have said.

The last lesson involves the whole issue of human rights. One of the UN documents during Boutros-Ghali's¹² days talked about freedom from want and freedom from fear. Basically, with respect for the self-agency people, people should determine their own lives. Islamists use religion to stop girls from going to school. But Islam can also be invoked to support women's education. I've declared many times that my father empowered me because of the first verse of the Quran, "Iqra' bismi rabbika, alladhi khalaqa," [which translates to] "Read in the name of [your] God [who has created everything]." He felt it was his responsibility as a father to make sure that the boys and the girls in his family read. So, if some people are looking for empowering words, they will find them in the Quran. It's just that some Islamists twist the words. What we want to emphasize is basically that the dream of human rights is for *all* countries. Today we have a crisis in Afghanistan, but we also have crises in Libya, in Iraq, in Syria, in Yemen, etc. We need for all the big people—we are small people—the big people to really respect human lives, respect human dignity, and ensure that human rights and democracy come through sustainable programs and not through guns and bombs. Thank you.

Mahnaz Afkhami:

Thank you, Thoraya, you are a big person, not a small person, by any measure and in any decision-making arena. I want to thank both of you, Sima-jan and Habiba-jan, for what you have done in your lives and what you will continue to accomplish, and wish you peace and easier times as well as success in helping your people and us. And whatever you do for your own people, you're doing it for all the rest, as Thoraya mentioned so well. Thank you so much. And thank you Thoraya for your wise words and for your support. *Khodahafez* [good bye].

¹² Boutros Boutros-Ghali was an Egyptian politician and diplomat who served as the sixth Secretary-General of the United Nations (UN) from 1992 to 1996.

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Image 5: **Shamsia Hassani at work.** (2020) © [Shamsia Hassani](#). All rights reserved

Narrating Self, Depicting the Other: Self-Realisation and Trauma, Belonging and Diaspora in the Works of Shamsia Hassani and Keyvan Shovir

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Abstract

The American philosopher and gender theorist Judith Butler believes that 'our capacity to reflect upon ourselves, to tell the truth about ourselves, is correspondingly limited by what the discourse, the regime, cannot allow into speakability' (Giving an Account of Oneself). This review analyses how Shamissa Hassani (b.1988), the first female graffiti artist of Afghanistan, and Keyvan Shovir (b. 1985), the first postrevolutionary graffiti artist of Iran, manifest Butler's view of giving an account of one self. I argue that Hassani and Shovir have used their arts as a means of speakability and self-reflection in the restricted discourses of their home countries. I conclude that art manifests the possibility of self-revelation and reclaiming one's voice beyond the restricted social discourses or diaspora.

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Introduction

According to Judith Butler, 'Our capacity upon ourselves, to tell the truth about ourselves, is correspondingly limited by what the discourse, the regime, cannot allow into speakability' (Butler 2005, p. 132). Extending Butler's views, in this essay I analyse how Shamsia Hassani (b. 1988), one of the female pioneers of graffiti in Afghanistan, and Keyvan Shovir (b. 1985), one of the pioneers of graffiti in Iran, use their artworks as means of self-revelation.

I argue that by narrating their lives in a pictorial form of dialogue, each artist steps beyond repression and trauma and affirm their agency. One of the reasons for selecting a male Iranian graffiti artist instead of a female one was to challenge many gender assumptions; there is no shortage of female graffiti artists. My aim is to survey how each artist envisioned a liberated self, regardless of gender and to analyse how patriarchy and restrictions affect the artists.

To better understand the role and impact of dialogue in a pictorial form and the impact of trauma, alongside the work of Butler, I employ the theories of the Dutch psychologist Hubert Hermans (b. 1937)—namely, his theory of the Dialogical Self. A basic assumption of that theory is that the self consists of a multiplicity of positions and each of these aspects maintains a voice. However, when the person is immersed in one position, or when one aspect is suppressed, the self is unbalanced and fragmented. In this case, first I argue that the fragmented self is the result of internalising sociocultural restrictions and that, by finding a new voice through the sense of agency and accountability gained by creating their art, the artists developed a liberated voice and inner harmony.

Introducing the Artists

Born in April 1988 in Tehran to Afghan parents who lived in Iran at the time, Hassani's family moved back to Kabul in 2005. She holds a BA degree in painting and an MA in visual arts from Kabul University, Afghanistan. Inspired by the British graffiti artist Chu (b. 1971), who held a workshop in Kabul in 2010, Hassani pursued graffiti as her main medium and became the first female graffiti artist in Afghanistan. As an associate Professor of drawing and anatomy drawing, at Kabul University she also gave lectures at her university on fine arts.

Hassani argues that ‘image has more effect than words, and it’s a friendly way to fight.’ In 2013 Hassani initiated the first Graffiti Art Festival in Kabul. Hassani’s graffiti works have been showcased around the world and received various awards. Her last murals abroad were created in Wide Open Walls of Sacramento and for Eugene’s mural project in Oregon. As an Afghan immigrant, Shamsia Hassani spent her teenage years in Tehran. Due to the limited rights of Afghan immigrants in Iran during that period, she was deprived of the right even to attend art classes. Despite being far from the traumas of the war in Kabul, like many other immigrants, Hassani faced a new set of challenges. She was socially marginalised in Iranian society and faced a society that was highly patriarchal and retained its own restrictive sociocultural discourse and infrastructure against migrants, women, and artists. After the fall of the Taliban in 2001 Hassani returned to Afghanistan. Hassani and her parents belong to a generation that witnessed the inexorable upheavals inside Afghanistan, during the first Taliban rule of 1997–2001, followed by the reality of being foreign refugees abroad. Despite the ravages of continued bombing and public harassment by men on Kabul’s streets, Hassani’s distinct graffiti testifies to a fearless dedication to Afghan women who kept silent for decades.

In an interview with *The Guardian*, Hassani says, ‘I am from Afghanistan, a country famous for war. Let’s change the topic, let’s bring peace with art’ (2019). For Hassani, art is a medium of imagination and also a reflection of her desired self, both as an individual and as a member of a collective. Primarily, Hassani’s words manifest her belief in the need to adopt a reconstructive approach toward restrictive regimes. Hassani not only stands against destruction but also seeks remedies for its traumatic effects. For Hassani, art is the means of reclaiming one’s voice.

Keyvan Shovir (b. 1985) is an Iranian-American multi-disciplinary artist and muralist. He was born in Tabriz, Iran, and is currently based in the San Francisco Bay Area of California. Shovir received his BA in painting from

Azad Tabriz University in Tabriz, Iran, and his MFA from California College of the Arts in San Francisco in 2018. He has received many awards, including the Art of Peace Award from the obby Poblete Foundation, and Creative Activism awards from Culture of Resistance. He has exhibited nationally and internationally at numerous venues, including Seyhoun Gallery in Tehran, Crewest Gallery in Los Angeles, the i.d.e.a. Museum of Mesa, Arizona, SOMArts Culture Center, and Minnesota Street Project in San Francisco.

Once they moved to diaspora communities in the United States, both artists found the opportunity to work without censorship and restrictions. Hassani and Shovir have each tried to highlight the significance of art for depicting the traumas caused by restrictions, realising a liberated voice for themselves and crafting an emancipating identity for their generations. Although both worked and produced artworks in their respective countries, the majority of their works were produced in the United States and not shown in their home countries. Shovir and Hassani's artworks are entwined with their cultural roots and the barriers that have affected their neighbouring countries, Iran and Afghanistan. Nevertheless, by taking art as a hybrid medium and a universal message, both artists have been able to step beyond their geographical borders.

Graffiti breaks free from norms and remains a non-conformative style, especially in that Middle East. This is one of the many reasons why Hassani chooses to work in this style of art, which allows her to rebel both in form and content and to challenge restrictions through this style of art. For the artist, graffiti thus stands as the means reach beyond the brutality of the reality in which they and their compatriots exist and move towards an ideal imagery. Shovir and Hassani have each used public buildings and mural graffiti instead of canvases or the polished walls of galleries to

engage and encourage their viewers in their daily lives. Graffiti thus becomes a public platform to assert the gravity of the situation imposed on the young generation of Iranian and Afghans striving for liberty.

Shamsia Hassani



Figure 1: Shamsia Hassani at work. (Photo courtesy of the artist)

Inspired by a workshop hosted by Chu, a graffiti artist from the United Kingdom, Hassani began to practice street art on walls in the streets of Kabul in 2010. One of Hassani's murals in Kabul's Cultural Centre depicts a burqa-clad woman seated below a stairway with an inscription, 'The water can come back to a dried-up river, but what about the fish that died?' In 2013, she told *Art Radar*, 'I want to make Afghanistan famous for its art, not its war.' As her art proclaims, despite their hardships, the women she depicts carry a hopeful spirit. Hassani still believes in the possibility of a liberated life for Afghan women and in creating a new identity rather than continuing to see themselves as victims of the war.

By taking this stance in her art, Hassani depicts what Hermans defines as the '*I position*,¹ expressing her emotions and concerns. The artist can then engage with viewers of her work who are not familiar with the reality of Afghan women's lives. As a pictorial form of dialogue, the artwork permits the artist to step outside of the suppressed zone of trauma and to liberate herself. This approach further correlates with Hassani's wish to depict her country and culture as more than just victims of wars. As an artist in the diaspora, Hassani's symbolic works reveal her wish to create a new sense of belonging and peaceful life.

Inspired by her passion for music and graffiti, activities that remained banned for Afghan women during the Taliban takeover in 1997–2001, Hassani's works touch upon women's daily struggles from a new perspective. Through highlighting the extreme brutality against women and indicating the decline of women's fundamental rights to determine their own image and voice, Hassani's works affirm the possibility of self-expression and the ability of the arts to surpass such restrictions. However, Hassani's women are not just victims, nor are they nearly broken. Despite the bitterness of the events portrayed by the young artist, the simplicity of her art instantly speaks to the viewer's heart. Hassani's graffiti still shows the innocence and strengths of the young generation of Afghan women, while the tragedy of their lives rests in the corners of the works. Her palette guides the viewer's emotions, as each colour indicates a certain sentiment. By highlighting the contradictory sentiments, each work reveals the ambiguities faced by Afghan women. Their figures are mostly dressed in light turquoise blue, reminding the viewer of the burqa, the obligatory covering of Afghan women. However, the body of the woman and her dress are drawn transparently, indicating clarity. As a result, the women's

¹ Hermans argues that 'When the person does not experience any space beyond the limiting emotion, leaving the emotion is not possible, consequently, a dialogue between the emotions cannot evolve.'

visages or bodies are revealed, and the light blue seems clear and bright. It should be highlighted that the women are not exposed. Still, the images convey a sense of looking through them.

Another characteristic of Hassani's art, as shall be seen below, is the thematic visual reference to the role and importance of music: her figures mostly hold an instrument, or their images are entwined with musical notes. Whether depicted in partial or deformed shapes, musical instruments and the music they make empower the women in her art, even though playing an instrument and singing are prohibited activities for women in Afghanistan.²

In the first section of this article, I argued that by drawing inspiration from her life, Hassani manifests Butler's ideology that 'in the making of the story, I create myself in a new form, instituting a narrative, the "I" superadded to the "I" whose past life I seek to tell' (Butler 2005, 50). By declaring and externalising all the traumas and restrictions imposed on women, and later by reconstructing them and revising the image and identity of the woman, not only does Hassani confront restriction, and transcend trauma, she also crafts a new account for herself.

Working in exile, Hassani includes symbols in her art that refer to her past as well as her current state. One of these symbols is the chain of

² It should be noted that more than four decades after the Iranian Revolution, in a country that was known for its remarkable divas, Iranian women are still not allowed to sing, solo or with others, or to play an instrument in public. The only exceptions are for women who play in an orchestra or sing as backup musicians along with male singers or in a chorus. Only for an entirely female audience are women permitted to sing solo. Courageous women broke those rules in 2022 during the Woman, Life, Freedom movement, and the battle with the authorities over such issues continues to this day.

dandelions that often appears in her works. The dandelions suggest a sense of transition, an ongoing trajectory, losing one's roots, diaspora, homesickness and uncertainties, as well as transforming one's emotions and thoughts into a new form. Additionally, the dandelion is universally regarded as a token of hope and dreams, in Farsi (Persian) and Frasi-Dari the word means, *ghasedak* or a 'little messenger.' Hence, we could argue that Hassani is portraying her hopes and feelings for her homeland, while each work encodes a message for the viewer. Along with the feminine figure, the dandelions in her works remain their most fragile embellishment.

The dandelion is a fragile yet resilient flower. Despite its vulnerable structure, the dandelion is known in the botanical field for its deep and strong roots. The same thing is true of immigrants and artists in exile who still hope to grow roots in their new homeland. Hassani's women are surrounded by a flux of small dandelions that accompany them through their transparent bodies and across their works. They highlight the never-ending transition of diaspora and the artist's quest and hope for liberty. Like her dandelions, I would argue that Hassani's women are elegant yet resilient social agents in transition. For Afghan women, however, hope for an social equality remains far-fetched. Thus the dandelions might also represent the artist's secret message to her peers back home, encouraging them to remain resilient, while she is striving to find her roots in the new homeland and reflect their voices.

In many of Hassani's works, the setting is sombre, but the amount of destruction is not evident. In her art, fantasy becomes a sanctuary for Afghan women, similar to Butler's point in *Undoing Gender*, when she says, 'Fantasy is not the opposite of reality; it is what reality forecloses, and, as a result, it defines the limits of reality (Butler 2004b, 28). Whether

through the background of bombed walls or red splashed pigments symbolising the blood of innocent people, each of her compositions manifests the sheer agony and the catastrophes the artist has witnessed. Yet, the colour palette of her designs seems uplifting and light rather than pessimistic or dismal, and in this way the colours counterbalance the reality. Hassani's women are depicted in a tranquil manner. They are neither agitated nor desperate. Their facial expressions are always minimalistic, perhaps because Middle Eastern women are taught to hide their emotions and are denied the liberty to protest or express them fully. In Hassani's works, the eyes of a woman are always closed, as in figure 1, yet her abundant black eyelashes—characteristic of young Afghan girls—and rosy cheeks, resonate with hope and present a rather juvenile charm in contrast to the grey soldiers, tanks, and traces of blood. Here the art is the source and vessel of life empowering the woman to confront trauma and restrictions. As a coping mechanism, closed eyes would resemble the act of self-reflection and meditation. Therefore, it is through fantasy that both the artist and the women she depicts are delving into a new and safe dimension.

In many of her works, the traces of music bring solace to the woman. We never see her lips. They are sealed, but she is not silent; music, like blood, runs through the figure's body. As a result, the women's urge for liberty and their suppressed feminine energy seek a new means of expression. By eliminating the lips and the direct gaze, as the primary means of expression, Hassani highlights how Afghan women are still fighting to retrieve their rights. Just as the transparency of the women's fabric in her art exposes their vulnerability, Hassani empowers women with the musical instrument and the pigments that surround the woman. Yet, it is still through their vulnerability that women prove to be the warriors of their society.



Figure 2



Figure 3

In figure 2 the heart is cracked, while the only shield she has against the brutality of an army, depicted in sombre charcoal behind her, is her keyboard. In figure 1 the heartbeat itself is within the musical staff, keeping the figurine calm and serene, while her collarbones are embellished with a necklace with the word *Azadi* (freedom) in Persian/Dari. Notably, in most of her works, armed men are depicted in grey or black and without any concrete facial expressions, signifying a sense of brutality, trauma, and terror. But the women appear as individuals. In contrast to the tragic ambience of war and destruction, it is the woman who embodies the source of life and colour.

The artist manages to break the boundaries, to reconstruct the sociocultural norms and to depict both her trauma and her dreams at the same time. A review of Hassani's work in the *Los Angeles Times* points out

that her aim is to rearticulate the destruction that has dominated her nation with the beauty of art. The reviewer remarks, 'Part of her mission, is to beautify the city with colour amid the darkness of war' (Vankin 2022), which also explains why the armed men in her art are always grey, and the woman and the music are the sources of life and colour.

The very nature of street art and graffiti is to rebel against norms, while its platform as a part of public space gives the artist a chance to correlate her vision with the viewers' day-to-day activities. By using public space, the artist is also urging her viewers to reflect on the social injustice imposed on them and to externalise the fears and traumas that have been embedded in them both in the private and public spheres. The simplicity of Hassani's works instantly speaks to the viewers and confronts them with the gravity of women's situation. Hassani's mural art stands as the her attempt to express the unspeakable through a public medium.



Figure 4

As discussed earlier, a basic assumption of the Dialogical Self theory of Hubert Hermans is that the self consists of a multiplicity of positions. However, when the person is immersed in one position, or when she is not able to leave it, this position can be experienced as an 'I-prison.' When the person feels imprisoned in only one emotion, the notion of space becomes particularly important. This space is necessary for exploring what is going

on between the emotion and other parts of the self (Hermans 2010, 306). Through her art and her choice of a public and rather controversial form of art, Hassani is manifesting the externalisation of the suppressed self, liberating the 'I' from what Hermans regards as the 'I prison.' In figure 3, the girl is running away from the judgmental eyes that appear to be hunting her, but the figure is at peace. She is fleeing, yet her movements reflect a flow (ironically, the direction is toward the west side of the canvas). Her closed eyes indicate she is no longer affected by this inevitably plural gaze, while the composition and place of the woman in the corner highlight both the degree and influence of this intrusive gaze as well as the necessity of avoiding it. She is in motion and taking action. One can say the feminine is relying on herself, in a moment when the system of punishment or justice also loses its value. Her closed eyes indicate her superior stand and counterbalance the multiple gazes on her. Accordingly, she is her own saviour from patriarchy, dogma, and other social norms imposed on her. She ignores their validations. It is the artist who is accountable. Confronted with war and diaspora, each of her collections corresponds to the artist's experiences as an immigrant and a woman who is looking for her identity and a sense of community.

Hermans points to a close and intrinsic connection between emotions and movements, as expressed by their etymological connection. The English word *emotion* is based on the Latin *emovere*, where *e-*, a variant of *ex*, means 'out,' and *movere* means 'to move.' In this sense, the bond between emotion and movement lies in the form of bodily movements. For example, joy broadens the experienced space and induces the body to make upward movements (e.g., jumping playfully). Anxiety is related to the Latin word *angustus* which means 'narrow,' and in a wider sense is oppressive (Hermans 2010, 266). Thus, by crafting a new set of surreal settings, not only does Hassani manifest Herman's shifts in emotions, she also extends Butler's first-person perspective and affirms that 'Fantasy is

what allows us to imagine ourselves and others; it establishes the possible in excess of the real; it points elsewhere, and when it is embodied, it brings the elsewhere home' (Butler 2004, 30). In this light, as a Dialogical Self, it is through art that the artist is embracing and extending her emotions and giving a new account of herself.



Figure 5

Hassani's women are confronting the armed men, by offering them a dandelion, as in figure 4, or having their backs to them, as in figure 2. In doing this, they express their strength. Despite trauma or fear, by narrating the events of women's lives and summarising them in symbols, Hassani is binding herself to this narrative. Notably, it is the woman who is also the source of light while the army is depicted in dark, faded shades. She is not neglecting or avoiding the hardships, or the very presence of the armed men. Instead, by holding to her keyboard or dandelion, she aims to heal the ulcers that are depicted through her broken heart. In figure 5 the woman is rising above the blood, tanks, and war itself, seeking the sky. She is the bold and graceful ballerina who perseveres through the tragedy and the serenity of life.



Figure 6

Keyvan Shovir

Shovir's passion for the arts started when he was ten years old and participated in a school painting contest in Tehran. He was the only student who drew an airplane and a dinosaur along with the flower model in front of him. These elements revealed the impact of the Iran-Iraq War (1980–1988) on his psyche, along with the power of children's imagination and their ability to express their feelings through the arts. Considering that, as a small child, Shovir had witnessed the bombings of the war, the airplane and the dinosaur signify at first the passions of a little boy. However, the combination of the two also suggests a sense of fear, especially since neither of these elements were in the model in front of him, but emerged from his thoughts. The flower stands as the tenderness of nature in contrast to the two aggressive, external elements. Initially, while completing his classical art training in Iran, Shovir believed that a good artist should portray reality. But the trauma he had experienced as a child moved him to challenge the rigidity of his classical training in order to work through his traumas and retrieve peace.

Shovir came to San Francisco in 2011 to pursue his interest and education in the arts and enrolled in an MFA program at California College of the Arts (CCA) in San Francisco. After residing for a decade in the Bay Area, Shovir felt that ‘the term diaspora itself has changed in my view.’ Soon he began to merge his traditional background in the art of Iranian patterns with Western styles. Shovir says, ‘Now, I think of home in a more complicated way—it is as a landscape of cultures, languages, and arts.’ For Shovir, diaspora is a much larger concept than what he originally understood it to be. ‘It’s far more diverse, and not just a matter of Iranians who undergo this journey of moving from one country to another.’

While in the United States, an aviation display over the Bay Area made Shovir realise how deeply the Iran-Iraq war had traumatised him. He remarks, ‘I felt immediate terror and remembered the deep fear I had during the bombings of Tehran in the war’. Similar to Hassani’s depictions of blood and tanks that appear in many of her works, Shovir used images from his memories as a source of inspiration to overcome this trauma. Shovir’s *Ascension Series* (2017), a sculptural installation of warplanes and drones adorned with an Iranian flag, Islamic patterns, and calligraphy, reflects the complex and paradoxical history of each of these symbols and how the young artist aims to change the dynamics of his memories of the war through them. Notably, Shovir’s works allow us to unpack both gender and class categories and to see the various kinds of social formations and power relations that constitute those categories.

Inspired by the liberty and rebellious essence he found in the street art of Tehran, Shovir decided to take his cultural heritage and bring a modern spirit to the classical form of Persian miniature and painting art. Aside from developing his art, in his teenage years in Tehran, Shovir took up skateboarding as a way of exploring the metropolis and gathering with

friends to talk about sociocultural issues. But because the sport was never supported or established in Iran, the essence of the gatherings became a rebellious quest for liberation. He refers to that period in his life as a kind of 'diaspora itself—in terms of personal interest and feeling alienated and out-of-place', along with the others of his generation who grew up during the eight years of the Iran-Iraq War (Hosseinioun 2021). Shovir's sense of being out of place or living in diaspora even when residing at home correlates with Butler's sense that 'when we are dispossessed from a place or a community, we may simply feel that we are undergoing something temporary' (Butler 2004a, 42). Is this Butler 2004a or b?

Fascinated by Persian calligraphy, and admiring the boldness and spontaneity of graffiti, Shovir merges the two styles to craft a new voice. Like Hassani, Shovir worked on his murals in Tehran incognito and tried to finish them as swiftly as possible. As he says, 'My only materials were markers and a minimal amount of time to create; you never have the support or the occasion to relax. You are engaged in a kind of guerrilla art project' (Hosseinioun 2021). Unlike Hassani, however, who had to cope with the restrictions and the dogma imposed on women, as well as the ongoing civil war in Kabul, Shovir was a male artist in the dominant patriarchal setting of Iran. He had much more freedom and a greater sense of mobility. In contrast to Kabul, Tehran in the 1990s was a safe place, and Shovir did not have to deal with war or bombings as Hassani did.



