

# IHRP Report: Gender Injustice in Afghanistan and Canada's Responsibilities



**Prepared by the Gender Justice  
in Afghanistan Working Group**

**International Human Rights  
Program**

**March 2026**

Copyrights ©2026 International Human Rights  
Program, University of Toronto Henry N.R. Jackman  
Faculty of Law

78 Queen's Park  
Toronto, Ontario M5S 2C5

Cover Photo Credit:  
UNICEF/Mohammad Haya Burhan

## **Acknowledgements**

This report was written and prepared by Manreet Brar, Cassie Heward, and Nicholas Slawnych, upper-year students at the University of Toronto Henry N.R. Jackman Faculty of Law and working group leaders of the International Human Rights Program (IHRP) Gender Justice in Afghanistan Working Group, as well as Veronica Axenova, working group co-leader (2025-2026) and Jaerin Kim, IHRP In-house Fellow (2024). The six members of the working group (2023-2024) who contributed to this report are: Asra Areej, Annie Chang, Emma Farrell, Paniz Fotoohi, Miruna Mureseanu, and Yasmin Rajwani.

We would like to thank Jackman Law Adjunct Professor, and former Ombudsperson in Afghanistan, Ghizal Haress, for providing her guidance and expertise on women's rights issues in Afghanistan throughout the research and writing process. Thank you to IHRP Director, Sandra Wisner, and IHRP Research Associate, Nabila Khan, who guided students and reviewed the report with their international law expertise. We are also grateful to Jackman Law Professor Emerita, Rebecca Cook, for her feedback on this report. Ghizal Haress, Nabila Khan, and Sandra Wisner edited the report.

We would also like to thank the working group (2025-2026) members who provided editing support: Amalia Ramos Borges, Aysenur Yildiz, Parwiz Mohibi, Rawad Al-Aarg, Maya Nicholson, Aafreen Samnani, Katie Grierson, and Ben Makela.

# Table of Contents

Acknowledgements.....	i
I. Introduction .....	1
II. Overview of Systemic Discrimination Against Afghan Women and Girls.....	1
III. Canada’s Involvement in Afghanistan.....	3
A. Canada-Afghanistan Relationship Prior to August 2021 .....	3
i) Canada’s Involvement: 1960’s – 2001.....	3
ii) Canada’s Involvement: 2001-2021 .....	4
iii) The Taliban’s Takeover in 2021 .....	5
B. Current Canada-Afghanistan Relationship.....	6
i) Canada’s Position on the Taliban Regime .....	6
ii) Canada’s Special Representative for Afghanistan .....	6
IV. Analysis of the Taliban’s Compliance with International Human Rights Law .....	7
A. Afghanistan’s International Human Rights Obligations .....	7
i) International Covenant on Civil and Political Rights (ICCPR) .....	8
ii) International Covenant on Economic, Social, and Cultural Rights (ICESCR).....	8
iii) Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) .....	9
iv) Convention on the Rights of the Child (CRC).....	9
v) Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).....	10
B. The Right to Work.....	10
i) Banned Employment.....	10
ii) Restrictions Within Permitted Employment .....	11
C. The Right to Education.....	12
i) Ban on Schooling for Girls .....	12
ii) Challenges to Academic Freedom .....	14
D. Freedom of Movement and Expression .....	14
i) Restrictions on Freedom of Movement.....	14
ii) Restrictions on Self-Expression and Visibility of Women.....	15
E. The Right to Live Free from Violence and Harassment.....	16

i) Harassment.....	16
ii) Treatment of Survivors of Abuse.....	17
iii) Arbitrary Detention and Cruel, Inhumane and Degrading Treatment and Torture in Prisons .....	18
F. The Right to Health.....	19
i) Lack of Funding and Healthcare Services .....	19
ii) Effects on Women and Girls’ Right to Health.....	20
G. The Rights of the Child .....	21
i) Child Labour and Recruitment.....	22
ii) Forced Marriage.....	23
V. Canada’s Responsibility to Address Gender Injustice in Afghanistan .....	23
A. Canada’s Efforts to Address Women’s Rights in Afghanistan .....	24
i) Canada’s National Action Plan on Women Peace and Security .....	24
ii) Canada’s Feminist International Assistance Policy in Afghanistan .....	24
iii) Canada’s Involvement in the CEDAW Case at the International Court of Justice .....	25
iv) Canada’s Humanitarian Assistance to Afghanistan .....	25
B. Recommendations to Canada .....	27
i) Cooperating Internationally to Realize Economic, Social, and Cultural rights in Afghanistan .....	27
ii) The International Recognition of the Prohibition Against Gender Apartheid.....	30
a) Gender Apartheid as a Peremptory Norm.....	30
b) Updating Existing Treaties to Include Gender Apartheid .....	32
iii) Domestic Measures to Protect Women’s Rights in Afghanistan.....	33
iv) Diplomatic Efforts to Support Women and Girls in Afghanistan.....	33
VI. Endnotes.....	36