Figure 7

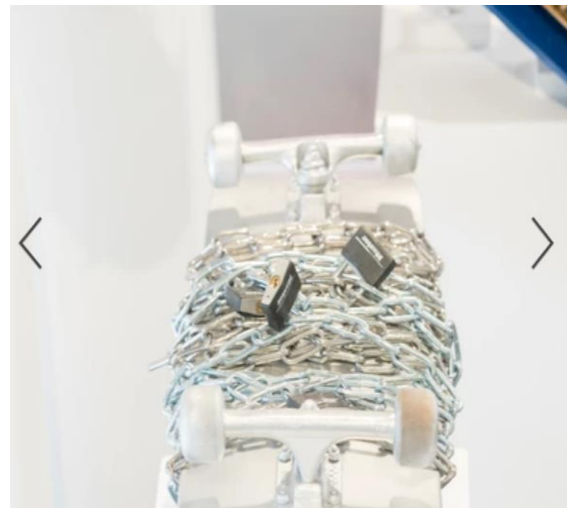


Figure 8

In his 2009 *Messenger* collection, Shovir uses laser-cut acrylic skateboards as a kind of oracle suggesting the emerging social transitions that were part of his generation in Iran and in diaspora. By engraving laser-cut lines from Mawlana Jalal al-Din Rumi's poetry on the back of his azure skateboards (figure 6), Shovir creates a new context for classical Persian poesy and the colour azure, which is also known as Persian blue. By using a skateboard to symbolise the 'uninhibited and daring energy of youth' (Hosseinioun 2021). Shovir's art manifests a tangible platform for navigating his trajectory in diaspora. As the images of music and instruments empower Hassani, it is poetry that empowers Shovir. He notes

that ‘the imprinted poetry on the skateboard empowers the rider to overcome feelings of alienation and to move from tradition into modernity’ (Hosseinioun 2021). In Hassani’s art, the shift from tradition to modernity as part of a woman’s journey is also a dominant motif. However, this transition is only evident in her later works, which were created in diaspora. Hassani’s primary works focus on the missing sense of safety, freedom of speech, and women’s rights.

When a person feels imprisoned in only one emotion, the notion of space becomes particularly important, and also necessary for exploring what is going on in different aspects and parts of the self. In contrast to Shovir’s reliance on a sense of motion and transition, the static state of Hassani’s figures resonates with Hermans’ “I-prison” state of the self and the state of Afghan women, surrounded by uncertainties. Following this line of thinking, the artworks embody the artists’ attempts to step outside of the external restrictions and the internal, limited self. Notably, the experience of transition and the transmission of energy initiated by the individual are featured in the work of both artists. However, in Shovir’s work, the energy moves outward, while in Hassani’s works, it remains inward, which correlates with the different degrees of liberty and self-expression experienced by the men and women of each culture. While both Iran and Afghanistan are essentially patriarchal, we could argue that the enormously oppressive dogmas of the Taliban regarding Afghan women make the outward transition much harder for the subjects of Hassani’s art.



Figure 9

Remarkably, both artists worked on collections inspired by birds and the mythological narratives that deal with moving away from one's home and with undertaking an inner journey. These are common motifs among artists of their generation, who have witnessed wars and have had to choose self-exile in order to follow their dreams. Inspired by *The Conference of the Birds* of Farid al-Din Attar of Nishapur (1146–1221), Shovir provides a new interpretation of the mythological story at the centre of that tale, which describes the journey of hundreds of birds who travel together to an unknown destination in order to find their sovereign. The hoopoe, the wisest of them all, suggests that their sovereign would be a legendary bird called Simorgh. Si-Morgh is the mighty and immortal bird of knowledge in Persian literature and language. The words *si* (thirty) and *morgh* (bird) also mean 'thirty birds.' In this philosophical poem, each bird represents a human flaw that prevents humans from attaining enlightenment and peace. The journey takes the birds through the Valley of the Quest, the Valley of Love, the Valley of Knowledge, the Valley of Detachment, the Valley of Unity, the Valley of Wonderment, and the Valley of Poverty and Annihilation, where the self disappears into the universe. In the end, when the birds look around, they see that only thirty of them have survived. They thereby understand that they themselves,

after this arduous journey, have become the Si-morgh, which now represents unity and harmony.

Notably, this journey and the self-realisation at its conclusion also frame the artistic trajectory of Shovir and Hassani. Shovir's *Simurgh* installation (figure 9) is comprised of thirty birdhouses in a spiral form, each one producing an individual bird sound. The installation thus signifies individualism as well as the plurality and the polyvocality of the collective voices. In Hassani's works, however, though her women have no lips, and the focus is on Afghan women, music represents this universality of voices. In her collection titled *Birds of No Nation* (2015), Hassani focuses on the scattered state of young Afghans around the world, striving to find and craft a new home for themselves.

Shovir's 2022 collection is entitled *Gol-o Morgh* (Flower and Bird). It is based on flowers and birds, a common motif in traditional Persian paintings. Here again, Shovir refers his viewers to Attar's *Simurgh*. Yet, each bird is embellished with Persian miniature, one that represents the new generation of Iranians in diaspora, individuals who still carry part of their cultural heritage. In Attar's saga, each bird represents certain virtues or vices of individuals through self-revelation. Likewise, Shovir's collection represents the plurality behind individual voices.

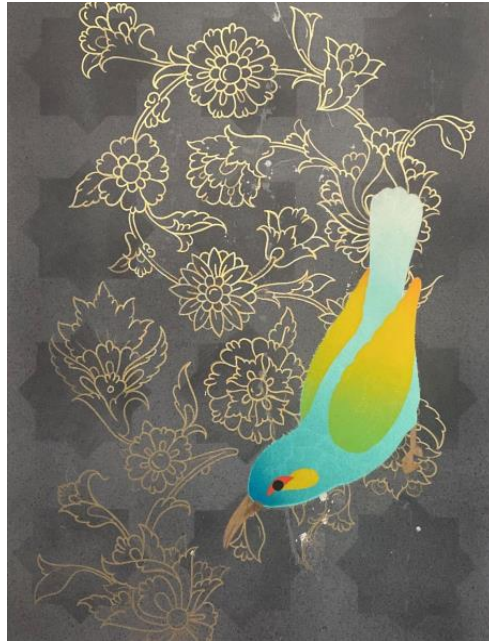


Figure 10: Acrylic and spray paint on canvas 30 × 40 inches

As Shovir notes ‘Attar's poem is a mirror to see parts of ourselves and others. And Flying is a metaphor for walking on a spiritual path’ (Shovir-Hosseinioun 2022). Notably, for Shovir, diaspora is a transition that still carries traces of one’s cultural heritage. However, for Hassani, diaspora represents a new platform from which to delve into womanhood and let the neglected voices of the women of her country be heard.

In Hassani’s later series, the women are shown observing cities from the western rooftops, drawn with icy blue or gloomy shades. Their dresses are florescent yellow, indicating a sense of being alarmed or perhaps marked as outcasts. The yellow of the gowns is nothing like the warm, sunny, golden glow of the Middle Eastern sun; instead, it is fluorescent. In figure 11, the woman’s partial hair scarf shows the stars of the galaxy, suggesting the universality of her thoughts, which surpass all chronological frames. Here again, the woman is semi-covered, which perhaps indicates the artist’s view of restrictions imposed on women. In the iconic work of figure 10, the woman holds on to her keyboard and has broken through the wall, stepping into a new realm, toward the Lady Liberty herself. Here her art

manifests the ultimate sense of transition and diaspora for the artist. Additionally, for a mural graffiti artist, the act of stepping through the wall may indicate a new chapter and phase in Hassani's artistic career. We can see this better when we consider that the United States has been one of the pioneers and ultimate realms for this style of graffiti art.



Figure 11

The *Birds of No Nation* collection also shows Hassani's state of mind after this transition. In figure 10, the woman takes refuge in the overwhelmingly tall American skyscrapers, holding onto her keyboard. In an interview with the *Los Angeles Times*, Hassani explains:

I call my latest body of work Birds of No Nation. People in my country are all the time travelling somewhere to stay safe and find a peaceful life. And we are missing a lot of our friends and family who have left the country. Usually, birds are travelling all the time; they have no nation. And I thought maybe also we have no nation because everybody has moved to different countries. It doesn't matter what country that is;

the thing that is important is just feeling safe, and staying alive. Through Art — I can tell that story.

The lack of destructive elements in this work, in comparison to her previous ones, indicates a feeling of safety. Nevertheless, in this series the figure is still the solo outcast, observing from a distance, and is relying upon herself. As in Shovir's approach, the artist herself is the source of energy, and her art transmits a sense of rebellion. Whether by transforming trauma into musical melodies, or fragmented instruments, or skateboards rooted in poesy and cultural heritage, both artists turn to art to craft a sanctuary for themselves, to heal and to liberate. At the same time, as collections of symbolic images, their art also reflects the voices of their generation.

Shovir and Hassani adopt distinct approaches and styles, embedded in their home cultures. But they also extend cultural or regional binaries by adopting universal motives, such as poetry and music, and entwine them into modern approaches. As much as both artists take their personal experiences as sources of inspiration, they aim to criticise the decline of freedom for both men and women and provide the viewer with a detailed overview of the situations they have faced. Consequently, each of their collections stands as a pictorial self-narrative. Extending this view of self-identity and self-narratives, Shovir and Hassani highlight the importance of having the liberty to express themselves. Most importantly, however, they manifest the plausibility of liberating the suppressed or traumatised self through the arts, as their creative approaches lead to a new sense of accountability and voice for the self, a vision that encompasses the peace and liberation of the individual.

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project at Utrecht University, Hosseinioun has adopted several interdisciplinary narratives, to analyse the works of Persian female artists from 1960 to 2020. She draws from Gender Studies theories in French Psychoanalysis, the works of Judith Butler, Helene Cixous, and modern Russian literary philosophy, mainly Michael Bakhtin. She attempts to decipher artworks as pictorial dialogues and in the process hopes to surpass the sociocultural norms imposed on women. Hosseinioun aims to show the universality of the feminine in arts of contemporary female artists of the MENA region in the diaspora.

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Afghan Refugee Women in Iran: Self-Awareness and Change in Traditional Gender Roles

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Abstract

This article looks at how Afghan migrant women to Iran gained greater self-awareness and experienced many changes in their traditional gender roles. This qualitative study was conducted through in-depth interviews with Afghan working women in Tehran. The women had a median age of 39 (between 23 to 55) and had been living in Iran anywhere between one to twenty-five years. Most of the responders migrated to Iran after the Taliban takeover of Afghanistan in 1995. A few were more recent migrants who arrived after the Taliban took over in August 2021. The article addresses the ways in which Afghan women have attained self-awareness and the multiplicity of factors which have facilitated or impeded this process. We will see that these women have gone far beyond the immediate restrictions and impediments that were imposed by their traditional families, as well as the strict gender division of labour in their community.

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*Eyes ought to be washed anew, a fresh view ought to be
The very wind, the very rain, words new ought to be;
With a parasol unopened still, under the rain ought to be;
Mind, memory unperturbed, under the rain ought to be
With the city's all folks under the rain ought to be;
.....
Life is a perpetual plunging in the pond of timelessness;
Let's disrobe, the water is just a step away,
Let's taste lucidity...*

Sohrab Sepehri

Modern times have witnessed different modes of emigration and taking of refuge in other countries. A large body of research has addressed the drive behind emigration and the aftermath of taking refuge in other countries. This study, which specifically deals with female Afghan refugees and their motivations for migration, uses the same approach, but the article looks at two historical stages: (1) the aftermath of the Afghan civil war and the first Taliban rule in Afghanistan (1996–2001), when the Taliban first imposed severe restrictions on women’s rights, education, and participation in public activities and confined women to domestic work away from public space; and (2) the Taliban’s return to power in 2021, when many of these restrictions have been reimposed. This article focuses on Afghan women’s self-awareness and changes they have undergone as a result of living as migrants in Iran.

I examine the changes they have experienced in their traditional gender roles through a qualitative study and in-depth interviews with Afghan working-class women. The women who were interviewed had a median age of thirty-nine (between twenty-three and fifty-five), and had been living in Iran for anywhere between one and twenty-five years. All the respondents had emigrated to Iran either after the Taliban takeover of Afghanistan in 1995 or more recently, when the Taliban took over again in August 2021. The article addresses the ways in which Afghan women have attained self-awareness and considers numerous factors that have facilitated or impeded this process. We will see that these women have gone far beyond their immediate restrictions, impediments that were imposed by their traditional families, as well as the strict gender division of labor in their communities. In their new social environment in Iran, with a shrinking family size and new responsibilities, Afghan migrant women have attained greater self-awareness and rediscovered their capabilities, and

have also been able to achieve a new and better social status, one that helps them as well as their family members.

Here, we should refer to the of Before the 1979 revolution, Iranian society was relatively modern in its urban communities, with a rich social and cultural background. Iranian women had achieved many of their individual and civil rights, including freedom of clothing, the right to vote, the right to attain higher education, to be employed outside the house, and to be elected to parliament, as well as to serve as minister. Their situation was not comparable to that of women in neighboring Afghanistan.

However, as is well known, after the Islamic revolution of 1979, Iranian women suffered from extensive gender discrimination and have had to confront a host of restrictions in their daily lives. Yet the battles of Iranian women are different than those of their Afghan neighbors. They are primarily aimed at state-imposed restrictions based on highly discriminatory segregation laws, including the mandatory Law of Chastity and Hijab.¹ Due to different opinions and tendencies within the power structure, this law did not find a coherent executive form: its implementation was delegated to law enforcement agents and was therefore carried out in an arbitrary manner, which increased the complexity and ambiguity involved in dealing with hijab in society.

The battles of Iranian women also stem from the theocratic state's refusal to reform marriage and family laws or to implement democratic laws, despite persistent demands for such reforms by a majority of the Iranian people, both women and men. Long ago, Iranian women gained the right to frequent public spaces, to attend schools and universities, and to be gainfully employed outside the house, and they have maintained and expanded upon these rights, despite the state's misogynistic policies. In contrast, leaving the house without permission of one's husband or extended family, going to the university, or working outside the house for a living remain major hurdles for Afghan women, since the authority of the

husband and the extended family continued to reign supreme in Afghanistan.

The very fact of being immigrants—that is, living under novel social, cultural, and economic conditions, outside of the cocoon of old and familiar culture and lifestyle—threw these individuals into new and uncharted personal and social terrain, sometimes with drastic ramifications. With this in mind, this article investigates Afghan women’s self-awareness in light of their newfound status in the host society of Iran, and the implications for their children, especially their daughters.

In this article, I define awareness as having a clear view of problems and inequalities; self-awareness thus refers to the perception that individuals develop about their own existence and their place in the grand scheme of the universe. In addition, the implication of self-awareness implies a stage at which an individual knows her potentials and capabilities, and actively uses them to realize her personal goals, her rights, and her status in a new environment. This definition the emphasis is on the relationship between self-awareness and the social environment.

Put differently, our attitudes and perceptions of ourselves can only be gained through interaction with others. How individuals interact with the larger society affects not only their status within society and the development of their feelings of dignity and value, but also their expectations of society. (Betz 2022).

The Afghan people I interviewed had escaped the instability and insecurities of Afghanistan that arose from decades-long war and occupation of Afghanistan by foreign forces as well as an ongoing civil war. The largest migration of people from Afghanistan took place during the Iran-Iraq war (1980–1988), which coincided with the Afghan civil war. Family constitutes the first and most important environment an individual comes to know, and family connections largely define an individual’s existence. Additional knowledge of other living spaces and the self-

awareness that arises from that knowledge are secondary to the self-awareness gained from living within the family. Afghan women who arrived in Iran did not just leave their homeland behind—they often left their extended family and the institutions that had defined them and their status in society and guided their behaviour... Such changes had consequences for them and for their children.

In the 1990s birth control was freely available and easily accessible for married couples in Iran. The government encouraged its use, and we can safely assume that Afghan families also benefited from the availability of birth control, which led to smaller families. While some migrants had more than three children, the younger couples who migrated to Iran, or were married in Iran, had limited the number of their children to three.ⁱⁱ

Beyond the Borders of the Extended family

In the first few years of immigration, the family plays a crucial role in the lives of the refugees. It offers them a sense of identity and a continued sense of belonging to their previous culture. Family also helps individuals find meaning in life. But family can also interfere with the process of gaining self-awareness. With this in mind, in any evaluation of Afghan women's self-awareness in Iran, their newfound roles and responsibilities in this new family structure serve as leading indicators (Duvall and Wicklund 1972).

Family provides immigrants with their most important habitat, However, migration and refugee status disrupt this framework, and the structure of a refugee's family is different from the structure of her extended family in her home country in many ways. These differences lead to changes in the role, status, and responsibility of refugee women.ⁱⁱⁱ For immigrants, families are smaller, since many relatives are left behind. In Afghanistan, the norm is living in a large extended family, but immigration often changes that, and most refugees live in nuclear families: the husband, the

wife, and their children, and in some cases, elderly in-laws (father and mother). In a traditional extended family in Afghanistan, men—especially the male members of the husband’s family (uncles and grandfathers)—are the major decision-makers. In contrast, in a nuclear family the power of the wife increases.

This is an argument which Raheleh, forty-four, who only has an elementary education and arrived in Iran with four children, offers in the interview I conducted with her:

In Afghanistan, women are treated as inferior to men; but here, men know better. They are aware that women are capable of doing anything and they would succeed in doing that. ... It all comes down to the environment. ... [In Tehran] we came to understand the way of the world, and we learned how to make decisions; we ventured outside our homes into the streets and became worldly-wise. Now I totally decide for myself on matters of the house. I am entrusted with all family decisions. Before this, in Afghanistan, the elder brother [in-law], my husband, and generally his family would have had the last word in every matter. With responsibility comes authority.

Samar, thirty-nine, who graduated from high school in Afghanistan and was the mother of six children when she arrived from Afghanistan, had been living in Iran for fourteen years . She compares living in the extended family to living in the nuclear family:

I was almost tortured by my brother-in-law; I mean torture within the family and the tyranny to which Afghan women are systematically subjected. Now my husband has the courage to stand his ground and would never be easily intimidated by bullies, since he has learned from the new culture. He has learned a great deal. In the past, my husband would have

categorically agreed with the rest of his family, since it was his elder brother's decision which almost always prevailed. My husband was a mere follower. Now he would not allow anybody to impose their opinions on me. As I act assertively in expressing myself, and have a say in important matters, they [the rest of his family] see that I know everything, and no longer have anything to say.

Samar also commented on the important role of the mother-in-law in an extended family:

In the recent past [in Afghanistan], wives would not leave the home without their mothers-in-law; even brothers-in-law were bold enough to authorize [or not authorize] whether or not their sister-in-law should leave the house.

Samar then describes how cultural aspects of a host country can influence the culture of the immigrant families:

Now that Afghan women are socialized in an Iranian setting, the culture and milieu [of Iranian society] definitely have had an impact on them. We have been more integrated [into Iranian society]. ... When I finished high school and was planning to find a job, my brother-in-law told my husband, 'Your wife is not in a position to go to work. It is not necessary and she should remain a housewife.' Samar concluded that if she had continued living in Afghanistan, her husband would have followed the advice of his brother, and Samar would have never been able to get a job.

Evolution of Women's Traditional Role in the Family

The most important change that is taking place within the immigrant Afghan community is the waning authority of men in the new nuclear

family, to the point where their contribution to the survival of the family is diminished and in some cases even non-essential. Many Afghan men participated in the *jihad* wars in their homeland, where a large number of them were either killed or disabled. Some of these disabled men, who have relocated to Iran with their wives and children, are now the passive receivers of services. In some cases, their widowed wives are now taking care of the remaining family members. In other cases, the men died after coming to Iran and the widow became the sole breadwinner of the family. Maryam, thirty-five, who has an elementary school education, and is the mother of three children, has been living in Iran for a decade. She recalls that:

ten years ago, we came to Iran. My husband had wounds from the battleground and he died in Mashhad. ... Now I am the sole breadwinner of the family. I am both mom and dad for my children, and I am the only person who makes the decisions about the family's financial issues.

In the absence of the husbands, or in situations where the husband is a dependent of his wife because of his disability, a significant shift takes place in the dynamic of the marriage. The men's dependent status now bars them from playing the active role they used to play in the extended family in their homeland. Eventually the wife ventures into the streets to provide for the family, an activity that once seemed impossible for them. But the survival of the family challenges women, be they mothers, wives, or daughters, to travel on this treacherous road and fight outside the home for a living. This is indeed a battle, a hard and exhausting one. But in the course of this battle, the woman discovers different aspects of her abilities.

Jabin, who is thirty-eight and has been living in Iran for fourteen years, left Afghanistan along with her husband and four children. She finished her high school education in Iran through courses offered by the Iranian Literacy Campaign.^{iv} She recalls,

My husband was bed-ridden and remained in a hospital until his death. He barely saw Tehran and never worked here. I have single-handedly taken all the responsibilities. When I arrived in Tehran, I was illiterate. I could not figure out what people were saying on the streets. Everything was obscure to me. Now I know everything, I know what happens and what people are saying, easily and effortlessly. I am cognizant of my surroundings. Now I feel that I can travel all over the world by myself. The only problem I might have is the language problem; other than that, I can handle all other issues.

Even when men accompany their families in Iran, the need to work full-time at odd menial jobs, as well as their illiteracy, prevent them from performing their traditional roles in the family. Bolour, who is twenty-three, and only completed the fourth grade in Afghanistan, is the mother of two children. She immigrated to Iran in 1992. She recalls the tremendous changes she experienced in her new role within her family:

My husband is a manual laborer and knows very little about what happens around him. Because of his job, he could not participate in the Literacy Campaign. ... Now I am the only person who decides on matters of importance in our family.

Bolour believes that financial independence is an essential precondition for personal freedom and independence:

In Afghanistan, I would not have been allowed to leave our home. I would not be given money to go shopping, never. But after I came to Tehran, I gained this freedom. Now my husband, who earns an income, trusts me in the way I spend the money he brings in and I feel that is better in many ways. In Afghanistan, for example, if he were planning to buy a house, he would not think that his wife might have an opinion on this matter, and would not think about whether she might

like or not like a particular house. He would not have sought my opinion or taste when buying a piece of clothing. He would have decided on his own and in his mind [he would have assumed] I liked that piece of clothing. But now things are different. For example, at the realtor's office, he asked me to go and see the house first.

Women's New Status within the Family

An important factor in shaping women's perception of her status within the family, as well as the image that other family members have of her, is the radical changes in lifestyle these women and their families have experienced as a result of moving from a deeply traditional, rural community to a much more modern, urban setting, such as Tehran or one of Iran's other major cities, where new forms of social interactions govern relations between the sexes. Men are also affected by these radical changes in lifestyle and environment. Raheleh points out, for example,

In Afghanistan, women are not given any authority; they cannot even make simple choices in life as to how to handle household issues; but here, when my husband and other Afghan men mingled with the larger society— and saw other men's conduct— their attitudes changed.

The lived experiences of Afghan families in Iran, especially in their daily encounters with the medical and educational establishments, shed greater light on how different societies, even those of Iran and Afghanistan, which have great affinity in terms of religion, language, and culture, may have different gender norms, something that brought greater self-awareness to both Afghan women and men. The self-awareness gained in the process of this lived experience is like a light that transforms the vague and unclear image of the Afghan refugee woman into a bright and dynamic image. The

vision of the world that has opened before her can be compared to the blurred image lines that are described in Jabin's description:

I learned how to maintain a sanitary environment around the house by going to health practitioners. In adult school, I learned from my teachers and acted upon my learnings at home; I learned a lot. Alas! what had I been before! I used to be like a deaf and blind person, who made little out of her surroundings.

This self-actualization can only happen when other family members also acknowledge and approve the new norms, and when the women feel safe in their new surroundings; that is, the process needs to be reciprocal. When a wife finds out that her husband approves of her new role, her new self-awareness bears fruit because, as mentioned earlier, the process of gaining self-awareness is a social one. Bolour believes that 'one result of taking greater responsibility was the fact that my husband became more approving of me as he became a witness to my efforts for the sake of the family.' Thus self-awareness, if acknowledged and reciprocated, works to strengthen relations within the family and may make it more humane and peaceful. She adds that 'now my husband loves our daughter and he is affectionate towards her. ... Before, baby girls were totally ignored. Now he always hugs his daughter and affectionately embraces her to demonstrate his love.'

Immigration and Children's Status within the Family

Self-awareness also sheds new light on events of one's past life. Hindsight that is informed by self-awareness of one's past often results in quick flashbacks, where one revisits scenes from one's own or another's childhood and formative stages in life, and reconsiders those experiences. Scenes where girls are forced to leave school or are denied the right to go to school, or when they are forced to marry, but their opinion in marriage

is never solicited, are often revisited in these accounts. Maryam, in thinking about the responsibilities and duties of a modern-day mother, criticizes the traditional practices of raising children that she encountered as a youth:

It is always the parents who decide the future of their children, whether in their marriage or other issues. My parents only told me to marry; they did not ask my opinion about the individual I would marry; his education, his income, his social status, and his personal demeanor. For them, having an unmarried fifteen-year-old daughter was socially inappropriate. She had to get married as soon as possible, and go to her husband's house and start a new family.

One of the first results of gaining greater self-awareness is the impact it has on raising one's children, as parents attempt to break this evil cycle of repeating bad parenting practices and to form new habits. Maryam thus adds, 'All my efforts are focused on this purpose that my children be educated and have a brighter future.'

All of the women I interviewed placed great stress on educating their children. Bolour, who was the youngest mother among those who were interviewed, said,

One other major difference I see in my life here is the life of my children. ... These children are different from those growing up in Afghanistan. If they had grown up in Afghanistan, they would have acted like other children; they would have lacked respect for their mothers and lacked motivation to focus on their school homework. ... I noticed how Iranian mothers were serious about their children; the emphasis and effort they put into educating them was exemplary. Iranian mothers provided us with an excellent example of how to be a good mother, and their children also provided a model of excellence for our children in school. ... [Now] I go

through thick and thin so that my children attend school; so that they will not be like us, their parents

The women's greatest goal in life is thus to prevent the flow of the past into the present. Most of these women see education as crucial in preventing the earlier vicious cycle they experienced in the lives of their children. They themselves have learned how to live under the new conditions mostly through trial and error, and have gained self-awareness without the help of their parents or mentors. Some accounts confirm the dynamics of this process. Raheleh adds, 'In Iran girls go out, go to school, and know the way of the world, see everything and will have clear minds. ... They know how to behave outside the home and what happens outside.'

A majority of women whose road to self-awareness is investigated in this article had a rural background. They first went to school after coming to Iran and after attending Literacy Campaign classes. Others were educated in Afghanistan. They were working in Kabul and other Afghan cities, but their academic credentials were not retrieved due to the chaos of immigration; thus, it was difficult or impossible for them to show their diplomas to local authorities in Iran, and they faced insurmountable problems in finding appropriate jobs. Other deprivations and hardships that they faced as migrants in Iran isolated them more than before.

For this group of women, family offered the sole source of relief and escape from the vicissitudes of life, even though the traditional gender roles perpetuated within their families further restricted them. These imposed family constraints made their upward mobility difficult and kept them grounded in the family structure. Against all odds, however, eventually they attempted to change their lives and those of their children. As we will see below, while they lived within the family structure, they were able to adopt a different approach to raising their children and eventually empowered themselves while preparing their children for life in their new homeland.

Immigration: Integration or Transition?

After twenty years of being kept from power, the Taliban once again seized control in Afghanistan in the summer of 2021, which triggered the movement of tens of thousands of frightened Afghan people toward Iran, in a desperate attempt to flee from violence, hunger, ethnic and racial persecution, political instability, and a collapsed economy.

Some of the Afghans who illegally traveled to Iran did so out of economic desperation, since their livelihood had collapsed completely as a result of COVID-19 waves and layoffs in 2020–2021. However, because Iranian currency had depreciated significantly as a result of the US-led reimposition of sanctions on Iran in 2019, the value of the money that Afghan immigrants earned inside Iran and sent back to their families in Afghanistan had also declined considerably.

During the first Taliban takeover, the most vulnerable section of Afghan society had been women. Now with the Taliban's reappearance in power, women saw the writing on the wall and realized that once again the deeply misogynistic policies of the Taliban would bar them from going to school, being employed, and even entering the public sphere unchaperoned. US policies in Afghanistan between the years 2001–2021, policies that had promised to bring permanent and positive change to the country's infrastructure, to foster sustainable growth, improve the lives of Afghan women, and close the gender gap had come into conflict with local cultures and now came to a crashing halt as US forces left the country.

Zinat, who is fifty-two, continued her education in Iran and earned a college degree. She then became an active member of an NGO that addressed women's issues. She offers an excellent example of how and why US policies failed to deliver the promised changes:

As somebody well-versed in NGOs and social activism, I believe that Western powers often squandered the huge sums of money and resources they poured into projects to promote democracy in Afghanistan, because they did not fully understand the local cultural nuances, and their efforts did not resonate with native sensitivities. Since the local people viewed them as foreign and detached from the local realities and values, the US-led efforts were thought to be superficial, lacking depth and complexity. Indeed, European and American investments in Afghanistan were largely wasted, since they were not based on realistic estimations of local conditions and thus were blown away by the mildest form of opposition. ... Western powers built schools, but they failed to inculcate in locals the mindset that their children needed to go to school; that is, they ignored the need to encourage local people to actively participate and to appreciate the services they were providing. Because they did not interact effectively with the local population, many essential local needs remained buried beneath a thick shroud of propaganda.

Many Western feminist activists and advocates of women's rights, as well as some from Afghanistan and Iran, believe that the Western media presented a very inaccurate image of Afghan women as utter victims with inferior social status in order to legitimize Western intervention in Afghanistan. Zinat says that many Afghan women in rural villages and towns felt just as insecure while US forces had control in Afghanistan as they did when the Taliban were in power. As a result, these rural women carefully avoided streets and public spaces in order to escape potential violence. Many pivotal issues for Afghan women were never addressed, including their right to work and gain financial independence, their right to be reimbursed for gender-based violence and the war they had endured, and their inferior position in the family and community, especially

regarding forced early marriage and the grave issue of trading women and girls between families in order to solve ethnic and family disputes.

This is a dominant theme that emerges in any investigation of Afghan women's lives nearly four decades after they migrated to Iran. While the first generation of Afghan immigrants to Iran belonged to farming and village families with no education, the second and third generations, who grew up in Iran, have achieved a better position in Iran and reached much higher social status.

Leila's account shows this contrast between the generations. She is fifty-five and has two sons. She has a high school degree from Afghanistan.

We have been living here for many years now. We are officially residents of Iran. In 1994 when the Mujahedin were fighting in a civil war, my husband was a staff member of the presidential office. The Mujahedin dissolved that office and laid him off. Then we left for Iran. We feel that we have more freedom here. Unlike people living in small towns and far-flung provinces, my family was among Kabul's middle class of technocrats who worked for the government, and therefore we were not facing much social and financial pressure before the civil war. Even female immigrants from traditional parts of Afghanistan who have migrated to Iran now feel freer. For example, I go to work and have achieved financial freedom. I work as a nurse. But in Afghanistan, the family posed the greatest barriers in the road to women's employment.

When I asked Leila if she would return to Afghanistan, she replied,

In terms of general peace of mind, Iran is more stable than Afghanistan; we now have a better life. Afghanistan has huge problems, and it has become even worse since the Taliban takeover [in 2021]. In particular, the situation for women has deteriorated. Women are barred from going to school and

working; Taliban fighters are a source of trouble and have interfered with the daily lives of Afghan women. Since we came here, our kids have gone to school and have become educated. For a while, there were some restrictions on their going to colleges and universities (because they were Afghans), but now those restrictions have been lifted, and our kids graduate from universities with degrees.

Jabin offers a similar response: 'I was totally ignorant of all things around me when I arrived here fresh from Afghanistan; now I have turned into a wise and educated woman.'

And Samar added,

God has created men. He has created us women as well; we are the same and have no difference. ... Since we have known our rights, we would protect those rights in any time and any situation. ... Why should men always go to work and women should not, while we are all educated, and as you see, we actively search for jobs.

Raheleh also commented, 'I think in retrospect, I would do the same (in terms of immigration), since from every aspect, my situation has become better than it was in the past. I would not change it for worse.'

This radical change in their attitudes also reflects changes that have taken place in the role of mothers in the family. Many of these women are now the primary breadwinners and thus are essential for the survival of all family members. The self-awareness discussed above passes on to the next generation of sons and daughters who are more fully integrated in the host country. Such attitudes are common among Afghan immigrants in Iran after the recent Taliban takeover of the country in August 2021.

The latest generation of Afghan immigrants (those who came after August 2021) often consider Iran a springboard for their future immigrations to Western countries. Many of them are educated and prepared to live the

life of a modern citizen. This empowerment comes as a result of access to education and years of living in metropolitan cities and gaining greater, though still limited, social skills. These abilities will help these immigrants in their transition to Western countries.

After four decades of peaceful coexistence between Afghan immigrants and Iranians, we also notice a change in the attitudes of Iranians toward immigrants. Afghan women's self-awareness brought about major changes in their role within the family and opened venues to them where they could accept new responsibilities. These changes have made Afghan women more capable and more responsible players in the host society. Afghan women have drastically altered the way they raise their children. Their interactions with host institutions are informed and refined by their newfound status as accomplished individuals. This newfound status even creates a new system of family relations, in which immigrants are no longer seen as bound by traditions and conventions of the past.

For many of these women, family served as the foundation on which their self-awareness was based. Family has played a positive role, since it no longer has the old, traditional framework, but a new structure, which has helped women experience life firsthand outside their homes. They are now part of a world where their individuality matters and is protected. In this way, and by supporting the same awareness in their children, they have transformed themselves and now are able to clear the path for the next generation of confident Afghan women.

Despite all the legal limitations that continue to be imposed on women in Iran, both Iranians and Afghans, the greater rights that Iranian women have secured in the domestic and public spheres after more than a century of struggle have also benefited and transformed Afghan refugees. Afghan women have gained a much stronger self-awareness from this new opportunity to live as independent individuals rather than beings whose existence revolves around others, be they husbands, in-laws, or children.

Ziba M. Jalali Naini started work as a publisher, editor, and translator of books in 1994 in Tehran, Iran. She is the founder and owner of Shirazeh Publishing House in Tehran, with more than four hundred books published on Human Sciences. In 2004 she won the First Prize Award from the Women's Cultural Association in Tehran for her many accomplishments. Since 2000, she has been a member of IRWI, a national NGO of independent female researchers. She has conducted research and contributed to a report entitled "An Analysis of the Girl Child and Youth Conditions in Iran" for the Beijing +10 Conference. Jalali Naini is the author of numerous articles on social, cultural, and gender issues in different revues and magazines in Persian, English, French, and Italian.

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ⁱ Immediately after his return to Iran in February 1979, Ayatollah Khomeini admonished unveiled women and called for greater modesty. However, the public ignored these comments, since several generations of women had grown up without veiling and the idea of reimposing the veil struck many as absurd. The first mandatory laws regarding modesty and hijab were ratified by the Islamic Majlis in 1983 and were aimed at women who entered or worked in government offices. The new law stated that ‘women who appeared without properly religious hijab in public would be punished and receive up to 74 lashes.’ Initially, women were taken to judges to mete out the punishment. More recently, in the summer of 2022, the morality police started enforcing the law once again, ignoring the fact that for over forty years, Iranian women have resisted this and other discriminatory gender laws and have organized a number of important social campaigns dealing with the subject of gender segregation as well as greater democratic rights for all. In September 2022 the brutality of the Iranian morality police once again resulted in the death of a young Kurdish woman named Mahsa Amini, who was visiting Tehran, a tragic event which made national and international news. See Afary and Anderson 2022.

ⁱⁱ Contraceptive use among married women varied from 49.0% in 1989 to 73.8% in 2006. Successful strategies included, ‘The creation of a supportive environment, reorientation of family planning services, expanding of coverage of family planning services, training skilled personnel, providing free contraceptives as well as vasectomy and tubectomy services, involvement of volunteers and nongovernmental organizations and promotion of male participation. For more information see Simbar 2012 participation’.

ⁱⁱⁱ As a graduate student at UCLA, I conducted a research on Latin American women who migrated to the United States and came upon a very similar finding. Women who came from more traditional cultures, but had left behind the extended family, were far more adept in assimilating to US culture: They went to ESL classes, took up driving, and were more open in communicating with people of the host country when compared to their husbands.

^{iv} Adult literacy classes began in Shiraz in 1907 during the Constitutional Revolution, but systematic efforts to fight illiteracy in villages and illiteracy of children in school were launched in 1962, when a Literacy Corps was established in the era of Muhammad Reza Shah Pahlavi. In 1980, the new Islamist government continued the campaign, which was now offered under the rubric of Islamic Jihad Literacy. The new program taught rudimentary literacy to adults. It consisted of at least 400 hours, which could be extended to 550 hours of instruction.



Image 7: **SH9** (2020) © [Shamsia Hassani](#). All rights reserved

Afghanistan and Its Challenge to Feminism¹

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Abstract

This article examines Afghan women's resistance against the return to power of the Taliban since August 2021. It also critically evaluates the different attitudes that global feminists have expressed about the plight of the Afghan people and the much needed solidarity with Afghan women.

In the two years since the return to power of the Taliban in Afghanistan, Afghan women have resisted in many ways, ranging from street protests to organizing underground classes and meetings, and distributing food among impoverished women and children. Some feminist activists have been abducted by the Taliban or executed. Others have been forced into arranged marriages in order to have a male guard at all times. Many others are languishing in refugee camps in Pakistan, Europe, and the United States. The Taliban have banned girls from continuing their education after sixth grade, and have banned women and girls from going to public places, including parks, or traveling without male relatives. They have also banned Afghan women from working for local and international aid organizations, including the United Nations (see chronology). These decisions have led many aid organizations to suspend or scale back their programs across the country. Without female aid workers and without funding from aid organizations, Afghan women and children have been cut off from aid and are dying of hunger and disease. Afghanistan is facing an increasing humanitarian crisis due to the flight of non-governmental organizations that had provided many with jobs, health care, and food



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¹ Parts of this article first appeared in *New Politics* in Winter 2022.

assistance. Half of Afghanistan's population of 40 million is facing food insecurity, and 6 million are facing famine (Goldbaum 2023).

The Taliban's August 2021 takeover of power following the brutal, twenty-year, imperialist occupation by the United States was a catastrophe not only for Afghan women but also for women throughout the world. It is true that often times world powers close their eyes to atrocities against women, including most recently the rape and mass incarceration of Uyghur Muslim women in Xinjiang by the Chinese government, the rape and ethnic cleansing of Rohingya Muslim women by the Myanmar government, and the rape and assault on women in Sudan, Congo, and Ethiopia's Tigray Region by government forces. What is different about the case of Afghanistan, however, is that the US government and other occupying NATO allies practically handed over power to the Taliban, a misogynist, racist, and jihadist army that the occupation had originally sought to uproot. The Taliban is an army that is in many ways similar to ISIS and to the Ku Klux Klan in its extremism and brutality (Achcar 2021; Cole 2021).

Since taking power, the Taliban have assaulted women's protests, beaten and censored reporters, stopped girls over the age of twelve from attending school, forced girls over age twelve to marry Taliban fighters, banned women from universities, forced most employed women to stay home, reinstated complete gender segregation, and replaced the Department of Women's Affairs with their morality police, aka the Department of Promotion of Virtue and Prohibition of Vice (Nebehay and Farge 2021; Pal 2021; Engelbrecht and Hassan 2021).

Pakistan—which groomed and financed the Taliban from its inception—along with China, Russia, and Iran, which have all been assisting the Taliban for some years, are now the dominant imperialist powers in

Afghanistan. They have made their own arrangements with the Taliban to further facilitate the ability of all parties to exploit and oppress the population (Rashid 2010; Zhou 2021; Kuo 2021; Fathollah-Nejad and Azizi 2021; Chatterjee Miller 2021).

According to a representative of RAWA, the Revolutionary Association of the Women of Afghanistan, ‘The roles which the U.S, Europe, China, Russia, and Pakistan have played in Afghanistan have been very destructive and militaristic. China, Russia, and their allies are also competing with the United States and do not care about the plight of the Afghan people. The U.S. used the slogan of democracy and “war on terror” to promote an imperialist occupation and a corrupt, U.S. -backed government for twenty years and to force this government on the Afghan people. The U.S. has shown that it can make peace with the Taliban when it is in its interest. All these governments use the very real need for humanitarian aid to justify diplomatic recognition of the Taliban.’ (quoted in Afary 2021a).

After the Taliban’s return to power, some progressives and feminists around the world issued statements in solidarity with Afghan women. Activists from Iran, Iraq, Pakistan, and India, as well as Europe, Canada, the United States, and Hong Kong organized protest gatherings and meetings. Many are also actively helping Afghan refugees. Some African American feminists now include discussions of Afghan women’s rights alongside those of Haitian women (Black Women for Wellness 2021). Some feminists are collecting funds for female refugees and women inside Afghanistan. Others are attempting to provide online education to women and girls.

There are many barriers, however, in the way of organizing global feminist solidarity. These barriers are not limited to lack of funds or resources, but also emanate from the lack of a clear analysis of why Afghan women are in

this crisis and what can be done to address this situation in a fundamental way. Here I would like to consider three of the attitudes expressed by feminists that reveal both the barriers and the pathways that can help us move forward.

1. Among liberal feminists, many accept the US deal with the Taliban and seem to think that the only solution for now is to use economic pressure to make the Taliban more inclusive.
2. Among leftist feminists, some believe that the Taliban are the lesser of two evils for Afghan people after twenty years of US occupation and should thus be recognized or engaged with.
3. Among some progressives and socialist feminists, there is principled opposition to the United States and other imperialist powers, as well as the Taliban. There is also support for the struggles of Afghan women against religious fundamentalism and imperialism.

Liberals Who Justify US Imperialism's Deal with the Taliban

Many liberal feminists, such as Michelle Goldberg, columnist for the *New York Times*, admit that the US occupation was a corrupt effort that led to the deaths and suffering of tens of thousands of Afghan civilians. They have supported the US withdrawal. However, they argue that President Joseph Biden could not renege on the deal that former President Donald Trump had made with the Taliban (Goldberg 2021; Goodwin 2021). They ignore the fact that Biden was not obliged to carry out the deal in order to withdraw US forces. They also ignore the fact that it was the Obama administration that started negotiating with the Taliban. The Obama administration asked the Qatari government to open a diplomatic office for the Taliban in Doha in 2013; the purpose was to facilitate negotiations behind the backs of Washington's own puppet Afghan government (Whitlock 2021; Tankel 2018).

Another liberal feminist, Farah Stockman, a member of the *New York Times* editorial board, argues that the US government should ‘leverage money and international recognition to incentivize the Taliban to establish the most inclusive and moderate government possible.’ In her view, ‘even a deeply flawed government in Kabul is preferable to no government at all’ (Stockman 2021).

Leftists Who Call for Recognizing or Engaging with the Taliban

Nancy Lindisfarne, co-author of *Afghan Village Voices* and co-editor of *Dislocating Masculinity and Masculinities under Neoliberalism*, and Jonathan Neale, former abortion and HIV counselor and author of *A People’s History of the Vietnam War*, argue that the Taliban should be viewed as the will of the Afghan people (Lindisfarne and Neale 2021). They emphasize that the Taliban, although ‘deeply misogynist’ and ‘sometimes racist and sectarian,’ have popular support inside Afghanistan because of the cruelty and corruption of the American occupation. ‘The Taliban have offered two things across the country: ... They are not corrupt ... [and] are willing to rule for the poor.’ Lindisfarne and Neale go on to argue that, the ‘new’ Taliban, are not the Taliban of 2001 but have become more inclusive and also have ‘concerns for the rights of women.’ They are ‘an army of poor peasants.’ They are ‘anti-imperialist.’ They ‘want peace.’ Lindisfarne and Neale make a distinction between Afghan women and Afghan feminists. They claim that most Afghan women do not oppose the Taliban and sarcastically add that those progressives who want to help Afghan feminists can ‘organize to buy them airplane tickets and give them refuge in Europe and North America.’ While most leftists do not back such a crude and shameful defense of the Taliban, the view of the Taliban as a popular, anti-imperialist force with support from women is not uncommon within the left.

Anand Gopal is the author of *No Good Men Among the Living* (2014) a Pulitzer Prize–winning book on the US occupation of Afghanistan. In his moving article, “The Other Afghan Women,” he recounts the life story of a rural Afghan woman named Shakira from her childhood during the Soviet Union’s occupation up to the return of the Taliban in 2021. He shows that even when some rural women say they prefer the Taliban forces to the Karzai and Ghani governments and the US occupation, it is not because they admire the Taliban but because they have experienced bombings under US occupation. In fact, rural women do support women’s rights and want rights for *all* women, not only for urban women (Gopal 2021).

However, even Gopal calls for engaging with the Taliban. He does not advocate for the immediate recognition of the Taliban government, but he does argue that ‘given that there are different currents within the Taliban, the extent to which the international community tries to engage with the pragmatic current, that could empower that pragmatic current against the hardliners’ (Remnick 2021).

Principled Anti-Fundamentalist Feminist Solidarity

As part of an effort to articulate a principled collective position, a group of Iranian feminist organizations in exile issued a statement, in which they wrote: ‘We condemn the recognition of the Taliban government by any country under the claim that “the Taliban have changed and have become more moderate.” We stand with the women of Afghanistan against the Taliban, who, after reconquering power, have turned women and girls into sexual slaves for their soldiers’ (Collective Action 2021).

A coalition of Indian women’s groups issued a call for Afghan solidarity demonstrations throughout India on August 23, 2021. Their demands included the following:

- a) The Global community must refuse to recognize the Taliban regime in Afghanistan, and instead support the demand raised by Afghan civil society and women's groups.
- b) Any change of political order or the constitution must happen through elections and by the will of the people of Afghanistan, not through the threat of violence, or through war and military intervention.
- c) Drafting, legislating, and implementing the civil and penal laws shall be based on the Constitution of Afghanistan, the national parliament shall be the sole legislating body, and the creation of any non-elected body, including the Supreme Theological Council of the Taliban, and the practicing of any unconstitutional power shall be outlawed.
- d) An international tribunal [must be] set up to ensure justice for the war crimes committed by the United States and NATO in the course of the invasion and occupation of Afghanistan. The UN Human Rights Council must initiate a fact-finding mission to identify and bring to justice all perpetrators of atrocities and violence against Afghan civilians.
- e) United Nations Secretary General, the UN Human Rights Council, international human rights organizations, and the international community must act to ensure that Afghan women's rights groups are the center of any negotiations and other processes to ensure a just peace and secure the rights of all Afghan people (All India Progressive Women's Association, et al. 2021).

The views expressed in the these demands help feminists articulate genuine solidarity in some important ways:

- It is critically important not to separate opposition to US imperialism from opposition to the Taliban and solidarity with Afghan women, oppressed minorities, and refugees. Any talk of legitimizing the Taliban as the so-called 'will of the Afghan people' should be rejected. If we allow for the legitimization of the Taliban government, we have

betrayed Afghan women, and we have emboldened the extreme-right racists and misogynists around the world, like those who are taking away voting rights and abortion rights in the United States in the name of ‘state’s rights.’ Instead, we need to give voice to Afghan women who oppose the Taliban.

- We need to continue to put pressure on our governments and the United Nations to deliver humanitarian aid to Afghanistan through reputable humanitarian organizations and independent channels that can be held accountable and refuse to accept the ban on women aid workers (Egeland 2021).² As recently as April 10, 2023, Afghan women’s rights activists have once again called on the UN to reject the Taliban’s banning of women aid workers, and instead refuse to provide aid without the participation of women aid workers.

However, an issue not fully addressed by many of the feminists who have taken a principled stand in solidarity with Afghan women is that even relying on the UN has severe limitations. While the efforts of Chilean feminist Michele Bachelet, the UN high commissioner for human rights, to install a UN official to monitor human rights in Afghanistan represent a step forward, we must not have any illusions about the United Nations. Among the forty-seven members of the UN Human Rights Council, nineteen—including China, Russia, and Pakistan—failed to support Bachelet’s proposal to have a human rights watchdog for Afghanistan. Two months earlier, members of the Organization of Islamic Cooperation had blocked Bachelet’s call for a fact-finding mission (Cumming-Bruce 2021). Furthermore, the permanent members of the UN Security Council (the United States, China, Russia, France, and the United Kingdom) each have the power to veto any UN effort—whether by resolution or tribunal—to

² Those who wish to contribute to the Revolutionary Association of the Women of Afghanistan (RAWA) can do so through Afghan Women’s Mission <https://www.afghanwomensmission.org/2010/08/make-a-donation/>.

put them on trial and hold them accountable for committing war crimes in Afghanistan or elsewhere.

Conclusion

Given the above, I would argue that instead of putting our focus on creating a 'feminist foreign policy' within the context of capitalism (Chattopadhyay 2021), feminists need to challenge the very logic of capitalism that leads to militarism, war, and the facilitation of misogyny. This begins with recognizing that Trump's and then Biden's eagerness to withdraw from Afghanistan were rooted not just in the failure of the twenty-year US occupation; it also stemmed from US aims to concentrate its military forces in the Pacific region in order to confront China in what could be a potentially much larger and far more destructive war for capitalist global domination (Buckley and Myers 2021).

Although the Biden administration did not want to concentrate its efforts on a potential war with Russia, which it considered a declining power, Putin's brutal and genocidal invasion of Ukraine on February 24, 2022 started that war. The 'limitless' alliance of Russia and China, announced shortly before Putin's invasion, also warns of the possibility of a wider war between Russia and China on one side and the United States and Europe on the other.

In order to express solidarity with the women of Afghanistan and to make sure that their cause does not get lost in the increasingly militarized global situation, we need to have a deep awareness of women's struggles and anti-racist, labor, as well as LGBT struggles around the world, and bring them in dialogue with each other. The fact that Afghan feminists have expressed their solidarity with the 2022–2023 Woman, Life, Freedom movement in Iran shows that they are continuing to resist and demand

support from their sisters internationally (Omid, 2023). In my book, *Socialist Feminism: A New Approach*, I have tried to offer ideas for deeper, international feminist solidarity on the basis of a humanist alternative to capitalism-racism-sexism-heterosexism, and alienation.

Frieda Afary is an Iranian American librarian and translator based in Los Angeles. She produces the blog, *Iranian Progressives in Translation*, and is the author of *Socialist Feminism: A New Approach* (London: Pluto Press, 2022). She is the producer of *Iranian Progressives in Translation* and Socialistfeminism.org.

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Image 8: **Flower and Bird** (2023) © [Keyvan Shovir](#). All rights reserved

A Saga of Love under the Hail of Fire

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Abstract:

This short story is excerpted from a memoir entitled Raha Dar Bad (Los Angeles: Ketab Corp., 2012), written by Soraya Baha. Ms. Baha was the sister-in-law of Mohammad Najibullah (1947–1996) who served as president of Afghanistan from 1986–1992. Najibullah became head of the secret police when the Soviet Union occupied Afghanistan in the December 1979. He was infamous for his brutality and ruthlessness. He became president of the country when the Soviet forces withdrew in 1989, and his widely despised government was considered a puppet regime of the Soviets. Ms. Baha was against the Soviet occupation, as well as the dictatorship of Najibullah. She ran away with her husband and their two children, Khaled, and Roya, and joined the war front in northern Afghanistan (Panjshir), where the famous partisan commander Ahmad-Shah Masoud had stationed his mujahedin forces. Masoud was fighting the Russians and led the largest war front in the mountains and valleys of Panjshir. Soraya Baha stayed there for some time in a small cabin with her two children. She later wrote her memoir and included this experience. The excerpted story below is based on true events that the author personally witnessed while in Panjshir.



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One night during a cold autumn season, while we all sat under the *sandalie*,ⁱ twenty-four-year-old Rahim, one of the partisans, rushed into our small cabin and said, ‘Hide me somewhere, Heydar will kill me!’ We hid him behind the mattress and blankets. After a few minutes, Heydar, who was a tall young man, entered our small cabin with a Kalashnikov rifle. He looked everywhere, then asked, ‘Did Rahim come here?’ I said, ‘No, but you can’t come into our cabin without permission.’ He apologized and left distressed. I came out and saw him running quickly toward the top valley in the direction of the Chobakⁱⁱ station.

I went back and took Rahim out of his shelter. He was pale. I asked him, 'What happened?' Rahim said, Heydar and I have been friends since elementary school. Today his sister Marjan showed up at my place, asking me for *shangari!*ⁱⁱⁱ I asked, 'How was it that his sister decided to seek *shangari* in the midst of the war?' He said,

His sister is eighteen years old. When Panjshir became the hot bed of war, all the women of Panjshir were evacuated. Marjan and her mother rented out a place from an officer of the Khalqi (communist) faction who lived in Cementkhaneh.^{iv} After a while the Khalqi had his eyes on Marjan and asked to marry her. Marjan, whose brother Heydar was in the war front in Panjshir, had no interest in marrying him. But she decided to feign interest. She told the Khalqi that if he wanted to marry her, he should buy her a heavy golden necklace. The Khalqi bought her a set of heavy golden jewelry. Marjan secretly sold the set, and with the money rented two horses. She ran away from home with the aid of an old male acquaintance from Panjshir. After a long ride, they arrived in Khonj last night,^v and she told me, 'I don't want to marry this filthy Khalqi, I want you to marry me.' Because I love Marjan, I went to her brother Heydar, explained the situation, and said I wanted to marry her. Heydar got upset and said, 'How did Marjan get to Panjshir all by herself, and why didn't she come to me and instead attempted *shangari* in your place?' Heydar felt dishonored by this incident and said, I will show you a *shangari!* He went to the station to bring his Kalashnikov, so I ran away and came to your house. Can you please call Commander Masoud?

One of the partisans went to the station. Once again, my son Khaled and my daughter Roya hid Rahim under the blankets and mattress. After a few minutes, Masoud Shah and Mawlana (the financial officer of the movement) came to our cabin. We pulled Rahim out from under the quilts, and as soon as he saw Commander Masoud, his face turned red, and he

respectfully and calmly sat next to him. Commander Masoud asked, 'What's going on boy?' Rahim said, 'Nothing Commander Masoud. Heydar's sister has come to my place to seek *shangari*, but now Heydar wants to kill me.' Masoud was surprised and asked, 'How did Heydar's sister get to the war front, and seek *shangari* at your place?' Rahim said, 'A godless Khalqi wanted to forcibly marry her, so she ran away here.'

Masoud said, 'Where is she now?' Rahim answered, 'Here in Khonj, by the mountain that is in front of us, on the other side of the river.' Masoud told Mawlana to bring the girl over. Mawlana left, and after an hour, came back with her. The girl, who was wearing a large scarf over her head, respectfully said hello and sat in front of Commander Masoud.

The Commander said, 'You Panjshir girls do not miss out on shangari, right? How did you pass the valley and mountains to get to the Khonj in this cold weather?'

She was embarrassed, and her face turned red. She lowered her gaze, and with her shaky, low voice said, 'Commander Masoud, I had to. If I didn't run away, that unfaithful Khalqi would have forcibly married me.' The Commander said, 'But you can't live with Rahim at the war front.' Rahim said, 'I will take Marjan to the province of Farang to stay with my mom.'

Commander Masoud sent one of the partisans to bring Heydar back. Heydar came in and as soon as he saw Masoud, he put down his Kalashnikov and sat next to the *sandalie*. I don't know if he was trembling from the cold or from anger and stress. Commander Masoud said, 'What's this messy hair and face of yours? And these faded shoes? The Kabul government is right calling you insurgents. Did you want to kill your best friend?' Heydar replied. 'What should I have done?' The Commander said, 'So you wanted your sister to marry a traitor Khalqi?'

Heydar said, 'War has destroyed us and our future. Curse on the war and all Khalqis.' The Commander said, 'Mawlana-Saheb, tomorrow, take these two young people to get married. The girl can stay in Khonj for a week, and

then she must go to the Province of Farang. That's all. Congratulations!' Tears of happiness and joy flowed from the girl's beautiful green eyes, and she said, 'Commander Masoud, May god give you our lives.'

The next day they got married, and everyone congratulated them. Heydar was happy too, and the young couple rushed to stay at a cabin on the other side of the river. Even the roaring river seemed to be singing a wedding song for them.

Surprised by the pleasures of being in love for the first time, their hearts and souls seemed to outlast any danger and fear. In a short time, the love of a girl had transformed everything, interests, needs, and thoughts. They spent their first few days of marriage in a cabin with the bright stars, the valley, and the mountain and roaring river as witnesses.

They were not rushing toward a life of repeating years and monotonous seasonal changes. How soon, though, the lightning that emerges after a thunder rained fire on the green forest of this young love. How soon it became too late. On the early morning of the fourth day of their marriage, thirty minutes after airplanes flew overhead, the sound of the bombers filled Khonj. From a distance, we could hear the explosion of the bombs as they rattled the valley. One of the partisans said, 'They bombed Chobak.'^{vi} At sundown my daughter Roya came out of the kitchen and said, 'Mother! Heydar is crying outside.'

I went out and saw Heydar sitting at the edge of the hill, with his head resting on the barrel of his Kalashnikov, crying. Little Khaled was standing next to him and said with a low voice, 'Brother Heydar don't cry, don't cry.'

I asked Heydar, 'What happened, why are you crying?' It seemed as if he neither heard nor saw me. The sound of his sobbing filled the space, like a gong. Khaled said, 'Mother, Rahim got killed.' A vague feeling froze me in place, and after a moment I asked, 'What? Where did he get killed?' Heydar lifted his head. His eyes were red and swollen. His sobbing echoed in the

air., 'Mother, Rahim was killed.' I was stunned and frozen in place. After a few minutes I asked, 'What, where was he killed?'

When Heydar once again lifted his head, it was as if his eyes had been stabbed a hundred times, and no blood was left in his veins. He said, 'When they bombed this morning, Rahim was at Chobak next to the river. A piece of shrapnel from a bomb hit his head, and he was martyred. Commander Masoud, Mahmoud Daghigh, and all the *mujahideen* were there. We washed his body and buried him. I have to go.' He did not give me a moment to ask about his sister and left. After hearing this account, I froze, as if blood had stopped running in my body.

I wanted to go to Marjan, but our cabins were on the two opposite sides of the mountain and a tumultuous river separated us. I did not know where and how to pass the river to get to the cabin of the newlyweds on the other side. The bride's sweet dreams about her future had been destroyed.

I couldn't believe Rahim was dead. Soon I realized how painful it is to experience the sudden death of a young person. I found what love, death, and saga meant under the rain of fire. After an hour of crying, I felt lighter. In the midst of depression, I came to the realization that it was better to truly live deeply and passionately for three days than to live at the surface of life for a hundred days.

I struggled with war nightmares for two days in my cabin. After two days, Mawlana came and said, 'Commander Masoud is deeply saddened by Rahim's death. He hasn't eaten anything nor slept since then.' I said, 'Since there are no other women in the war front, Marjan can stay with me. Where is she now?' Mawlana said, 'Her brother took the poor girl to Farang with him.' On that sad night, the radio station of the puppet government was once again announcing that the country was in peace and safety.

Soraya Baha was born in Kabul in an intellectual and progressive family. Her father, Saad al-Din Baha, was a political activist, poet, and writer, and one of the pioneers of the constitutional movement of Afghanistan. Because of his political views, he spent eighteen years in the dreaded prisons of the royal regime. Baha completed her studies at Kabul University in the field of National Economy and was married in 1975. During her student years, according to the custom in the intellectual society of Afghanistan, she gravitated toward leftist tendencies, but soon, based on what she learned about the leaders of the Communist Party of Afghanistan, she left and eventually joined its socialist critics. As a result, when the Communists came to power in 1978, she was forced to seek refuge in France and later in West Germany. She returned to her hometown in 1983 because of family connections and also because of her husband's wishes, who was the brother of soon-to-be President Najibullah (r. 1987–1996). However, she opposed the policies of Najibullah, resisted his threats of arresting her and even assassination attempts on her life, and eventually fled to northern Afghanistan to join the Panjshir Front in 1987. At the time, Panjshir was the most important war front against the Soviet Red Army. Soraya immigrated to the United States in 1988 and today lives in Fremont, California. Soraya divorced her husband in 1996. She is a talented writer and analyst who has written more than a hundred articles about the politics and society of Afghanistan, paying special attention to issues that have oppressed women in that country.

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ⁱ This is a way of keeping warm in an inexpensive way. A *sandalie* (called *korsi* in Iran) is a low-level table, which is covered by a heavy quilt on top and the sides. A small heated brazier is carefully placed under the table. The family sits around the *sandalie* and pulls the quilt over their body to keep warm often in the bitter cold and in a house or cabin with no other method of heating.

ⁱⁱ It is the name of the station.

ⁱⁱⁱ *Shangari* (to elope): In the province of Panjshir, young people who fall in love but whose families are enemies or oppose the marriage, sometimes elope. The girl would run away from home before sunrise and go to her lover's house, and the boy would be obligated to marry her. However, once she eloped, a girl's connection to

her family of origin would end, and she would not be accepted back home. The act of going to a boy's house is called *shangari*, which is considered a derogatory and offensive term.

^{iv} Khalqi: Member of a branch of the People's Democratic Party of Afghanistan (1967–1979), which had a communist orientation. The Khalqi and the Parcham parties were bitter rival. In contrast to the Khalqis who advocated a rapid transition to socialism, the Parcham followers argued for a slower transition to socialism, given the country's lack of industrialization. The Khalqi's uncompromising position led to massive tribal resentment and eventually the failure of the government of the Democratic Republic of Afghanistan formed after the 1978 Saur Revolution. The Khalqis pushed for radical reforms and brutally cracked down on dissidents, causing the deaths of thousands. This action, in turn, encouraged the rebellion of the religious segments of Afghan society and culminated in the creation of the *mujahideen*. It also led to Soviet military intervention of Afghanistan in December 1979 in support of the Khalqi communists.

^v A small village in Afghanistan.

^{vi} The name of a station where partisans would take shelter.



Image 9: [Except from the 'Messenger' Series] (2020) © [Keyvan Shovir](#). All rights reserved

Short Story: Yaqoot

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Abstract:

Yaqoot, the narrator, recalls the story of her life when in her youth she gave up her love for Rahim, a young mujahid because her father wanted to marry her off to the son of a communist friend of his. During the civil war with the Taliban, she lost her husband. When we meet her in the story, Yaqoot has a son who is engaged to be married. On a hot summer day, Yaqoot accidentally runs into Rahim who has survived the civil strife. Rahim, too, has lost his wife. Together they go visit a shrine. Yaqoot gradually comes to honor her once abandoned and now rekindled love after the long hiatus and decides to marry Rahim. This time, Yaqoot's son stands in the way. Her son can't believe that his middle-aged mother is considering remarrying—a taboo in Afghan culture.

Yaqoot gathered the curtain and threw it over the window frame. She stretched her legs in the autumn morning sun and let the fading seasonal warmth reach her bones.

After her morning prayer, she informed Timor of her decision. She then folded her prayer rug quietly and went to her room. By the time Timor sensed the situation, his mother had closed the door behind her.

'If I were in your place, I would also be hiding in the room out of shame, mother!'

'You must think I will bring such dishonor upon my family that I would let a man claim my mother ... God forbid.'

Timor banged the door with his fist so hard that he did not mind it if the door and the walls collapsed over his mother. Yaqoot knew in advance that her son would not be able to stand hearing what she had told him. He had grown up in a home with love and affection, but the street narrative of the city was misogynistic. From the day she decided to spend the rest of her life by Timor she was certain that sooner or later she would lose him to the strange and familiar streets of Kabul. The streets of Kabul devoured



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kind teenage boys and threw them up as violent men instead. Yaqoot had often shown kindness to the children and teenage boys of her neighborhood streets. She had filled their pockets with fistfuls of sweets. But when the same boys hit puberty, they no longer greeted Yaqoot in strict compliance with the etiquette of not addressing strange women. She knew the customs of the men of the city, yet when she put street gossip and Timor's concerns on one side of the scale, and her own desires on the other side, she realized that her side weighed more.

A year has passed since the day when Yaqoot accidentally saw the man of her distant past in the shrunken shade of the long wall of the Kabul University campus. She was heartbroken to see him. Distress and embarrassment, sorrow and humiliation mingled in her eyes. A mist of good and bad memories settled on her face. It was too late to change her path or pretend not to have seen him. Abdu-Rahim's gaze was fixed on her face. He had also recognized her. Yaqoot froze in place.

'I heard you'd left, Abdu-Rahim?'

While staring at Yaqoot, Abdu-Rahim did not say a word. It was as if he was there and then not there. Thunder roared in the distant sky with a flash of lightning—as if the chest of heaven was branded with a sizzling hot iron.

'Greetings Yaqoot. Wherever a person goes, one doesn't get rid of oneself. Nor of the shadow that follows one.'

Abdu-Rahim's voice came as if from inside a well, deep, depressing, tired, and still seared with pain.

Yaqoot glanced along the wall.

'I am on my way to the Ashiqan-o-Arifan shrine.'

'What a coincidence, Timor's mother. I am also headed to the shrine.'

There was a sense of irony and sarcasm in addressing her as 'Timor's mother.'

Yaqoot didn't have much to say. Or did she? But in the depths of the dark past, there was no room for change. She didn't want to stir up anything from a time when his father was a communist and Abdu-Rahim was a *mujahid*.

Love and party affiliation did not blend. Love failed them. The ants carried away her crushed heart to their underground and Yaqoot remained on the ground.

Some thirty years later, what could she say when one could no longer change the fate of those days, not even by the width of a needle's head.

She said, 'I am lonely in a house where all these years the walls have not moved back even an inch.'

He said, 'When one gives up on one's heart, one cannot get along with any wall.'

Yaqoot smiled. Not that she didn't understand the words and remarks of Abdu-Rahim. Not really. She didn't want to start an argument. The time she should have fought, she had given in. Abdu-Rahim was right.

She had heard his story, which had reached every household. They said he held a gun in one hand and a flute in the other. When the rockets were not raining, when the mortars weren't fired, he sat on the roof and played his flute—much like a shepherd lost in the desert and valleys who couldn't find his way back to the village. Yaqoot had never heard the sound of his flute, but the passion of his story had reached her neighborhood, a tale that was colder than winter chill.

Yaqoot removed the remnants of her humble and helpless smile from her lips.

'I've aged—deep up to my knees. It has hit my eyesight as well, and the roots of my hair. You see, affliction is catching up with me!'

Abdu-Rahim stared at the horizon.

'I was heartbroken at the peak of my youth. Being heartbroken is worse than being afflicted.'

Abdu-Rahim bit his lips and remained quiet.

Years of their lives had been spent in war. They had seen each other in the midst of the war and flight, but that was no time for complaining. And then each had followed their destiny in marriage and had their families.

Now the words were boiling at the bottom of Abdu-Rahim's throat.

'I ran up from one hill to the next and from one rock to another. I had legs to run, but not the heart. The night your father was celebrating your wedding with music, I sat on a hilltop like a mountain goat. I dropped my gun under my feet. Bullets were flying around me, but not even one brave communist tried to shoot me in the chest so that the news of my death could ruin your matrimony with another man.

Yaqoot closed her eyes and built a small house behind her eyelids—just her size. That's where she takes refuge when she hears about the wedding night. She stayed quiet—in absolute silence. Hush. She was afraid she would be found in her refuge. She didn't say, 'The wedding pained my heart.'

Abdu-Rahim chuckled, bringing life to his raspy voice.

‘So, you are older. Aging takes a while. It doesn’t happen in a day or two. Look at me. When I put down the gun, I took over my father’s job. Dozens of carpet sellers in the market came and went by my shop every day. Now, with no plans and alone, with this faded beard, it’s not worth it.

Abdu-Rahim walked a bit faster. He wanted to say, ‘Let bygones be bygones.’ He wanted to say, ‘You left me in those days and I forgot about you. Now, you don’t say anything, and I can live with that.’

Except that indifference and carelessness didn’t take away from the joy Abdu-Rahim felt in seeing Yaqoot again. The joy of this meeting by chance became a breeze that wrapped itself around them.

In the middle of the road, Abdu-Rahim pointed to a collapsed building and said,

‘Mother of Timor, this is my cousin’s house. Do you remember Reshad? He once came with us to the Ashiqan-o-Arifan shrine. Remember that? The Khalqis took him away in the middle of the night. He just vanished. He left behind two daughters. They are both in France.’

‘Abdu-Rahim, my name is Yaqoot, lest you haven’t forgotten.’

Abdu-Rahim stopped and turned back toward Yaqoot, who was a step behind him.

‘Yaqoot.’

In saying her name, his eyes teared up and clouded like patches of autumnal clouds. He paused for a moment, to let his pride return to the tone of his voice. He breathed in and out, and pushed his chest forward,

‘I wish I had forgotten. Your name was bread and water to me. May God not forgive your communist father who took away my bread and water and handed it to one of his ilk.’

Soon after, their chance encounter led to a date, an unspoken and unwritten promise. An arrangement that no longer needed a mullah or matrimony.

The first few days Abdu-Rahim’s words had the taste of sarcasm and pain. Yaqoot did not argue with him. Her father had done enough of that in those days, even though she had sent him a message saying, ‘Keep my account separate from my father. My heart is with you, but the shackles around my ankles are in my father’s hand.’

When she had told her father that Abdu-Rahim, son of Haji Qudus, was her suitor, the blood veins in her father’s eyes swelled. He rose up halfway and

screamed, 'That stupid *mujahid*? I will break the fingers of anyone of that ignorant type who dare knock on my door to ask for my daughter's hand. Sooner or later, they will be gone. How dare these microbes want to form blood ties with me?'

When Yaqoot mixed love and politics in her response to her father, her father slapped her on the face. It was the first time he had done so. Yaqoot resisted. She argued with her father, but there was no way out.

Eventually, she stopped arguing. Her love had humiliated her. Her father's kindness had morphed into a slap on her face. She collected her shattered heart and tied it up in the corner of her scarf. Her father then married her off to Ahmad Shah, son of Sadiq Khan.

When Yaqoot and Abdu-Rahim saw each other the next time, she had brought two small apples from home.

Abdu-Rahim asked, 'Do you still write your name on raw apples on trees?' Without much hesitation, he added, 'What did you do with my carved name?'

'I wiped off your name from the door, the wall, the booklets, and the apples. Obviously, I didn't write Ahmad Shah's name in its place. God bless his soul. He got killed without being a *mujahid* or a communist. Ahmad Shah was neither interested in war, nor did he believe in political parties and party games. His happiness was the child we had on the way. He did not want him to grow up without a father.

'He was neither like his father nor like mine. My father was naively happy that he had married off his daughter to someone who was like him. Ahmad Shah neither took a gun and ran to the mountains, nor did he sit behind a desk. He opened a small shop. During the civil war, his shop was hit by rockets, but he survived. On one of the days when the Taliban ruled, he took his bicycle to exchange it for flour, but he never returned. It was late, I thought to myself it must be because he is walking home. It became dark, midnight. One and then two days passed. God knows whether he was hit by a bullet or a rocket'

Abdu-Rahim sprinkled a fistful of millet on the ground. A playful little boy ran among the doves. The doves fluttered, cooed, and rose up to the sky.

Yaqoot said, 'Timor was nine years old.'

Some of the doves had now returned and were pecking at the millet.

Timor said, 'You are fifty-five, sixty years old, mother. How am I to cover my shame in front of my in-laws? Wouldn't they be gossiping that my mother is yearning for hugs and kisses at this old age?'

Yaqoot looked at herself in the alcove mirror.

Timor continued, 'Did you even consider my situation for a second? What if the word gets around among my colleagues and they sarcastically say, "Congratulations on your mother getting married!"'

She smiled at herself in the mirror. She felt calm hearing the words 'getting married.' Ever since she and Abdu-Rahim had been buying stuff for their new house, she felt different—as if the forty pieces of her shattered heart were being mended with small and big stitches.

Her heart no longer fluttered aimlessly in the wind, and cloud, and rain. She also took long walks these days. She looked out the window more often. The big yard of the house no longer looked like an endless desert to her. It now had flowers, it had flowerpots. The food she cooked was tastier. She had ground cumin seeds. She added cardamom to her green tea. Abdu-Rahim brought some almond oil for her hair. She poured a few drops in the palm of her hand and rubbed them into her hair.

Abdu-Rahim told her a story.

'My mother took both my flute and my gun and said, "This same gun robbed you of your Yaqoot." She was right, I lost you when I picked up my father's gun. My brother was also martyred around the same time. I did not want to break my mother's heart anymore. She arranged my marriage to my cousin Rabia.

'Rabia knew the story of you and me very well. She was good and kind. She became my bedfellow but not my wife. I made a family for myself, but I didn't create happiness. In those last years of the Taliban rule, Rabia contracted breast cancer. There was no medicine or doctor in Kabul. We explored every possible remedy but to no avail. The cancer spread to her lungs that took water. The poor woman didn't last more than five months. She wilted before my eyes and passed away. After my wife's death, my daughter got married and went to Austria. Now she visits me once every two years. My two sons worked with the Americans and are now in the United States. They wanted me to join them there. I went and stayed there for a while, but I got homesick. I was stuck between choosing my homeland and my children. It was like having to pick between your two arms. It's painful regardless of whichever arm you lose. There is no difference between a broken right arm and a broken left arm. I missed the neighborhood streets and the house of my homeland. I returned.'

On Monday and Wednesday afternoons, when the sunlight reflected off of the walls and became dimmer, they would meet. Over time, Abdu-Rahim's sarcasm and irony lessened. At the foot of a tree near the Ashuqan-wa-

Arfan shrine, they would sit next to a tree they had often leaned on when they were young. Abdu-Rahim had asked, 'Are we making up?'

Yaqoot cried. Her voice was mixed with the echo of the evening call to prayer. Abdu-Rahim placed her wrinkled hand on his lips and kissed it. The era of the *mujahideen* and communists was over.

The next time they saw each other, Abdu-Rahim smelled of fresh house paint and said, 'I painted the guest room blue, and I painted the living room gray.'

He lowered his head, adding, 'And I painted the bedroom pink.'

Yaqoot pretended not to have heard him, but a smile spread over her lips. Abdu-Rahim had brought her a pink velvet piece. He said, 'We must return to the colors of our days. At this time last year, my house seemed as empty as my soul.'

They bought the curtains together. They replaced the brown seat cushions of the living room with a set of light cream sofas.

Timor cursed himself for not having found out about his mother sooner. 'Curse on this dishonored person I've become. Stupid me.'

Yaqoot pulled out a Vicks topical ointment jar from under the bed mattress and took out a little bit with her fingers. She pushed her hand under her dress and spread it on her chest, to calm her coughing and wheezing. All these years she had taken care of her dry chest with Vaseline. Whenever she was short of breath, whenever she wanted to ease the anger and sadness in her chest, she applied Vaseline.

She decided to give the house to Timor. This way Timor could sell the house and pay off the mortgage on his newly built apartment. There was nothing of value to her in this house. Every brick of this house reminded her of the regrets of her youth and the miseries of the days when she became a widow. This house was the graveyard of her laughter and joys. Ahmad Shah was not a bad person, Yaqoot's father loved him. But living with him was devoid of emotion. He filled her bosom, but never her heart. Yaqoot felt like a resuscitated corpse. 'People build a house and then go to the grave. I am moving from a grave to a house,' she told herself.

Timor knew nothing about the past. The past was like a house that had been demolished over Yaqoot's head. She never uttered a word about her feelings to Timor, neither from the days of her youth nor from her married life. She did not want to bury him under the rubble of her life.

The gentle sun gave a pleasant feeling to her soul and body. On the bright screen of her cell phone, she saw Abdu-Rahim's message. 'Yaqoot dear, did you talk with Timor?'

Timor was now out of breath behind the front door.

'As long as I live, you won't get married!'

In response to Abdu-Rahim, Yaqoot texted back, "I saw a white porcelain china set with roses on it, I'd like us to buy that as well."

Her breathing had softened. Her feet felt warm. The chirping of birds entered the room through the open window. The breeze on the other side of the window was neither cold nor warm.

Yaqoot reached her hand out and touched the soil of the only flower pot in the house.

'I have to change its soil,' she said.

Timor went on 'I will not let you, mother. I will not let you.'

She untied the knot at the corner of her scarf and the bird of her little heart flew off and perched on a tree branch.

Homeira Qaderi is an Afghan writer, activist, and educator. She has written seven books, including a collection of short stories, and an acclaimed novel entitled *Noqra: The Daughter of Kabul River* (Tehran: Rozgar Publishers, 2009). Qaderi received her PhD in Persian literature from Jawaharlal Nehru University, in India. As a lifelong activist and a staunch defender of women's rights, she was awarded the Malalai Medal—Afghanistan's highest civilian honor—for exceptional bravery by the president of Afghanistan. She was a writer in residence at the University of Iowa in 2015. Her first book in English translation, *Dancing in the Mosque: An Afghan Mother's Letter to Her Son* (Harper, 2020), was excerpted by the *New York Times* and chosen by Kirkus Reviews as one of the best nonfiction books of 2020. Before leaving Afghanistan, Qaderi taught at Gharjistan University, in Kabul. Earlier, she worked in two different Afghan government administrations as senior advisor to the Minister of Labor, Social Affairs, Martyrs, and the Disabled, and before 2021 as senior advisor to the Minister of Education. While at Radcliffe, Qaderi is writing a novel, inspired largely by her own experiences, with a working title *Tell Me Everything*. The novel follows a girl from the Kabul suburbs who is kidnapped during the Soviet-Afghan war and taken to St. Petersburg. After the fall of the Soviet Union, she returns to her hometown, which is under Taliban rule. The novel follows her experiences living under the Taliban rule and through the American invasion and her eventual immigration to Smyrna, Delaware, USA.

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Films about Afghan Women

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Abstract:

Film Reviews of Sonita (2015; Dir: Rokhsareh Ghaemmaghani); A Thousand Girls Like Me (2018; Dir: Sahra Mousawi-Mani); Hava, Maryam, Ayesha (2020; Dir: Sahraa Karimi).

Fiction films and documentaries offer valuable insight into a country's culture and can help highlight the unknowns as well as the voiceless subjects of society. The feature-length film and the two documentaries that are reviewed in this article focus on Afghan women and their dilemmas in a world torn apart by decades of war, imperialist interventions, and persistent misogyny.

The first documentary, entitled *Sonita* (2015), is about a teenage girl named Sonita who has fled Afghanistan and lives in Iran but continues to struggle with the cultural norms of her homeland. The second documentary, *One Thousand Girls Like Me* (2018), is about an abused woman who for years was raped by her father and her desperate efforts to put an end to his abuse. The feature film, *Hava, Maryam, Ayesha* (2020) examines the difficulties that most women experience when they become pregnant.

Sonita (2015) is a documentary directed by Iranian filmmaker Rokhsareh Ghaemmaghani, telling the story of eighteen-year-old Afghan rapper and refugee Sonita Alizadeh in Tehran. Ghaemmaghani, a graduate of Tehran's Art University with six documentaries under her belt, including *Pigeon Fanciers* (2000) and *Going up the Stairs* (2011), met Sonita through her



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cousin. The film *Sonita* has garnered multiple awards, such as the IDFA Amsterdam Film Festival's Audience Award for Best Documentary, the World Documentary Grand Jury Prize, and Audience Award at the 2016 Sundance Film Festival.

Over the course of three years, Ghaemmaghami followed Sonita, an undocumented refugee who had fled from the Taliban in Herat (Afghanistan) when they came into power in 1997. As a child, Sonita

endured significant trauma during her emigration from Afghanistan. When we meet her, she was trying to escape a forced marriage arranged by her brothers. The brothers wanted to send her back to Afghanistan to marry an older man for the \$9000 bride price they would receive. Sonita decides she has no choice but to call her mother in Afghanistan to come to Iran and help her out of this unwanted marriage. Sonita is under the

impression that her mother would understand her predicament and support her, because she, too, was a victim of child marriage. But this proves not to be the case. The story continues with her trying to seek help from anyone who might help her to pursue her dreams and avoid this marriage. Many girls in Afghanistan have been sold in marriage, and selling girls appears to be an endless cycle perpetuated by destitute families. Sonita explains her mother's life as a child bride in the documentary. The film shows the relationship between Afghan girls and their family

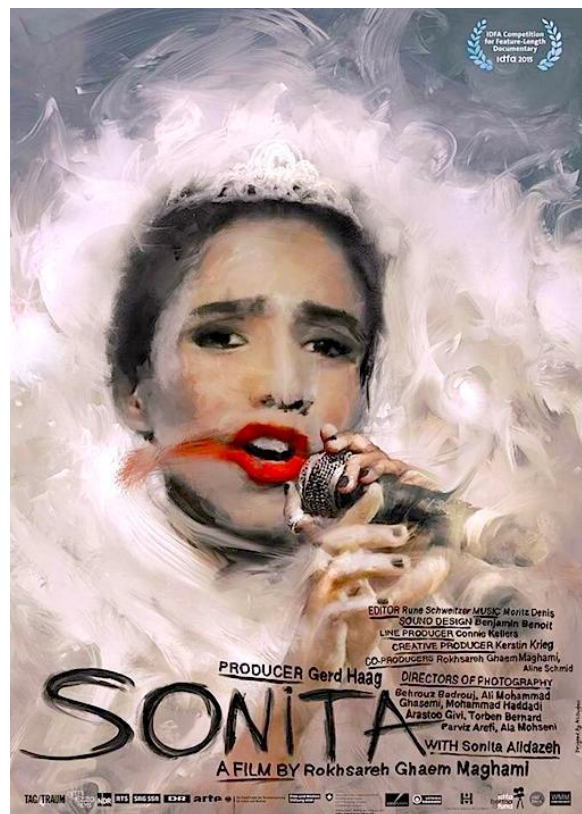


Figure 1: *Sonita* (2015) poster as she raps onstage wearing wedding gown.

members. Men rule the family, whether as fathers, brothers, husbands, or even sons.

For thousands of years, Afghan women have been told that their only job is to be wives and mothers. Sonita, however, dares to think big. Sonita's story is an inspiring one for many young women worldwide who have dreams of becoming something bigger than what the men and society tell them they are capable of being. Eventually, she does escape the cycle of abuse and proves to other young women that they can do the same. She is persistent and is able to achieve her goal through her passion for music.

Sahra Mousawi-Mani's eighty-minute documentary *A Thousand Girls Like Me* (2018) unveils the life of Khatera, an Afghan woman repeatedly raped by her father since childhood. Mousawi-Mani, an award-winning filmmaker, university lecturer, and founder of Afghanistan Documentary House, collaborates with producers Nicole Levigne, Khosrow Mani, and Emmanuel Quillet to bring Khatera's story to the forefront. With a master's degree in documentary filmmaking from the University of the Arts, London, Mousawi-Mani's filmography includes works such as *Kaloo School* (2013) and *Beyond the Burka* (2014). Her 2018 film won at the Full Frame Documentary Film Festival and Overcome Film Festival and was nominated at the 2019 Seattle International Film Festival, the 2018 Amsterdam International Documentary Film Festival, and the 2019 Fribourg International Film Festival. This documentary serves as a way to inspire women in Afghanistan who face sexual abuse from their family members and who are too afraid to speak out for fear of disgracing themselves and their families.

When we meet Khatera, she is twenty-three and pregnant with her second child from her father. Her father has emotionally and sexually abused her since she was a child. Khatera fights not only her father, but the cultural



Figure 2: Still of Khatera from A Thousand Girls Like Me (2018) as she walks the streets of Kabul.

norms, the justice system, and her own family to stop the abuse. She starts with her own family and first seeks help from her mother, but her mother, who has also been abused by her husband, seems powerless against him. Corruption in

the justice system of Afghanistan is so common and normalized that even people from the lower classes can have the police look the other way by paying a small bribe and avoiding prison. Khatera says that she talked to fourteen clerics, but everyone ignored her or told her to pray instead of helping her. Eventually, a cleric told her that she needed to publicly make a plea for help if she wanted to get justice from the “broken legal system.” After Khatera showed up on a TV show in Afghanistan, a lot of people told her that she had brought shame upon herself and her family. Indeed, her life became far more difficult as neighbors and landlords forced her and the family to move from one house to another. Most women are too scared to talk about domestic abuse because of how society will look down upon them. The corrupt and prejudiced justice system is also a dead-end for most women who seek legal help, as no case ever gets brought to light. Khatera is upset by the corruption she sees around her, but she believes that if the Taliban, which always claimed to be moral and ethical, were in control of the government, this could never happen to her. This shows the

degree of her frustration at a time when Western-backed governments were in power in Afghanistan and her sadly misguided assumption that a radical Islamist group would rule the country in a more just way.

Hava, Maryam, Ayesha (2020), an eighty-six-minute Dari (Persian) drama, was directed by Sahraa Karimi, a second-generation Afghan refugee and award-winning filmmaker. With a background in acting and cinema studies from Slovakia, Karimi transitioned into directing, earning accolades like the Sun in the Net Award and Best Documentary at the Dhaka International Film Festival. The film was produced by Katayoon Shahabi, a prominent figure in Iranian cinema and CEO of Shahrzad Media International, known for her past collaborations with Abbas Kiarostami and her role on the jury at the 2016 Cannes Film Festival.

The movie is about three women in Afghanistan from different social classes and with dissimilar lifestyles. However, they are all tormented by society and those around them during their pregnancy. Hava is a pregnant housewife who lives with her husband and his parents. She cooks, cleans, does all the chores in the house, and takes care of her husband's parents, but she is still perceived as inadequate and remains unappreciated by her husband and father-in-law. Her husband seems only to care about work and hanging out with his friends. When it comes to his wife, all he does is abuse her, either verbally or physically.

The second character, Maryam, is a married news anchor from an affluent family who finds out she is pregnant. But when she realizes that her husband cheats on her, she gets a divorce. After the divorce, she faces a great deal of pressure from society, because culture makes it impossible to raise a child as a single mother. This is when her problems become too big for her to handle.

The third character in the movie is Ayesha, a teenage girl who is a lot younger than the other characters and faces a very different set of

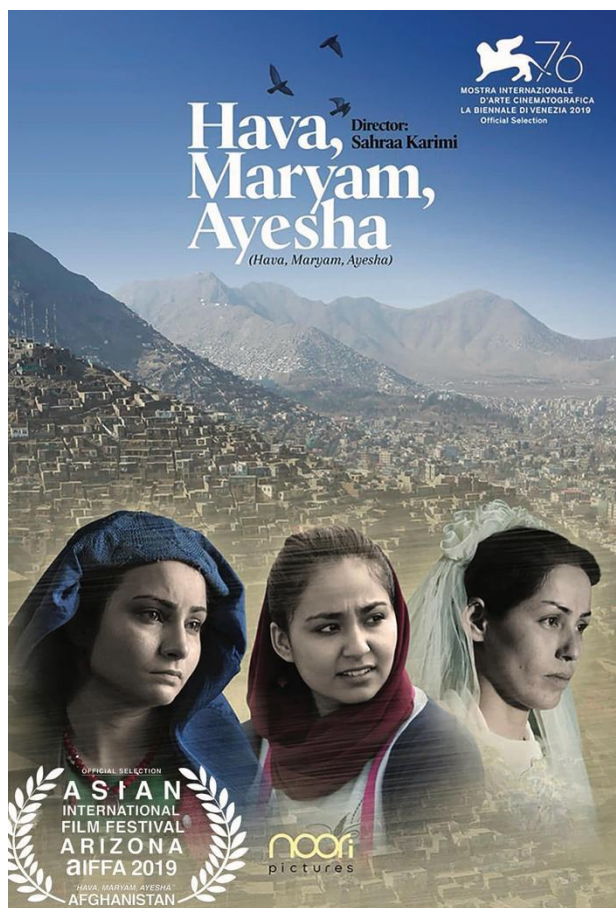


Figure 3: Poster from the movie *Hava, Maryam, Ayesha* (2015)

challenges. She lives with her sister and mother, a very traditional woman and widow. Ayesha has agreed to marry her cousin, but she has been secretly in love with another man and visits him. After some time, and without quite understanding what happened to her, she finds out that she is pregnant; however, her boyfriend soon disappears. Now she must either tell her cousin, whom she is supposed to marry, or abort the child.

The movie does an exceptionally good job of describing the problems that the characters face, and the audience comes to sympathize with the women. Hava, as a housewife, experiences a type of abuse that is primarily seen among the lower classes

and among women who are less educated. In the case of Maryam, who comes from an educated, upper-class background, the struggle does not involve physical abuse, but it is no less traumatic and ultimately life-altering. Ayesha might not at first be seen as a victim and be blamed for her own pregnancy. But it is society's job to provide young people with sex education—something that is entirely lacking in Afghan society. As a result, young women like Ayesha end up risking their lives to get an abortion with unqualified practitioners who are neither certified midwives nor doctors.

The directors of all three films want to inspire change in Afghan society by drawing international attention to the issues that Afghan women face in their society. The fact that each of these documentaries has received awards in the West shows that the directors have indeed gained such international recognition. However, since the takeover of the Taliban in

August 2021, hope seems to have diminished for Afghan women, who now face even greater oppression under the tyrannical fundamentalist regime.

Kimia Kamoei received her BA in Middle East Studies, with a minor in Applied Psychology from the University of California, Santa Barbara in 2023. She was born in Tehran, Iran, in 1999, and moved to the United States when she was seventeen. She has translated Persian poetry and literature into English and has also researched the lives and experiences of Afghan women since the second Taliban regime took over in 2021.

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Image 11: **SH56** (2021) © [Shamsia Hassani](#). All rights reserved

Chronology of Women’s Protests Inside Afghanistan Since the Taliban Took Over Kabul: August 15, 2021 through August 2023¹

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2021

August 2021

Women Protest in Afghanistan

Women’s protests in Kabul.

August 30, 2021

Appeal to the World for Nonrecognition of Taliban

¹ For the second part of this chronology, which covered period November 2022 to August 2023 we relied on a timeline produced by Feminist Majority, entitled “A Timeline of Horror: 100+Taliban Edicts, Orders, and Directives Denying Afghan Women and Girls their Human Rights and Existence ” and published in Ms Magazine on August 15, 2023. <https://msmagazine.com/2023/08/15/list-timeline-taliban-orders-women-girls-afghanist/#:~:text=Violence%20%26%20Harassment-.A%20Timeline%20of%20Horror%3A%20100%2B%20Taliban%20Edicts%2C%20Orders%20and,Their%20Human%20Rights%20and%20Existence&text=The%20Taliban%20has%20issued%20over,putting%20them%20under%20house%20arrest.>

Retrieved on 9/22/ 2023.

Afghan women demand that the Taliban government not receive diplomatic recognition by the world.

Sept. 2, 2021

March in Herat and Mazar-e Sharif

Unprecedented women's march in Herat and protest in Mazar-e Sharif.

Sept. 4, 2021

'We Are Not the Women of the 1990s'

Taliban attack women's peaceful protests in Kabul and other cities.

Women want to be recognized as equal citizens. Hold placards which say: 'We are not the women of the 1990s.'

Sept. 19, 2021

Ministry of Women Becomes Ministry of Promotion of Virtue

Afghan women gather in front of the former ministry of women's affairs in Kabul to protest its closing and being renamed as Ministry of Promotion of Virtue and Prohibition of Vice. They demand 'jobs, education and freedom'; 'women's rights', 'human rights.'

Oct. 10, 2021

Global Solidarity Day

Women protested in Kabul against educational and employment restrictions set by the Taliban. They demanded their previous rights and security as well as rights for ethnic, religious, and sexual minorities. This day has now been named 'Solidarity with Afghan Women Day' by women in over 100 countries.

Oct. 2021

Start of Secret Online Schools for Girls

Some secret online schools for girls ages twelve and over are started.

Oct. 26, 2021

Women Protest by UN Office in Kabul

Women protest near the office of the United Nations in Kabul, demanding the rights to employment, education, and freedom. They ask the United Nations and world nations to pay attention to their demands and not recognize the Taliban.

Nov. 2021

Protests Against Abduction of Women

Women protest against the abduction and murder of four women's rights activists in Mazar-i Sharif. Women's rights activists hold an underground conference in Kabul, defend the rights of women and ethnic minorities, and demand that world governments not recognize the Taliban.

Reporters, including many women, protest the lack of freedom of speech and media.

Four women's rights activists executed by Taliban in Mazar-i Sharif (5 November 2022). Forouzan Safi was a professor at Balkh University. The identities of the other three female victims have not been revealed.

Nov. 2021

Return of Forced Marriage to Avoid the Taliban

Many women's rights activists are being forced by their families to enter arranged marriages in order to have a male guard at all times.

Nov. 25, 2021

Global Day of Fighting Violence

Women protest on the global day of fighting violence against women.

December 6, 2021

Mobile Library Returns

Fereshteh Karimi, founder of the mobile library of Kabul, returns to Kabul's streets with her mobile library.

Dec. 2021

Demands by Female Educators

Female educators start book discussion groups for girls and women in Kabul, Herat, and other cities. Teachers warn that in addition to the Taliban's bans on education for girls beyond the sixth grade, the intense poverty, starvation, and lack of heat in the winter are making the prospects of reopening girls' schools impossible. 'Justice Seeking Women' and the 'Unity and Solidarity Team of Women' in Kabul protest the dire economic situation and secret government-run assassinations.

2022

Jan. 4, 2022

Paravan Province

Women in Parvan Province issue a statement to protest lack of access to higher education.

Jan. 5, 2022

Ba'lan Women Protest

Women in Ba'lan protest against the closing of universities and the increasing poverty.

Jan. 7, 2022

Women Will Dress as Men

Women protest in Kabul and demand the right to employment and education. They say that if the inhuman laws of the Taliban are not abolished, they will appear on the streets in men's clothing.

Jan. 8, 2022

Taliban Steal Humanitarian Aid

Women protest the Taliban's expropriation of humanitarian aid for use by its cronies.

Jan 9, 2022

Women Create Graffiti

Women create graffiti in the dark of the night as a means of protest. Some examples of their graffiti: 'Bread, Work, Freedom', 'We Women Do Not Recognize the Taliban Government.'

Jan. 13, 2022

Release Alieh Azizi

Protest to demand the release of Alieh Azizi, former head of the women's ward of the Herat prison.

Jan. 16, 2022

Protest Murder and Abduction of Women

Women in Kabul protest the murder of Zeynab Abdullahi and the abduction of Alieh Azizi.

Jan. 19, 2022

More Abductions of Women

Two female activists in Kabul are abducted by the Taliban. They are Tamana Zaryab Paryani and Parvaneh Ebrahim Kheyli. Tamana's sisters, Zarmineh, Shafiqeh, and Karimeh, were also arrested after the Taliban

forcibly entered their home in the dark of the night. There is no news of their whereabouts.

Jan. 23, 2022

Protests by Afghan Women at Oslo

Afghan women protest at site of Oslo negotiations with the Taliban. Hoda Khamosh, a journalist, is spokesperson for women in the negotiations. ‘The invitation led to different reactions from Afghanistan’s various women’s rights activists, with some welcoming it as a chance for Afghan-to-Afghan negotiations. Others felt that Taliban rule should not be normalized by holding such meetings and cast doubts on the trustworthiness of their promises.’

<https://abcnews.go.com/International/afghanistans-womens-rights-activists-tested-taliban-oslo-expect/story?id=82584874>

Jan. 2022

Female Bookseller’s Protest

Protesting female bookseller continues to walk around Kabul streets with books to sell.

Feb. 3 2022

Arrest of Female Activists

Women’s rights activists, Mercel Ayar and Zahra Mohammadi arrested.

Feb. 6, 2022

Film: *Hava, Maryam, Ayesha* Released

A film about Afghan women, *Hava, Maryam, Ayesha*, by Sahraa Karimi, wins the Italian film festival’s Women’s Perfection award.

March 28, 2022

Taliban's backtrack on school re-opening for girls irreversibly impacts their future. (Amnesty International)

On 23 March, female students of secondary schools were returning to classrooms for the first time in seven months. While many girls were waiting to start their lessons, at 9 a.m. the Taliban leadership announced it had decided to keep girls' schools closed 'until school uniforms are designed in accordance with the Afghan customs, culture, and Sharia, and all these girls were told to immediately leave the schools.

<https://www.amnesty.org/en/latest/news/2022/03/afghanistan-talibans-backtrack-on-school-re-opening-for-girls-irreversibly-impacts-their-future>

March 28th, 2022

Afghan women's rights groups vow mass protests if Taliban keep girls' schools shut. (France 24) Article + Video

Women's rights activists pledged Sunday to launch a wave of protests across Afghanistan if the Taliban fail to reopen girls' secondary schools within a week.

<https://www.france24.com/en/asia-pacific/20220328-afghan-women-s-rights-groups-vow-mass-protests-if-taliban-keep-girls-schools-shut>

March 29, 2022

Taliban denies Afghan women solo air travel, segregates parks by sex, and sends home men with short beards. (CBS NEWS)

The Taliban have ordered airlines to stop women from flying without a male relative.

In December, the ministry banned women from making any journey of over 45 miles without a male chaperone.

<https://tolonews.com/index.php/afghanistan/kabul-university-attack>

Charity Provides Free Education for Over 200 Afghan Girls. (ToloNews)

A charity foundation in western Kabul has provided free education to more than 200 female students.

The charity provides food and education.

<https://tolonews.com/index.php/afghanistan-177322>.

EU: Decision on Girls' Schools Impacts Engagement (ToloNews)

The European Union on Monday in a statement said the decision on girls' education by the Islamic Emirate violates the fundamental right to education and called for the immediate re-opening of secondary schools for girls in the country.

<https://tolonews.com/index.php/afghanistan-177318>

50% of Private Education Centers Closed Nationwide Since Takeover. (ToloNews)

Over 50 percent of private education centers have been closed within the past three months across the country, the Union of Private Education Centers said on Sunday.

The union said the deteriorated economic status of families is the main reason for the closure of these educational centers.

<https://tolonews.com/afghanistan-175668>

March 31, 2022

US Women's Delegation Calls to Reopen Girls' Schools (ToloNews)

The American Women's Peace and Education Delegation at a press conference in Kabul called for the reopening of schools for female students beyond sixth grade.

<https://tolonews.com/afghanistan-177356>

Afghan Clerics Call to Reopen Girls' Schools. (ToloNews)

Islamic scholars at an Ulema gathering in Kabul on Thursday called on the Islamic Emirate to reopen schools for girls in grades 7–12.

According to the clerics, there is no sharia justification for banning girls from education and girls can go to school while respecting the Islamic hijab.

<https://tolonews.com/afghanistan-177351>

April 2, 2022

If Ordered, Ministry Ready to Open Girls' Schools (ToloNews)

The Ministry of Education said on Saturday that the reopening of girls' schools above grade six in the country is based on the authority of the Islamic Emirate's leadership.

<https://tolonews.com/afghanistan-177388>

April 3, 2022

وقت کثی طالبان در بازگشایی مدارس متوسطه دخترانه؛ آموزش خصوصی و آنلاین راه حل است؟

(BBC Persian)

<https://www.bbc.com/persian/afghanistan-60967646>

April 4, 2022

-نظرسنجی گالوپ: ۹۴ درصد مردم افغانستان به زندگی 'نمره رنج' دادند

(BBC Persian)

بنا به این نظرسنجی برای اولین بار از سال ۲۰۱۲، درصد زنانی که رنج می‌کشند کمی بیشتر از مردان افغان شده است. در سال ۲۰۰۶ که این موسسه نظرسنجی خود در افغانستان را آغاز کرد، زنان درصدی‌های متفاوت احساس توام با رنج در زندگی داشته‌اند. اما این بالاترین میزان بدبینی مردم نسبت به زندگی از ۲۰۰۶ به این طرف است.

<https://www.bbc.com/persian/afghanistan-60981574>

April 6, 2022

**International Criticism of Closed Girls' Schools Remains Strong.
(ToloNews)**

The closing of schools for girls above grade six continues to face reactions by various countries and international organizations.

The UN Assistant Mission in Afghanistan (UNAMA) called the ban on girls' access to education 'shocking' and said Afghanistan is the only country where girls are being denied access to education.

<https://tolonews.com/index.php/afghanistan-177457>

April 7, 2022

UNAMA: Closing of Girls' Schools 'Discriminatory' (ToloNews)

Speaking to the Institute of International and European Affairs (IIEA), the deputy special envoy of the UN for Afghanistan, Mette Knudsen, called the decision over the ban of girls' schools 'discriminatory,' saying that its impact will deeply affect the future generation in 'terms of literacy and numeracy and will contribute to the cycle of poverty.'

<https://tolonews.com/index.php/afghanistan-177470>

Clerics Again Call to Reopen Girls' Schools. (ToloNews)

Religious scholars in a conference under the name of National Dialogue of Afghan Scholars in Kabul once again called on the Islamic Emirate to reopen all girls' schools in the country.

<https://tolonews.com/index.php/afghanistan-177472>

April 9, 2022

HRW Calls For Inquiries Into Fate of Female Protestors. (ToloNews)

Human Rights Watch expressed concerns about the fate of female protestors who may be held by the Islamic Emirate in the central province of Bamiyan.

<https://tolonews.com/index.php/afghanistan-177496>

April 10, 2022

Aid Dependent on Girls Access to Education: Envoys (ToloNews)

The envoys and representatives of the European Union, United States, and European countries in a joint statement stressed that the type and scope of 'international donor assistance will depend, among other things, on the right and ability of girls to attend equal education at all levels.'

<https://tolonews.com/index.php/afghanistan-177514>

Afghan Refugees Turned Back at Greek Border: HRW (ToloNews)

Human Rights Watch's report indicated that Afghan asylum seekers and migrants are being pushed back summarily to Turkey via the Evros River, in some cases by 'non-Greeks' but with Greek police nearby.

<https://tolonews.com/index.php/afghanistan-177513>

April 11, 2022

Assembly of Religious Scholars Calls to Reopen Girls' Schools (ToloNews)

Over two hundred days have passed since the closing of girls' schools above the sixth grade in the country.

Following domestic and international reactions to the closing of schools for girls above the sixth grade, the Assembly of Religious Scholars in Afghanistan issued a statement calling for the lifting of all restrictions on girls' education and the reopening of girls' schools.

<https://tolonews.com/index.php/afghanistan-177524>

Activist Matiullah Wesa Calls to Reopen Girls' Schools (ToloNews)

Wesa visited twenty of thirty-four provinces after the Islamic Emirate came into power, providing thousands of students with education resources.

The well-known human rights activist Matiullah Wesa, founder of the PenPath campaign and advocate for girls' education and education

generally, called on the Islamic Emirate to reopen schools for female students above grade six.

<https://tolonews.com/index.php/afghanistan-177527>

Women's Chamber of Commerce and Industry Reopens in Herat (ToloNews)

After months of delay, the Women's Chamber of Commerce and Industry resumed its activities in the western province of Herat.

<https://tolonews.com/index.php/afghanistan-177520>

April 12, 2022

French MPs Call for Sanctions on Afghan Officials Over School Ban

Meanwhile, UNHCR has expressed grave concerns over the closing of secondary schools for Afghan girls.

More than fifty members of the French parliament have called for travel sanctions on Islamic Emirate officials in response to the closing of girls' schools, restrictions imposed on women, and reported human rights abuses in Afghanistan.

<https://tolonews.com/index.php/afghanistan-177546>

April 14, 2022

Calls to Allow Schooling for Afghan Girls Persist (ToloNews)

The ban on schooling for female students beyond grade six continues to face strong national and international condemnation.

The Islamic Emirate said a plan is underway to facilitate the reopening of schools for female students in grades 7–12.

<https://tolonews.com/index.php/afghanistan-177579>

UNHCR Deputy Shares Hope That Both Girls, Boys May Learn (ToloNews)

'We ask the Islamic Emirate to allow girls above the sixth grade to continue their education,' said Fahmida, a student.

While opening a school in Kandahar on Thursday, the deputy commissioner of the UNHCR (UN High Commissioner for Refugees) said that the international community was continuing its efforts to open girls' schools above the sixth grade.

<https://tolonews.com/index.php/afghanistan-177575>

April 15, 2022

Data Project Reports Surge in Violence Against Civilians, Women (ToloNews)

The Armed Conflict Location and Event Data Project Afghanistan (ACLED) reported that rate of violence against women and civilians has surged in Afghanistan.

The report was released by ACLED in cooperation with the Afghan Peace Watch and covered the rate of violence against civilians and women in Afghanistan.

<https://tolonews.com/index.php/afghanistan-177594>

April 16, 2022

Employees of Women's Outreach Organization Demand Unpaid Salaries (ToloNews)

Dozens of employees of the organization Women for Afghan Women held a protest on Saturday in the capital city of Kabul, where they accused the organization of being irresponsible toward its employees.

The organization was providing legal aid, accommodation, and financial services to the women and children in Afghanistan.

<https://tolonews.com/index.php/afghanistan-177606>

MoE, UNESCO Discussing Literacy Program (ToloNews)

The Ministry of Education (MoE) said that, in cooperation with the United Nations Educational, Scientific and Cultural Organization (UNESCO), a literacy program is being planned for citizens.

<https://tolonews.com/index.php/afghanistan-177602>

April 17, 2022

Women In Kabul Call for Reopening of Girls' Schools (ToloNews)

A number of women at a home protest in the capital Kabul called on the Islamic Emirate to reopen schools for female students above grade six. This comes as the Ministry of Education says it is optimistic about efforts to reopen schools for girls in grades 7–12.

<https://tolonews.com/index.php/afghanistan-177618>

April 21, 2022

Prominent Pakistani Cleric Calls to Reopen Afghan Girls' Schools (ToloNews)

The MoE said that negotiations are underway regarding girls' education and that there is optimism that girls' schools will be reopened in the near future.

Muhammad Taqi Usmani, a well-known Pakistani Islamic scholar, in a statement urged the leaders of the Islamic Emirate to reopen schools for female students above grade six.

<https://tolonews.com/afghanistan-177680>

Activists, Political Parties Demand Reopening of Girls' Schools (ToloNews)

In a resolution, they called on the Islamic Emirate to reopen girls' schools in the country as soon as possible.

Civil society groups, political parties and ethnic councils on Thursday in Kabul at a press conference called for the reopening of all girls' schools in the country.

<https://tolonews.com/afghanistan-177679>

April 23, 2022

New Timetable Scheduled for Kabul University Students. (ToloNews)

The academic council of Kabul University said that the plan will come into effect in other universities across the country.

The Ministry of Higher Education announced it has allotted three days a week for female students and three days for male students at Kabul University and Kabul Polytechnic University.

<https://tolonews.com/afghanistan-177707>

April 24, 2022

UN Agency Concerned over Delay in Reopening of Girls' Schools. (ToloNews)

Meanwhile, the Ministry of Education said that the schools for girls in grades 7–12 will be reopened in the near future.

The United Nations International Children's Emergency Fund (UNICEF) expressed its concerns over the closure of schools for female students beyond grade six, saying that over one million children are facing an uncertain future.

<https://tolonews.com/afghanistan-177720>

April 25, 2022

Karzai Reiterates Call to Reopen Schools for Girls (ToloNews)

The Islamic Emirate's decision to close schools for girls above grade six has faced repeated reactions inside and outside Afghanistan.

Former President Hamid Karzai said that the people of Afghanistan want their girls to return to schools, and there 'is no way that the country can live without our girls going to school'.

<https://tolonews.com/afghanistan-177733>

April 26, 2022

Private Universities Say Students Dropping Out (ToloNews)

According to the Ministry of Higher Education, there are 140 private universities in the country that teach students in various subjects. Officials at private universities in Kabul claim that the number of students attending private universities has dramatically dropped in recent months.

<https://tolonews.com/afghanistan-177750>

UN Experts: Frozen Assets Worsen Afghan Women's Plight (ToloNews)

Afghan central bank funds have been frozen since August, when the Islamic Emirate took over, and foreign forces withdrew. (Reuters) The United States as well as the Islamic Emirate authorities are contributing to the suffering of women in Afghanistan through asset freezes, UN independent experts said on Monday.

<https://tolonews.com/afghanistan-177747>

May 1, 2022

Clerics in Paktia Call for Girls' Schools to Reopen (ToloNews)

The MoE said more than twenty thousand schools are currently opened across the country.

Islamic scholars at a gathering in Paktia called for the reopening of schools for girls beyond grade six.

<https://tolonews.com/afghanistan-177818>

May 2, 2022

Video (YouTube):

Meet the Afghan female journalist who refuses to give in to the Taliban

https://www.youtube.com/watch?v=AMH4gflo4_Y

Video (YouTube):

South Asia Diary | Afghan women's football team reunites

<https://www.youtube.com/watch?v=NalXtkRyMKs>

May 3, 2022

Schools in Balkh Lack Teachers, Textbooks: Officials (ToloNews)

Afghan girls have been denied education in most parts of Afghanistan since the takeover of the Islamic Emirate in August 2021.

Officials at the education department in Balkh said that province schools lack about fifteen hundred professional teachers and textbooks.

<https://tolonews.com/afghanistan-177845>

Rina Amiri: Muslim Nations Must Champion Rights of Afghan Girls (ToloNews)

The banning of girls from going to school has faced strong reactions inside and outside the country.

The US special envoy for Afghanistan's women, girls and human rights, Rina Amiri, said that at an Iftar dinner, ambassadors from Muslim-majority countries 'agreed that the Muslim world must champion the rights of Afghan women and girls.'

<https://tolonews.com/afghanistan-177841>

(BBC News) آیا طالبان 'خبر خوش' بازگشایی دبیرستان‌های دخترانه را به زودی اعلام می‌کند؟

انس حقانی، یکی از اعضای ارشد طالبان در یک نشست عمومی در ولایت خوست، در جنوب شرق افغانستان گفته است که 'در روزهای آینده' روحانیان نشستی درباره بازگشایی دبیرستان‌های دخترانه در این کشور برگزار خواهند کرد.

حتی یک هفته پیشتر از تاریخ اعلام‌شده، وزارت معارف طالبان اعلام کرده بود که مدارس سراسر افغانستان برای همه دانش‌آموزان از جمله دختران در روز چهارشنبه باز می‌شوند.

<https://www.bbc.com/persian/afghanistan-61298163>

Afghan women defend right to drive as Taliban stops issuing licenses for women. (Alarabia)

Taliban officials in Afghanistan's most progressive city have told driving instructors to stop issuing licenses to women, professionals from the sector told AFP.

While Afghanistan is a deeply conservative, patriarchal country, it is not uncommon for women to drive in larger cities—particularly Herat in the northwest, which has long been considered liberal by Afghan standards.

<https://english.alarabiya.net/News/world/2022/05/03/Afghan-women-defend-right-to-drive-as-Taliban-stops-issuing-licenses-for-women>

Statement by Friends of Afghan Women Ambassadors' Group on World Press Freedom Day. (UNaMa)

On World Press Freedom Day this year, we recognise that everyone has the right to freedom of opinion and expression, as enshrined in the Universal Declaration of Human Rights. This right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers. These freedoms are also contained in Article 19 of the International Covenant on Civil and Political Rights.

<https://unama.unmissions.org/statement-friends-afghan-women-ambassadors%e2%80%99-group-world-press-freedom-day>

May 4, 2022

UNICEF Concerned by Impact of School Ban on Girls' Learning (ToloNews)

The Ministry of Education said that the reopening of schools for girls is an important issue for the Islamic Emirate.

The United Nations International Children's Emergency Fund (UNICEF) is concerned about the impact on girls' learning from the decision to ban schooling for females over the sixth grade, a senior UNICEF official said.

<https://tolonews.com/index.php/afghanistan-177863>

Afghan Girls Banned from School Suffer Psychologically: Experts

The students said they are counting the seconds until school will be reopened.

Female students above grade six say the closing of their schools is causing them mental health trouble.

<https://tolonews.com/afghanistan-177853>

VIDEO (Twitter):

Women in Heart—Afghanistan's most progressive city—defend the right to drive after Taliban officials said they would stop issuing licenses to women.

<https://twitter.com/AFP/status/1521811877742870528>

Taliban Stops Issuing Driving Licence to Afghan Women: Reports (NDTV)

The ban comes at a time when the country is suffering from a devastating humanitarian crisis with severe shortage of food and other essential supplies.

<https://www.ndtv.com/world-news/taliban-to-stop-issuing-driving-licence-to-women-in-kabul-reports-2947030>

May 5, 2022

Clerics Call to Include Women in Girls' School Discussion. (ToloNews)

Islamic scholars and female instructors called on the Islamic Emirate to include women in the gathering expected to be held over the fate of schooling for girls beyond grade six.

<https://tolonews.com/afghanistan-177877>

May 6, 2022

Female Teachers Called Back to Nimroz Schools. (ToloNews)

The Nimroz education department said that female teachers who lost their jobs following the fall of the previous government will be reinstated.

Meanwhile, teachers who lost their jobs praised the Ministry of Education's decision.

<https://tolonews.com/afghanistan-177890>

May 7, 2022

Afghanistan: Women's faces become latest Taliban restriction after face veil rule (BBC)

At the Lycee Mariam market in Kabul, known for its long row of stalls selling women's clothing, news of the Taliban's latest decree that women must wear a face veil had not yet filtered down by the afternoon.

Some of those browsing the shops wore the all-encompassing blue burka that the Taliban enforced during their first stint in power in the 1990s.

Others, however, had scarves covering their hair, but their faces uncovered.

<https://www.bbc.com/news/world-asia-61363969>

Taliban to force Afghan women to wear face veil. (BBC)

Afghan women will have to wear the Islamic face veil for the first time in decades under a decree passed by the country's ruling Taliban militants.

<https://www.bbc.com/news/world-asia-61361826>

Taliban orders women to cover up head to toe in Afghanistan: 'We want our sisters to live with dignity' (CBS News)

Afghanistan's Taliban rulers on Saturday ordered all Afghan women to wear head-to-toe clothing in public—a sharp, hard-line pivot that confirmed the worst fears of rights activists and was bound to further complicate Taliban dealings with an already distrustful international community.

<https://www.cbsnews.com/news/taliban-order-women-cover-up-afghanistan/>

May 8, 2022

Rules for Women's Covering Sparks Reactions. (ToloNews)

The Islamic Emirate's announcement of new rules regarding women's covering or hijab triggered reactions at an international level.

The UN Sec-Gen Guterres said he is 'alarmed' that 'women must cover their faces in public and leave home only in cases of necessity.'

<https://tolonews.com/afghanistan-177918>

May 9, 2022

**استفاده اجباری از برقع در افغانستان؛ واکنش‌های داخلی و جهانی به دستور جدید طالبان
(BBC Persian)**

شماری از زنان و دختران افغان در داخل و خارج از افغانستان به واکنش‌های خود در مورد دستور تازه طالبان مبنی بر استفاده اجباری زنان از روبنده (برقع) ادامه داده و آن را تلاشی برای سلب آزادی‌های نسبی زنان و دخترانی خوانده‌اند که در افغانستان تحت حاکمیت طالبان، زندگی، کار و تحصیل می‌کنند.

وزارت امر به معروف طالبان دو روز پیش اعلام کرد که از این بعد زنان و دختران در افغانستان باید چشم‌ها، بدن و صورتشان را بپوشانند و زنان از روبنده که چهره آن‌ها را کاملاً می‌پوشاند، استفاده کنند.

<https://www.bbc.com/persian/afghanistan-61378379>

May 10, 2022

Women and Girls Drive in Herat City (ToloNews)

Even though women's driving licenses have been suspended in Herat province, some women and girls are driving freely in Herat city.

But local officials in Herat said there are still no restrictions on women and girls driving in the province.

<https://tolonews.com/index.php/afghanistan-177942>

U.N. Security Council to discuss Taliban ordering women to cover faces again. (Reuters)

The United Nations Security Council will meet on Thursday to discuss an order by Afghanistan's Taliban for women to cover their faces in public, a return to a signature policy of the Islamist group's past hardline rule and an escalation of restrictions.

<https://www.reuters.com/world/asia-pacific/un-security-council-discuss-taliban-ordering-women-cover-faces-again-2022-05-10/>

U.S. says it will increase pressure on Taliban if it does not reverse decisions on women, girls. (Reuters)

The United States will take steps to increase pressure on Afghanistan's Taliban government to reverse some of its recent decisions restricting the rights of women and girls if the hardline group shows no sign of rescinding the actions on its own.

<https://www.reuters.com/world/middle-east/us-says-it-will-increase-pressure-taliban-if-it-does-not-reverse-decisions-women-2022-05-09/>

May 11, 2022

Many Afghan women pushing back against Taliban orders to cover up. (Reuters)

Many women in the Afghan capital are delaying a return to fully covering their faces in public in defiance of orders from Islamist Taliban rulers; others are staying at home, and some have been wearing COVID-19 face masks anyway.

<https://www.reuters.com/world/asia-pacific/many-afghan-women-pushing-back-against-taliban-orders-cover-up-2022-05-11/>

Afghan women train in Australia after fleeing Taliban rule. (Reuters)

Eight months after fleeing Kabul as the Taliban swept to power in Afghanistan, Farida trains at a suburban Melbourne pitch, dreaming of one day playing soccer for her country while lamenting the fate of fellow women players back home.

<https://www.reuters.com/lifestyle/sports/afghan-women-train-australia-after-fleeing-taliban-rule-2022-05-11/>

May 12, 2022

Video: Afghan women protest against the Taliban order to cover faces. (YouTube – CNN)

<https://www.youtube.com/watch?v=h9DM1VHsNZY>

May 13, 2022

**Prevented from Attending School, Afghan Girls Learn Handicrafts.
(ToloNews)**

Following the closing of girls' schools above sixth grade, a number of female students above sixth grade in Herat province have turned to sewing and other handicrafts instead of staying at home.

Many of these students, like Aziza, did not stay home and turned to learning foreign languages, computers, and handicrafts.

<https://tolonews.com/afghanistan-178000>

**UK at UN: Afghan Women, Girls Will Not Accept Life on Sidelines.
(ToloNews)**

Barbara Woodward, the Permanent Representative of the United Kingdom to the UN expressed deep concern over the imposed restrictions against women and girls in Afghanistan.

<https://tolonews.com/afghanistan-177998>

**G7 Condemns Restrictions on Women and Girls in Afghanistan.
(ToloNews)**

The Foreign ministers of Canada, France, Germany, Italy, Japan, the United Kingdom, the United States, and representatives of the European Union stated they deplored and opposed the increasing restrictions on the rights and freedom of Afghan women and girls.

<https://tolonews.com/afghanistan-177993>

May 14, 2022

In the Taliban's Afghanistan, control of women begins at home. (The Washington Post)

The Taliban decreed May 7 that Afghan women must cover themselves from head to toe in public. The blue burqa is the Taliban's garment of choice; ideal, however, would be for women to never leave the house unless absolutely necessary.

<https://www.washingtonpost.com/opinions/2022/05/14/taliban-afghanistan-women-covering-burqa-control/>

Govt Female Employees Call for Freedom to Work. (ToloNews)

Female employees of the government called on the Islamic Emirate to allow them to continue working at their jobs in government departments.

<https://tolonews.com/afghanistan-178013>

May 15, 2022

Afghanistan face veil decree: 'It feels like being a woman is a crime'. (BBC)

Soraya, who owns a small business in Kabul, never believed that she would be made to wear a burqa like the one the Taliban enforced during their first stint in power in the 1990s. But on 7 May, women's faces became the latest restriction, after Afghanistan's ruling Taliban announced that women must wear an all-covering veil in public for the first time in decades.

Taliban officials described the face veil decree as 'advice' but laid out a specific set of escalating steps for anyone not complying.

<https://www.bbc.com/news/world-asia-61402309>

**15 Foreign Ministers Issue Statement on Afghan Women's Rights.
(ToloNews)**

The Foreign Ministers of fifteen countries in a statement expressed their 'deep' concerns over restrictions on girls' access to education in Afghanistan and called on the 'Taliban to respect the right to education and adhere to their commitments to reopen schools for all female students.'

<https://tolonews.com/afghanistan-178027>

May 16, 2022

**Taliban Say, 'Good News ' Coming On Girls' Education In Afghanistan.
(NDTV)**

Washington: Afghanistan's interior minister promised 'very good news' soon on the return of girls to secondary schools, in a rare interview broadcast Monday by CNN.

<https://www.ndtv.com/world-news/taliban-say-good-news-coming-on-girls-education-in-afghanistan-2982037>

Taliban promise 'good news' on girls' education in Afghanistan. (al-Arabiya)

The unexpected reversal, ordered by Hibatullah Akhundzada, the supreme leader of the Taliban and of the country, outraged many Afghans and the international community.

<https://english.alarabiya.net/News/world/2022/05/17/Taliban-promise-good-news-on-girls-education-in-Afghanistan>

Taliban Dissolve Afghanistan's Human Rights Commission, Other Key Bodies. (U.S. News)

KABUL (Reuters) - Taliban authorities in Afghanistan dissolved five key departments of the former U.S.-backed government, including the country's Human Rights Commission, deeming them unnecessary in the face of a financial crunch, an official said on Monday.

<https://www.usnews.com/news/world/articles/2022-05-16/taliban-dissolve-afghanistans-human-rights-commission-other-key-bodies>

May 18, 2022

Video: We feel suffocated': Afghan women open up about life under the Taliban. (CNN)

<https://www.cnn.com/videos/world/2022/05/18/afghanistan-girls-education-work-taliban-amanpour-dnt-lead-vpx.cnn>

Students say Taliban blocked them from college for wearing wrong color hijabs as Afghan women see their rights fade to black. (CBS NEWS)

Taliban forces prevented female college students from attending classes on Wednesday in Kabul, apparently turning them away because their headscarves were deemed too colorful. It was the latest evidence of the Islamist group's steady erosion of human rights since it seized power almost a year ago after the US military's withdrawal from Afghanistan.

<https://www.cbsnews.com/news/taliban-sends-afghanistan-female-students-home-wrong-color-hijab-headscarf/>

Afghanistan: The secret girls school defying the Taliban. (BBC)

Hidden away in a residential neighbourhood is one of Afghanistan's new 'secret' schools—a small but powerful act of defiance against the Taliban. Around a dozen teenage girls are attending a math class.

<https://www.bbc.com/news/world-asia-61470748>

May 19, 2022

Afghanistan's female TV presenters must cover their faces, say Taliban. (BBC)

The Taliban have ordered female Afghan TV presenters and other women on screen to cover their faces while on air.

Media outlets were told of the decree on Wednesday, a religious police spokesman told BBC Pashto.

<https://www.bbc.com/news/world-asia-61508072>

Video/article: Family shares their story about escaping Afghanistan and finding hope in Indiana (WRTV- abc)

<https://www.wrtv.com/news/working-for-you/family-shares-their-story-about-escaping-afghanistan-and-finding-hope-in-indiana>

Afghan Women Hold Book Fair in Kabul (ToloNews)

To celebrate the last day of the week of the International Day of Book, several women held a book exhibition on a street in Kabul.

The visitors welcomed the holding of the exhibition and urged the citizens to incorporate book reading as a daily habit.

<https://tolonews.com/afghanistan-178088>

May 20, 2022

State Dept Wants 'Action' Not 'Rhetoric' on Afghan Schools. (ToloNews)

The United States Department of State again criticized what it called the ban on schools for girls above sixth grade in Afghanistan.

However, the Islamic Emirate said that it has set up a commission to allow female students above sixth grade to go to school.

<https://tolonews.com/afghanistan-178099>

May 21, 2022

60 Women graduated from Trade School in Kabul (ToloNews)

More than sixty female students have graduated from a professional training center in Kabul.

Many young women turned to learning craft skills after the girls' schools above grade six were closed.

<https://tolonews.com/afghanistan-178111>

Ministries Repeat Call for Female News Presenters to Cover Faces (ToloNews)

The Ministry of Vice and Virtue emphasized once again that female presenters on television should cover their faces. According to the ministry spokesperson, women presenters are obliged to use masks during television programs, starting tomorrow, Sunday.

The ministry spokesperson also told ToloNews that the decision was final and that there was no room for discussion on this issue.

<https://tolonews.com/afghanistan-178113>

Karzai Tells CNN Burqa is Not Afghan Tradition (ToloNews)

Former President Hamid Karzai in an interview with CNN said that covering faces is not Hijab, and the use of the Burqa is not Afghan tradition, but ‘Burqa has come to Afghanistan probably 200–300 years ago, and countryside women don’t wear’ it.

<https://tolonews.com/afghanistan-178107>

US envoy meets Taliban foreign minister, raises women’s rights. (Al Jazeera)

The US special envoy on Afghanistan has met the Taliban’s acting foreign minister in the Qatari capital, Doha, and stressed international opposition to the group’s expanding curbs on women and girls.

<https://www.aljazeera.com/news/2022/5/21/us-envoy-meets-taliban-diplomat-presses-womens-rights>

May 22, 2022

Deputy Foreign Minister Calls for Girls’ Education. (ToloNews)

Sher Mohammad Abbas Stanikzai, the deputy minister of Foreign Affairs, called for women’s rights to be provided and said it is the responsibility of the government to provide safe education for girls in the country.

<https://tolonews.com/afghanistan-178128>

**All ToloNews Presenters, in Solidarity With Women, Cover Faces
(ToloNews)**

ToloNews and other TV channels in Kabul on Sunday followed an order of the Ministry of Vice and Virtue regarding covering female presenters' faces.

<https://tolonews.com/index.php/afghanistan-178027>

**US's West, Amiri Speak to Muttaqi on Restrictions of Women.
(ToloNews)**

The US special envoy for Afghanistan, Thomas West, said that he and Rina Amiri, US envoy for Afghan women and human rights, spoke with acting Minister of Foreign Affairs, Amir Khan Muttaqi, during which they 'conveyed unified international opposition to ongoing and expanding restrictions on women and girls' rights and role in society.'

<https://tolonews.com/index.php/afghanistan-178122>

May 23, 2022

Artists Protest Over Restrictions on Women (ToloNews)

A number of artists protesting against the latest restrictions imposed on women held a painting competition in Kabul, featuring artwork by women. They say their artwork depicts the current situation of women in the country and the restrictions on women in Afghanistan.

<https://tolonews.com/index.php/afghanistan-178142>

**Afghan Women 'Systematically Discriminated Against': Amnesty Intl
(ToloNews)**

Amnesty International said that despite the Islamic Emirate's continued assurances that they respect the rights of women and girls, 'millions of women and girls have been systematically discriminated against since the Taliban became the de-facto authorities,' the organization said.

<https://tolonews.com/index.php/afghanistan-178144>

Afghanistan's Taliban mandate face coverings for women news anchors (FOX News)

Afghanistan's Taliban have mandated a new rule requiring all women news anchors to cover their faces while on TV. The Taliban's Virtue and Vice ministry announced the change on Thursday and began enforcing it over the weekend.

<https://www.foxnews.com/world/afghanistan-taliban-mandate-face-coverings-women-news-anchors>

May 24, 2022

Afghan female journalists defiant as Taliban restrictions grow (Al Jazeera)

Taliban decree ordering female news anchors to cover their faces on air is the latest in a series of escalating restrictions.

<https://www.aljazeera.com/news/2022/5/24/afghan-female-journalists-defiant-as-taliban-restrictions-grow>

Male Afghan TV anchors cover faces in solidarity with women after a Taliban order (NRP)

TV anchor Khatereh Ahmadi bows her head while wearing a face covering as she reads the news on ToloNews, in Kabul, Afghanistan, on Sunday. The Taliban has started enforcing an order requiring female anchors to cover their faces while on air.

<https://www.npr.org/2022/05/24/1100957881/free-her-face-afghan-tv-anchors-face-coverings-taliban>

May 25, 2022

UNSC Urges Kabul to Lift Restrictions on Women, Girls. (ToloNews)

The United Nations Security Council on Tuesday called on the Islamic Emirate to 'swiftly reverse' policies and practices that are 'restricting the human rights and freedoms of Afghan women and girls in Afghanistan.'

<https://tolonews.com/afghanistan-178170>

May 26, 2022

Video (YouTube): Afghan woman on directives: 'We live in a big prison with very restrictive rules.' | ABCNL

<https://www.youtube.com/watch?v=usQcvewgyGk>

Committee Formed to Reopen Girls' Schools: Islamic Emirate (ToloNews)

The Islamic Emirate said it has formed a committee of eight members to facilitate the reopening of girls' schools.

<https://tolonews.com/afghanistan-178190>

May 27, 2022

Islamic Emirate Says UN's Concerns Over Women's Rights 'Unfounded' (ToloNews)

The statement welcomed the decision by the UNSC to revive Afghanistan's banking and financial system.

<https://tolonews.com/afghanistan-178204>

US State Dept: Kabul's Legitimacy Depends on Women's Rights (ToloNews)

Kabul has always said that the rights of women and girls are ensured within the framework of Islamic law.

<https://tolonews.com/afghanistan-178205>

Girls in Farah Voice Growing Discontent as Schools Remain Closed (ToloNews)

The female Afghan students above grade six have been banned from going to school for more than 250 days.

<https://tolonews.com/afghanistan-178207>

May 28, 2022

Girls at Badakhshan University Say Covering Faces Unhealthy (ToloNews)

The students said that they have been struggling with heat because of being obliged to wear black clothes and masks in the university.

<https://tolonews.com/afghanistan-178221>

Twitter 'FreeHerFace' Campaign Gained Intl Attention (ToloNews)

The Twitter hashtag was used by foreign TV presenters and some famous figures to offer their solidarity with the Afghan female presenters.

<https://tolonews.com/afghanistan-178220>

May 29, 2022

Afghan Women Protest Over Closed Girls' Schools (ToloNews)

They also stated that they would continue to demonstrate until their demands were met.

<https://tolonews.com/afghanistan-178230>

May 31, 2022

No Details Yet from Committee on Girls' Schooling: Spokesperson (ToloNews)

The female students above sixth grade expressed concerns over the closed schools.

<https://tolonews.com/afghanistan-178262>

UN Rapporteur Spotlights Human Rights Crisis, Women's Exclusion (ToloNews)

Meanwhile, Human Rights Watch called on the Islamic Emirate to respect the rights of girls and women in order to gain global legitimacy.

<https://tolonews.com/afghanistan-178261>

June 2, 2022

Herat Artists Hold Exhibition to Protest Restrictions on Women. (ToloNews)

The decree was issued on May 7, prompting harsh criticism from the international community as well as Afghans across the country.

<https://tolonews.com/afghanistan-178295>

June 4, 2022

Calls to Reopen Afghan Girls' Schools Continue (ToloNews)

The Noor Capacities Development and Training Institute was founded in 2001 and presently works in twenty-two provinces in human rights.

<https://tolonews.com/afghanistan-178319>

June 5, 2022

Questions Raised About Firing of 3 Female Professors (ToloNews)

Meanwhile, Badakhshan University's chancellor said that these professors have been fired for their persistent absenteeism.

<https://tolonews.com/afghanistan-178330>

OSCE Concerned by Situation in Afghanistan (ToloNews)

But the Islamic Emirate denied the report and said that the human rights and women's rights are observed in Afghanistan.

<https://tolonews.com/afghanistan-178334>

June 6, 2022

Facing Closed Schools, Badghis Girls Learn Tailoring (ToloNews)

They expressed serious concerns over the uncertain fate of secondary schools for girls across Afghanistan, especially in Badghis province.

<https://tolonews.com/afghanistan-178345>

Islamic Emirate Denies Reports of Reopening Girls' Schools (ToloNews)

The Islamic Emirate announced a committee to facilitate the reopening of the girls' schools beyond grade six, but there has yet to be any ...

<https://tolonews.com/afghanistan-178351>

June 8, 2022

Women at Kabul Exhibition Display Handmade Products (ToloNews)

Their products are handmade materials made from precious stones, textile, and other materials.

<https://tolonews.com/afghanistan-178381>

Students in South Call for All Girls' Schools to Reopen (ToloNews)

'I am a student of the 12th grade, our lessons are ongoing, and we come to the class every day,' said Shukria, a student.

<https://tolonews.com/afghanistan-178391>

HRW Reiterates Concerns Over Closed Girls' Schools (ToloNews)

Although the Islamic Emirate has formed a committee to facilitate the reopening of girls schools, there has yet to be any progress in ...

<https://tolonews.com/afghanistan-178393>

June 9, 2022

Women in Kabul Call for Right to Work, End of Restrictions (ToloNews)

They urged the Islamic Emirate to allow women to return to work.

<https://tolonews.com/afghanistan-178401>

June 11, 2022

Girls Say Closed Schools Causing Mental Stress (ToloNews)

They called on the Islamic Emirate to reopen the schools as soon as possible.

<https://tolonews.com/afghanistan-178429>

June 13, 2022

Teachers in Nangarhar Cross River with Inner Tubes to Reach School

Based on available numbers, around eight hundred girls and boys are studying at Bili school.

<https://tolonews.com/afghanistan-178465>

June 14, 2022

Islamic Scholars in Badghis Call to Reopen Girls' Schools

A gathering was held on Monday evening to inaugurate the council of Ulema in Badghis.

<https://tolonews.com/afghanistan-178475>

Ministry of Information Celebrates National Mother's Day

The Ministry of Information and Culture held a gathering on Tuesday to mark the National Day of Mother.

<https://tolonews.com/afghanistan-178483>

June 15, 2022

Employees of Ex-Govt's Supreme Court Hold Protest.

According to protestors, there are 150 administrative employees not allowed to attend work after the Islamic Emirate swept into power.

<https://tolonews.com/afghanistan-178490>

Top UNHCR Official Voices Concerns Over Closed Girls' Schools

It has been over 270 days that the girls' schools above grade six have remained closed in Afghanistan.

<https://tolonews.com/afghanistan-178492>

June 16, 2022

UN Human Rights Session Discusses Afghan Women's Condition

The Islamic Emirate's spokesman, Zabiullah Mujahid, denied there were violations of human rights in Afghanistan.

<https://tolonews.com/afghanistan-178502>

Specific Reasons Not Given for Closed Girls' Schools: UN's Bennett

Recently, a gathering in the western province of Badghis called for the reopening of schools for female students in grade 6–12.

<https://tolonews.com/afghanistan-178507>

June 17, 2022

Schools Remain Closed In Pamir District Of Badakhshan

Meanwhile, due to a lack of female teachers in the Pamir district of Badakhshan, girls have been left out of school.

<https://tolonews.com/afghanistan-178525>

June 19, 2022

Kabul University Faculties Lack Professors: Students

Meanwhile, officials at the Ministry of Higher Education and Kabul University say that they are working to solve these problems.

<https://tolonews.com/afghanistan-178547>

'We Must Facilitate Education for Men, Women': Stanekzai

The schools for female students beyond grade six have remained closed for more than 270 days.

<https://tolonews.com/afghanistan-178555>

June 28, 2022

Voices Call for Inclusion of Women, All Ethnic Groups in National Gathering

One of the main demands of the international community is the formation of an inclusive government.

<https://tolonews.com/afghanistan-178693>

Clerics in Kabul Called for Inclusion of Women in Coming Gathering

The international community linked the recognition of the current Afghan government to the upholding of human rights and women's rights...

<https://tolonews.com/afghanistan-178694>

June 29, 2022

Afghan Girls Ask That Schooling Be Discussed at National Gathering

They also said that due to the closure of schools, they have suffered a lot of psychological harm.

<https://tolonews.com/afghanistan-178696>

June 30, 2022

Calls Raised for Inclusion of Women, Journalists at Clerics' Gathering

Meanwhile, women called on the participants at the gathering to decide on the reopening of girls' schools above 6th grade in the country.

<https://tolonews.com/afghanistan-178721>

Women Demand Inclusion in Clerics' Gathering

The exclusion of women from this Islamic Clerics' Gathering has drawn strong criticism from a number of women in the west of the country.

<https://tolonews.com/afghanistan-178724>

July 1, 2022

Women's Absence at Clerics' Gathering Criticized

Recognition of the Islamic Emirate by the international community is conditional upon upholding human rights and the role of women in ...

<https://tolonews.com/afghanistan-178739>

Only 2 Participants at Clerics' Gathering Called to Reopen Girls' School

This comes as no Islamic Emirate official has so far talked about the reopening of girls' schools at the gathering.

<https://tolonews.com/afghanistan-178740>

July 2, 2022

US's Amiri Chooses Not to Meet With Islamic Emirate in Doha

The statement issued by the State Department also highlighted the 'expanding restriction' on the rights of Afghan women and girls.

<https://tolonews.com/afghanistan-178748>

Bachelet: Women, Girls Face 'Progressive Exclusion'

The Islamic Emirate has yet to comment on this event, but previously said Kabul is bound to uphold the rights of women within the ...

<https://tolonews.com/afghanistan-178751>

Hekmatyar Asks Why Women Not Included in Gathering

They added that without the presence of women, the gathering is incomplete.

<https://tolonews.com/afghanistan-178756>

July 3, 2022

Religious School Students in Baghlan Call to Reopen Girls' Schools

According to the students, every Muslim has the right to education, and girls' schools should be opened again.

Women Demand Reopening of Girls' Schools

It has been 289 days since girls above sixth grade have not been allowed to attend school, and it is not clear what will happen to their ...

Female Students, Teachers Concerned by Results of Clerics' Gathering

Schools for female students from grade 7–12 have remained closed for over nine months.

July 5, 2022

Islamic Emirate Policies Keeping 'Sanctions in Place': Amiri

Afghan female activists believe that the Islamic Emirate will not be recognized if it does not provide women with their rights.

July 7, 2022

Female Writers Call for Reopening of Girls' Schools

In a resolution, they said that the closure of girls' schools has no religious justification.

Stanekzai Calls for Inclusion of Women in Govt. Departments

Stanekzai called on the Afghan academic figures abroad to return to the country, saying they would be provided with security.

July 8, 2022

Activists: Rise in Forced Marriages Linked to Closed Girls' Schools

The majority of girls in the province engage in carpet weaving, beekeeping, and the production of handicrafts.

Islamic Emirate Leader Not Opposed to Girls' Schools, Says Top Cleric

Faiq said that the only reason for delaying the reopening of the schools is the need to segregate the classes of male and female students.

July 11 , 2022

Afghan Citizens Call to Reopen Girls' Schools

Meanwhile, some families in the country urged the Islamic Emirate to reopen girls' schools as soon as possible.

Deprived of Tailoring, Female Students Turn to Tailoring

Nearly seventy girls and women work at shop visited by TOLONews.

July 12, 2022

Campaign for Girls' Education Continues on Social Media

The campaigners warned about the negative outcomes of illiteracy for the country.

July 14, 2022

Kapisa Parents Concerned by Effects of Closed Girls' Schools

The female students above grade six have not been allowed to attend their schools for the past 300 days.

Afghanistan Ranked Worst Country for Gender Gap

But the Islamic Emirate said that it included women—based on necessity—in the government bodies.

July 16 , 2022

Afghans Renew Call for Reopening of Girls' Schools

They said that the closure of girls' schools will lead the country towards a 'dark future.'

July 20, 2022

UNAMA Releases Human Rights Report on Past 10 Months

Islamic Emirate spokesman Zabiullah Mujahid, in reaction to the UNAMA report on the human rights situation in Afghanistan.

July 26, 2022

Clerics, Tribal Elders in Paktia Call to Reopen Girls' Schools

Meanwhile, participants urged the international community to interact with Afghanistan and release Afghan's foreign assets.

July 29, 2022

Blinken Announces 'Consultative Mechanism' for US to Reach Afghan Women

US Secretary of State Antony Blinken further added that since the Islamic Emirate took over, they've silenced civil society and ...

Local Officials in Parwan Call to Reopen Girls' Schools

Eleven months have passed since the closure of girls' schools above the sixth grade, and it is still unknown when these schools will reopen.

July 31, 2022

Afghan Refugees in Iran, Pakistan Call for UNHCR to Act

Meanwhile, some of the Afghan refugees who are living in Iran talked about the problems they face living in that country.

August 2, 2022

Students Call for Girls' Schools to Be Reopened

Girls' schools above sixth grade were shut down for about a year, and the Islamic Emirate has not decided whether or not to reopen them.

August 4, 2022

Anas Haqqani Says Closed Girls' Schools Not Permanent

High-ranking Islamic Emirate officials have consistently made promises to reopen schools, but these promises have not yet been fulfilled.

August 8, 2022

Officials: Girls' Schools Closed Due to 'Cultural Constraints'

On Sunday, the Deputy Minister of Education said that the delay in reopening girls' schools was caused by problems in the curriculum for ...

August 12, 2022

Afghan Girls Describe Despair Over Lack of Access to Education: AP

Even if the young woman gets a university degree, 'What is the benefit?' asked Qaderi, a 58-year-old retired government employee.

August 13, 2022

Protesters in Kabul Call for Women's Rights

The protestors chanted the slogan 'Bread, Work and Freedom,' and urged the caretaker government to observe the rights of women and girls.

Taliban break up rare protest by Afghan women in Kabul. (BBC News)

<https://www.bbc.com/news/world-middle-east-62532839>

August 14, 2022

Human Rights in Afghanistan Since Political Change

Women's rights restrictions, hijab decrees, and civil protests were a few of the changes that sparked domestic and international ...

August 15, 2022

Closed Girls' Schools Sparked Domestic, Intl Reactions Since March

The Islamic Emirate's decision to ban girls above grade six from going to their schools faced widespread reactions.

Taliban Mark a 'Black Day' for Afghanistan With More Violence Against Women.

<https://foreignpolicy.com/2022/08/15/afghanistan-taliban-women-one-year-anniversary-kabul-protest/>

August 16, 2022

Intl Calls to Support Afghan Women Remain High

The Islamic Emirate said that significant steps have been taken to ensure human rights in Afghanistan.

Karzai Calls for Reopening of Girls' Schools

The officials of the Ministry of Education said that the leadership of the Islamic Emirate has yet to reach an agreement on the reopening ...

August 17, 2022

Ministry: Girls' Schools Closed to 'Cultural Constraints'

UN Envoy for Global Education, Gordon Brown, asked the Islamic Emirate to listen to the people of Afghanistan.

Human Rights Watchdogs Concerned by Women's Situation in Afghanistan

The human rights watchdogs called on the United States to ban the Islamic Emirate officials from traveling abroad.

August 17, 2022

Institution in Kabul Provides Free Education to 1000 Girls

Over a year has passed since the closing of girls' schools, which raised national and international concerns.

August 20, 2022

Girls Continue Education Amidst Schools Closure

Secondary schools are closed for nearly a year. The Islamic Emirate has vowed to announce a new mechanism for the return of girls to ...

EU Official Emphasizes Need for Girls' Education in Afghanistan

But the deputy head of the European Union delegation in Afghanistan said it is not intervention.

August 23, 2022

UN's Griffiths: Women, Girls Face 'Alarming Rollback on Their Rights'

Previously, Amnesty International has said that women and girls have been stripped of their rights and face a bleak future.

August 24, 2022

Afghan Activists Establish 'Women's Library'

Participants at the opening welcomed the creation of the library.

August 27, 2022

Afghan Women Leaders Conference Held in Istanbul

However, the Islamic Emirate said that the rights of women and girls are respected within the framework of Islamic laws in the country.

August 29, 2022

Women's Gathering in Turkey Urges World to Focus on Afghan Human Rights

Meanwhile, the Islamic Emirate said that it has ensured the rights of women across the country.

August 31, 2022

Celebrations Held Around Country to Mark Anniversary of US Pullout

Despite one year passing since the Islamic Emirate swept into power, no countries have yet to recognize its interim government.

September 2022

Attending religious classes is mandatory for public servants. They must also pass the test of faith.

Girls are banned from secondary and high schools in east Afghanistan that had briefly opened. Women students are banned from taking videos and photos on university campus.

Media outlets are ordered that female guest speakers must cover faces appearing on TV.

October 2022

Women students cannot choose subjects that are "too difficult" to study, including agriculture, mining, and civil engineering.

Male teachers and students are ordered to sign a pledge of observing Sharia.

Women can no longer serve on the Commission of Media Violations.

November 2022

Women **can no longer** go to public baths in Badghis. Women **can no longer** go to parks and gyms.

Taliban supreme leader has ordered **Sharia law punishment**, including public amputations and stoning.

Women hold placards during a protest calling for their rights to be recognized, near the Shah-e-Do Shamshira mosque in Kabul on Nov. 24, 2022. Afghan women have been pushed of public life since the Taliban's return to power in August last year, but small groups continue to stage protests though these are usually immediately shut down by the Taliban, sometimes violently. (AFP via Getty Images)

December 2022

Taliban says women students can **no longer attend** public or private universities until further notice.

Girls beyond sixth grade are **not allowed** to attend private courses.

Girls can pursue education in religious subject matters only.

Taliban **bans women** from working with I/NGOs.

2023

January 2023

Women are banned from visiting historic sites. Poets are told not to compose musical prose.

High school graduate girls are told they are not permitted take the university entrance exam.

The sale of **contraceptives is banned** and labeled a 'Western conspiracy.'

February 2023

Taliban order women **medical staff members to observe** full black hijab with mask at all times.

Women in the medical field in Kandahar are told they must be **escorted by a male family member.**

Women's karate clubs are forced to close. Intermarriages among Sunni and Shia are forbidden in the north of Afghanistan, in Badakhshan province.

Dental clinics run by women are forced to close in the central Ghazni province because they supposedly treated male male patients.

Women medical students are not allowed to take their exit exam. Only male students were allowed.

March 2023

New laws are announced, making it impossible for women to escape and divorce abusive husbands. **Many women fear their divorces under the previous republic government could be voided,** forcing them to return to their former husbands.

Girls are barred from starting the new academic year in universities. Only boys are allowed.

Men and women are ordered to visit shrines on different days.

New orders are issued to beauty salons in the central province of Parwan, demanding that women cleanse themselves before applying makeup.

Restaurants in Takhar province should not serve women who are not escorted by a close male relative.

New year celebrations are forbidden. The order also prohibits celebrating birthdays, Valentine's Day and Women's Day. The Afghan people celebrate the Afghan new year (first day of spring) widely throughout the country.

In the northern province of Balkh, banking services become segregated by sex.

The attorney general's office is abolished and renamed the General Directorate for Monitoring and Follow-up of Decrees and Directives.

Courts must reexamine cases settled by the courts under the republic government. It must invalidate cases that did not meet the Taliban Sharia.

Planting hashish (marijuana) is prohibited.

April 2023

The Taliban orders the U.N. that Afghan national females are barred from work at the U.N. Some four hundred women work for the U.N. in Afghanistan.

Women are barred from going to restaurants in Herat. Previously, restaurants were segregated.

The Shia community is ordered to celebrate Eid, a religious holiday in Islam, per the Taliban court announcement. The Shia community often celebrates Eid a day later.

May 2023

Women are barred from visiting health clinics and graveyards. The men in the family must be arrested and punished if the women disregard the ruling.

Men and teachers must keep their beards long if they want to keep their positions in the education department in the eastern province of Khost.

Health workers are not allowed to carry smartphones while on duty in the southern Helmand province.

June 2023

A letter from the Ministry of Higher Education orders teachers to refrain from using certain words in their lectures and research. Many of the examples are in Farsi, or Dari.

Taliban orders **international organizations to stop all education** programs in Afghanistan and hand them over to the Taliban.

The Ministry of Vice and Virtue announces that **music is not allowed at weddings** anymore. The ministry, which serves as the morality police, says the regime will be scouring wedding halls to enforce the ban.

July 2023

All female-run **beauty salons are forced** to close.

Taliban's director of preaching and propagation of the Ministry of Foreign Affairs in a letter to its representatives in provinces and overseas, instructs them to perform daily prayers collectively and to adjust their appearance according to Shariah and the Prophet's *sunnah*.

The **Taliban abolishes the attorney general's office** and replaces it with the Directorate of Supervision and Prosecution of Decrees and Orders, designed to ensure the implementation of the Taliban's orders in public and private life.

In a new order, NGOs must hire Taliban-approved applicants to new positions.

August 2023

In over a dozen provinces, girls above age 10, or fifth grade, are no longer allowed to pursue education. Before this change, girls could go to school until grade six.

Frieda Afary is an Iranian American librarian and translator based in Los Angeles. She produces the blog, *Iranian Progressives in Translation*, and is the author of *Socialist Feminism for the Twenty-First Century* (London: Pluto Press, 2022). She is the producer of *Iranian Progressives in Translation* and Socialistfeminism.org. Afary is also the Co-Chair of the PEN Translation Committee (2023-2024) which advocates on behalf of literary translators and works to foster a wider understanding of their art.

Kimia Kamoei received her BA in Middle East Studies, with a minor in Applied Psychology from the University of California, Santa Barbara in 2023. She was born in Tehran, Iran, in 1999, and moved to the United States when she was seventeen. She has translated Persian poetry and literature into English and has also researched the lives and experiences of Afghan women since the second Taliban regime took over in 2021.

Amir Sadat Khonsari is an Iranian-born political scientist and activist. He completed his BA in Political Science with a minor in Iranian Studies at the University of California, Santa Barbara. While at UCSB, Amir served as researcher on Afghanistan for the Iranian Studies Initiative. Amir's primary interests are politics, social justice, and gender studies in the Middle East.

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SH47
شامسیا حسانی
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Fear is their Weapon, Courage is Yours: Feminist Dissent Solidarity Statement

August 24, 2021

Feminist Dissent*

*Correspondence: feministdissent@gmail.com

FEMINIST DISSENT STANDS IN SOLIDARITY WITH AFGHAN WOMEN AND WITH ALL THOSE FIGHTING FUNDAMENTALISM

Feminist Dissent views with horror and dismay the betrayal of the people of Afghanistan and all those fighting fundamentalist movements everywhere. Before and since the August 15th 2021 takeover of the country by Taliban, we have watched news of protest marches and heard Afghan women speak out. We are in awe of their steadfast courage in the face of brute force.

Feminist Dissent sees fundamentalist movements as modern political movements of the far right which use religion to exercise authoritarian control, especially over women. The Taliban was never seen by us as simply a form of medievalist Pashtun tribalism, and certainly not as a liberation movement. The dominant views from the 'anti-imperialist left', Western 'peace' movements, Western governments and counter-terror establishments converge in ways that both stereotype and sanitise the Taliban.

The deal struck between the US and the Taliban which excluded the Afghan government, civil society and particularly women, had a horrible familiarity. While on one hand condemning Islamist groups, Britain's



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security establishment has played a central role in nurturing fundamentalists, promoting 'talking to terrorists' and designating some of them, including death squad leaders, as 'non-violent extremists', fit to run *sharia* courts and control the lives of Muslim women in the UK.

The British Chief of Defence Staff Nick Carter's claim that the Taliban want an 'inclusive' Afghanistan builds on the convenient myth that the Taliban are merely 'tribal', romantic men of honour who will keep order in the Badlands by controlling international jihadists so that they do not trouble Western capitals. Both US President Biden and UK Prime Minister Johnson share this view. It is a dangerous, racist, and self-serving fantasy. For the people of the region across the Afghanistan/Pakistan border, the twenty-year war that started in December 2001 is not ending but is being continued by other means.

The Taliban began as a creation of the Pakistani military establishment and could not have succeeded without its backing. The movement's goal is the subjugation of Afghanistan, the erasure of women from public space, and the destruction of every positive aspect of Afghan culture, both traditional and modern. As Karima Bennouna, the UN Special Rapporteur on Cultural Rights, has said, "Afghan cultural rights defenders have worked tirelessly and at great risk...to reconstruct and protect this heritage, as well as to create new culture. Afghan cultures are rich, dynamic and syncretic and entirely at odds with the harsh worldview of the Taliban".

The Taliban's principal target has always been the Afghan people. During the shameful 'peace talks', women active in public life were targeted – judges, journalists and politicians faced attack and assassination. But the negotiators did not blink and pressed on with the deal, forcing the Afghan government to release 5,000 prisoners, with no assurances in return. Details of the forced surrender and betrayal of Afghans are

still emerging, but it is clear that the Taliban agreed not to attack US forces, and to stop international jihadi networks from operating. In short, they agreed to become a US partner in return for rights to police the region.

Male journalists and rights activists too have not been spared. Among the most prominent was Dawa Khan Menapal, and the Indian photojournalist for Reuters, Danish Siddiqui. These targeted assassinations constitute war crimes, and are not ‘collateral damage’ as the Taliban have claimed. Alongside a public relations offensive of Taliban visits to Shia communities on Muharram, and reassurances to Hindus and Sikhs that they will be safe, there are reports of the torture and murder of the Shia minority, Hazaras, who are traditional targets of the Taliban. They are once again in danger along with other religious minorities.

Ordinary people such as those who are seen by the Taliban as traitors for having done even menial jobs in foreign embassies and companies are being hounded out and are living in fear for their lives. Taliban 2.0 (referring to the current form it has taken) has certainly changed. In line with other fundamentalist movements, it gives careful attention to its media relations and different audiences. Meanwhile, showing that it has learnt much while forgetting nothing, it has already committed new atrocities on women reminiscent of ISIS – such as forced marriages and sexual slavery. Even if Afghanistan ‘stabilises’, the result of Taliban rule will be to substitute outright war by ethnic cleansing, gender apartheid and genocide.

But it is not only Afghans who are threatened. Pakistanis living in the border areas have suffered greatly from their government’s policies of dividing ‘bad’ Taliban (that attacks the Pakistani government) from ‘good’ Taliban (that attacks Afghans across the border). Indeed, the most vocal critics of the military-mullah alliance are the Pakistanis who have

experienced its impact in displacement, disappearances and terror attacks.

A decade ago, Western peace organisations failed to grasp the convergence of their analysis with the ISI and the Pakistani government, focusing purely against US drone attacks in their protests. Today, an indigenous Pashtun peace movement – PTM – draws huge crowds to demand an end to the murderous policies of the Pakistani state, accountability for the disappearances and imprisonment of activists, including elected representatives. Shut out of the mainstream media, virtually unreported in the West, and persecuted by the state, the PTM has stood firmly for non-violence and made calls for solidarity with Afghans across the border. Gulalai Ismail, a Pashtun secular feminist, has pointed to the continuities between colonial era laws and practices to control the border regions and has clearly condemned the US-Taliban Doha deal, the economy of war, and the Pakistani military state.

In India under Modi, the return to power of the Taliban in Afghanistan opens new opportunities for the Hindu right to deploy jihadi threat to promote Hindutva and to label ordinary Muslims as terrorists. But the government's silence on the murder of Danish Siddiqui is a sign that talking tough on extremism is not backed up by action and is merely used as a cynical ploy against India's Muslims.

Pakistan's Afghan policy is a triumph of its theory of 'strategic depth' in which Afghanistan had to be captured in order for Pakistan's tame jihadi forces like Lashkar e Tayaba and Jaish e Mohammad to concentrate on the capture of the ultimate prize which is Kashmir. This threat has to be recognised as a serious one, along with a wider policy of disruption in the region. Far from containing international jihadi networks it will enormously extend their reach and delight their followers globally. As these examples show, it is necessary to fight every iteration of fundamentalism. Our analysis is drawn from the work of feminists and

secular human rights advocates working in the region who have long and deep experiences of fighting against blasphemy laws, genocide and [their connection with the oppression of women](#). We also draw inspiration from the many struggles for freedom fought against colonialism in the past, which established secular, multi-religious and multi-ethnic states in which women were able to emancipate themselves. For decades the descendants of these liberation struggles, principally women's rights activists, from countries such as Algeria, Bangladesh, India, Pakistan and Sudan warned of the dangers of fundamentalism, while criticizing the failings of their own governments.

We have always been deeply opposed to the idea that a truly sovereign state can be built through foreign intervention and a world order that destroys the ability of governments to make sovereign decisions. It is now very clear that the war economy the NATO intervention has built has been one that attracted criminal enterprise, the vast bulk of which is the bonanza to the contractors of the occupiers. However we would also add that the defeat of humanitarian intervention is no cause for celebration when it has simply been replaced with an older model of indirect rule. In this case, it is the marriage of puritanical religious fundamentalism with the neo-liberal thievery of the kleptocratic state. The chief beneficiaries of this new settlement, apart from the Pakistani state, are likely to be China, Russia and Iran. As Karima Bennoune has warned that governments who think they can live with a 'Pax Taliban' have made a grave error.

To those who ask, what was the point? we say that in spite of the many difficulties for Afghans in working alongside both occupiers and insurgents, frequently ignored by one and targeted by the other, the NATO intervention created a breathing space. Refugees returned, girls and boys were educated and an entire generation developed a flourishing civil society in every area of achievement, from robotics to football, to a courageous independent media. Women played a key role in

development, including polio vaccinations and in response to the COVID crisis.

However, far from 'saving Afghan women', much of the counter-terror responses of the NATO forces focused on deals with war lords and promoting jirgas reinforcing patriarchal institutions as stabilising forces. In contrast, women went to work, negotiated anti-violence legislation and worked in the health sector to reduce maternal mortality. These developments were supported by friendly regional governments such as India and Bangladesh, as it was never simply Westerners who were the self-styled 'saviours' of Afghan women. It was supremely an Afghan effort, a women's effort to rebuild their society, in the midst of continuing war and occupation.

Millions have been spent on projects to 'reform Islam', embraced by Western academics who have declared secularism and universalism to be Western imperial projects. Our history tells us otherwise. The fact is that the Universal Declaration of Human Rights reflects the language and aspirations of women who opposed Nazism, racism and colonialism. In more recent times, survivors of genocide and sexual slavery advocated to recognise mass violence against women, including rape and forced pregnancy, as international crimes. The preamble to the Indian Constitution has rallied Muslim women for their right to citizenship. In Sudan, women have overthrown the regime of Bashir, a hero of the Muslim Brotherhood, wanted for genocide but not arrested until the women's revolution. Kurdish women – without even a state to call their own – are trying to build an egalitarian society in the middle of a war, and their armed resistance helped to stop the genocide of the Yazidis. Active and successful resistance to fundamentalism is everywhere.

In the bitter times to come, we hope that the memories of their achievement and the possibility of building another Afghanistan will sustain Afghan women. We will not turn away from those who remain to

continue their work, or those forced into exile. We stand with you, in Afghanistan and abroad. Your struggle is our struggle. We say to you, 'Fear is their weapon, courage is yours.'

Calls for Action

We are deeply concerned about the plight of feminists, atheists, human rights defenders, dissident artists as well as all ordinary Afghans who oppose the rule by the Taliban or who are caught in the disastrous vortex of events in the wake of the withdrawal by the US and Western powers.

We urge charities to provide assistance with emergency housing and with legal help for settlement.

We urge social movements to think creatively about the ways in which they can continue to support Afghans, whether inside or outside Afghanistan. For those seeking refuge away from Afghanistan, sponsorships, places in educational institutions and job offers, should be put together with urgency.

We also call on the Left and feminists to think again about the meaning of our important traditions of internationalism and that these cannot simply celebrate the defeat of US-UK policies, but need to urgently face the reality of what is happening in Afghanistan, and think through the significance of this for our theory and political practice.

We urge governments to open their countries to the refugees from Afghanistan, and to assist all those who are desperate to leave with emergency visas and plans for safe passage.

In many countries such as the UK, the governments continue to find ways to operate a hostile environment which treats refugees as criminals and encourages the deportation of those entitled to citizenship as well as those seeking sanctuary. An urgent global re-settlement and humanitarian

programme imbued with compassion, human decency and respect for the dignity and rights of the people of Afghanistan, particularly its women and children, is the need of the hour. We must not fail them.

Statement reprinted from: <https://feministdissent.org/blog-posts/fear-is-their-weapon/#:~:text=We%20will%20not%20turn%20away,their%20weapon%2C%20courage%20is%20yours.>

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Image 13: **[Explosion at Kabul Airport]** (2021) © [Shamsia Hassani](#). All rights reserved

Statement of Support and Solidarity with Afghan Women

Iranian Women's Organisations*

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We, a coalition of independent Iranian women's organizations, express our solidarity with the women of Afghanistan in the fight against the reinstated Taliban, and deeply commiserate with them on the suffering that has been inflicted upon them. Iranian and Afghan women have a common experience in dealing with political Islam, oppression, repression, and lawlessness imposed by misogynistic and reactionary governments. In these critical times we are determined to raise our voices against the reactionary, fundamentalist, and anti-woman forces in this dangerous situation. Together with the women of Afghanistan, we strongly condemn all human rights violations against women in the name of law, religion, faith, and tradition. We do not support the recognition of the Taliban regime in Afghanistan by any country with the justification that "the Taliban have changed" and "moderated"! We condemn such measures and stand with Afghan women in opposition to it.

The Taliban have recaptured political power and exercised sovereignty over Afghanistan, turning women and girls into sex slaves for their soldiers under the guise of "marriage jihad." We join our voices with Afghan women to insist that the empowerment of political Islam and Taliban neither in the past nor today, has been the choice of the people, especially women, in Afghanistan. The international community needs to respect the right of Afghans to choose their residence and urgently facilitate the relocation of refugees, especially Afghan women, to safe countries and also to recognize their civic rights.



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Urgent entry into safe countries, and respect for civil rights for all Afghan asylum seekers, especially women, is what we support.

Political immunity should be granted to every woman who flees Afghanistan and the rule of the Taliban, this medieval, terroristic group. The basic right to political asylum for women refugees from Afghanistan, and their transfer to safe countries, have been approved by the United Nations High Commissioner of the Refugees. Asylum is one of the most basic human rights issues for Afghan women today.

The struggle of Afghan women against Taliban and their Islamist politics has had a long history. During the reactionary Taliban regime (1996-2001) Afghan women were subjected to the most severe gender-based violence. They were deprived of their human and individual rights and freedoms, including the right to go to school, to work, to leave their homes without a male chaperon, as well as the right to choose their clothing, education, and social activities. However, they showed great awareness, courage, and activism in their struggle against the Taliban and its medieval patriarchy. Today Afghanistan stands with greater courage and strength than before. No longer will Afghan women allow themselves and their children to be sacrificed by the misogynistic and in humane policies of the Taliban.

We, the independent coalition of Iranian women's organizations, who have signed this statement, protest the tragedies that have been inflicted on the people of Afghanistan today, especially on the women. We stand in solidarity with them against political Islam, call for immediate action by international institutions and progressive women's rights movements, human rights organizations, and individual feminists, to respond quickly to the humanitarian needs of the people of Afghanistan, and in particular to help fulfill the demands of this statement.

Signatory organizations:

Iranian Women's Organization of Dallas

German Iranian Women's Organization of Koln

Parto Women's Organization

Women's Organization of Montreal

Italia- Iranian Women's Organization

International Union of Violence against Women (ICAVI)

Iranian Circle of Women for International Networking

Radio Avaye Zan of Australia

Women of Iran for Sustainable Equality (WISE)

Women for Sustainable Freedom and Equality

The Organization for Emancipation of Women

Stop Honor Killings Campaign

Women's Committee Against Stoning, Paris

Women's Committee and Fight Against Discrimination - Republican

Solidarity of Iran

Union of Leftist Women

Zanan Group of Northern California

Aywin Group of Northern California

Women's Group of Northern California

Iranian Women's Group of Frankfurt

Women's Study Group of Orange County

No to Hijab Group

Activist Women in Exile of Berlin

Everyday Feminism

LGBT Institution of Manav

Iranian Women's Conference - Hanover

September 17, 2021

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Artists' Spotlight

Art contributed to Feminist Dissent, Issue 7, was kindly provided by:

Shamsia Hassani, the first female graffiti and muralist artist of Afghanistan, was born in 1988 in Tehran. Hassani spent her childhood in Iran and later lived in Afghanistan. She currently resides in the United States. Hassani holds a BA degree in Painting and a Master's degree in Visual Arts from Kabul University. Hassani portrays the strength of Afghan women and their endeavours for equal rights.

Keyvan Shovir is an Iranian-American multidisciplinary muralist artist. Born in Iran in 1985, Shovir received his MFA from California College of the Arts in San Francisco and currently resides in the Bay Area. As one of the pioneers of street art in Tehran, Shovir addresses the social issues faced by his generation in juxtaposition with Persian calligraphy and poetry.



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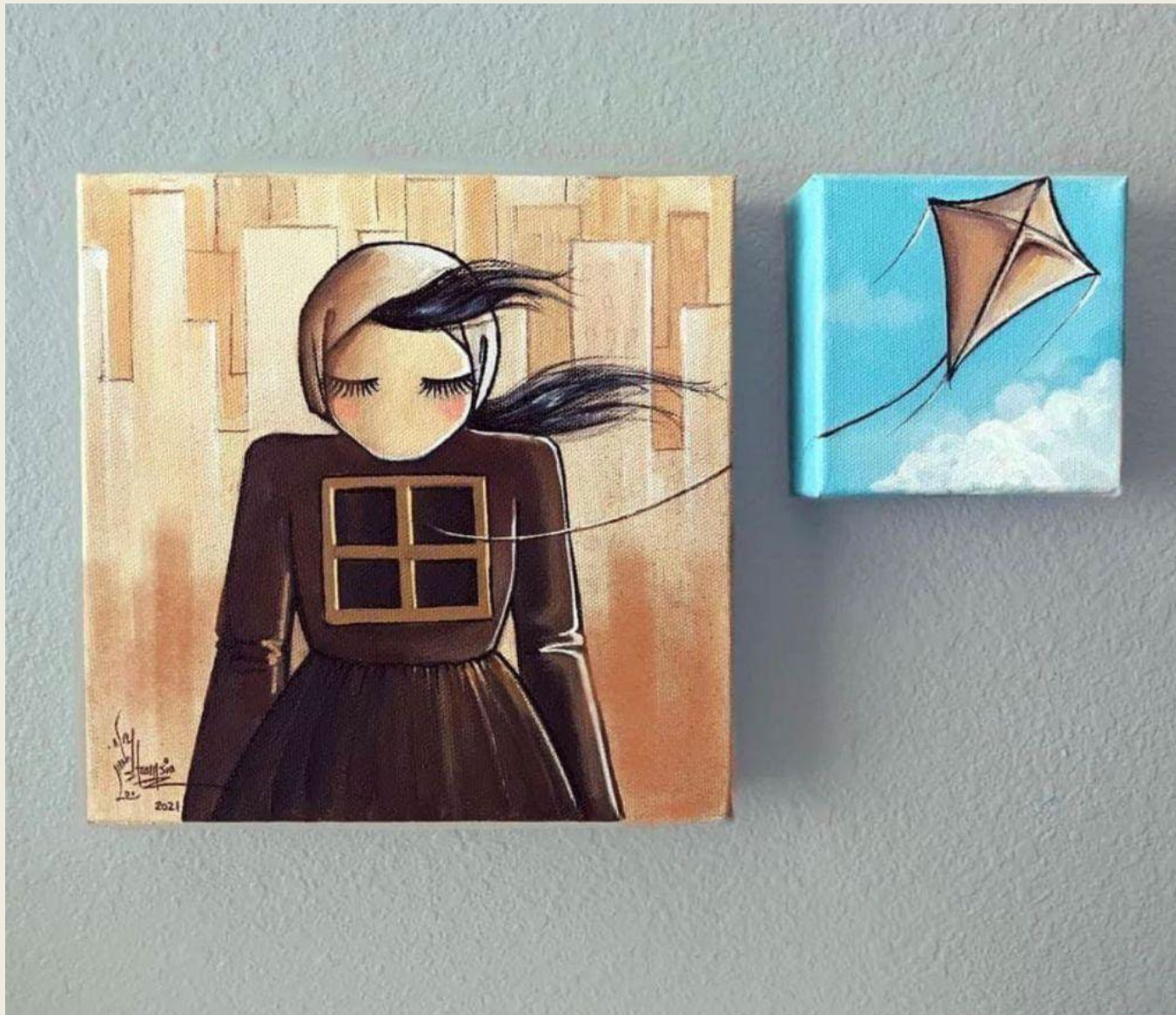


Image 15: **Untitled** (2021) © [Shamsia Hassani](#). All rights reserved

Call for Papers

Feminist Dissent is an online peer-reviewed journal hosted at the University of Warwick, UK and edited by an Editorial Collective of academics, writers, artists and activists. *Feminist Dissent* looks to open up new ways of thinking about secularism, religious fundamentalism, civil liberties and human rights, nationalism, multiculturalism, identity politics, neo-liberalism and anti-racism in the context of feminist theory and activism. In particular, we are interested in essays, reviews, reports and creative work that interrogates the multiple connections between religious fundamentalism and gender.

We invite submissions of original and unpublished work that reflects the aims and principles of the journal. We publish full-length academic articles, shorter *Voices of Dissent* pieces and book and film reviews in each issue. We also invite proposals for special issues from potential editors.

Submission Guidelines:

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