## I. Introduction

The purpose of this report is to examine the human rights situation with respect to women and girls in Afghanistan after the Taliban took power in August 2021 and to provide an analysis of Canada's responsibilities under international human rights law to address gender injustice in Afghanistan. Parts II and III of this report situate the contents of this report against the background of what has been described as a system of "gender apartheid" in Afghanistan and Canada's history of engagement with and within Afghanistan, respectively. Part IV provides an analysis of the Taliban's violations of Afghanistan's international human rights obligations because of this system of gender apartheid. Part V provides an analysis of Canada's responsibilities with respect to gender injustice in Afghanistan in consideration of Canada's involvement in Afghanistan, Canada's obligations under international human rights instruments and international customary law, and Canada's foreign policy commitments. Finally, in Part VI, the report provides recommendations to Canada to protect and promote the human rights of women and girls in Afghanistan, particularly through use of the inter-state complaint mechanism under the Convention on the Elimination of Discrimination Against Women (CEDAW), as well as through domestic measures and international cooperation.

## II. Overview of Systemic Discrimination Against Afghan Women and Girls

In August 2021, the Taliban took *de facto* control of Afghanistan following a military offensive that resulted in the fall of the Islamic Republic of Afghanistan. At the time, the Taliban made repeated commitments to uphold women's rights "within the framework of Islam."<sup>1</sup> However, since coming into power, the Taliban have engaged in systematic gender-based discrimination against women and girls in areas such as employment, education, health, mobility, and civil and political rights, including:

- Enacting discriminatory decrees restricting women's access to education and banning women from all forms of education beyond grade six;<sup>2</sup>
- Prohibiting women from working with government institutions, NGOs, the United Nations (UN), and foreign embassies;<sup>3</sup>
- Restricting women and girls from access to healthcare through movement restrictions, bans, constraints on women working in the health sector, and prohibitions on male health-care professionals treating female patients. This has resulted in limited access to essential health services for women and girls, thereby violating their rights to health and bodily autonomy;<sup>4</sup>
- Prohibiting women from leaving their home without the company of a related male (referred to as "*mahram*"), thereby reinforcing stereotypical notions of women's role in public society;<sup>5</sup> and
- Engaging in the arbitrary arrest, detention, and torture of women for violating *mahram* restrictions and other so-called "moral crimes",<sup>6</sup> as well as for peacefully protesting the

Taliban's policies, with many of the detained women being isolated without legal representation, medical assistance, or the ability to contact their families.<sup>7</sup>

Since regaining *de facto* power in 2021, the Taliban has “establish[ed] and enforce[ed] an architecture of oppression” that amounts to systemic discrimination against Afghan women and girls.<sup>8</sup> The culmination of individual and institutional discrimination, notably through decrees and edicts, has created a state-sponsored system that perpetually and intentionally violates women's rights. Taliban decrees have worsened significantly since their rise to power in 2021; they have effectively made women prisoners in their homes and completely erased them from public life.

According to a joint expert report presented to the UN Human Rights Council, “nowhere else in the world has there been an attack as widespread, systematic and all-encompassing on the rights of women and girls as in Afghanistan.”<sup>9</sup>

While the Taliban seeks to justify its actions by relying on its perceived interpretation of religious doctrine and cultural relativism, international law holds that gender equality is a universal human right that cannot be overridden by appeals to cultural or religious difference. The UN General Assembly has made an explicit statement in this regard: “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.”<sup>10</sup> CEDAW has also adopted this universalist approach in Article 5, mandating States Parties to “modify the social and cultural patterns of conduct of men and women” that contribute to practices rooted in gender discrimination and “stereotyped roles for men and women.”<sup>11</sup>

Members of the Taliban are currently the subject of ICC arrest warrants and prosecutorial proceedings for alleged crimes against humanity of gender persecution under Article 7(1)(h) of the Rome Statute. While the ICC prosecution is limited to individual members of the Taliban, the language and normative framework applied by the ICC are relevant to understanding the systemic nature of the gender persecution being committed in Afghanistan and also represent one of the possible mechanisms through which to hold the Taliban accountable. That said, some experts argue that the Taliban's oppressive policies and laws—which codify a hierarchical system that maintains the inferiority of women—go beyond gender persecution and urgently requires an adaptation to international legal frameworks.<sup>12</sup>

The UN Special Rapporteur on the situation of human rights in Afghanistan, Richard Bennett, has described the gravity and systemic nature of the discrimination on the ground as amounting to “gender apartheid”: “inhumane acts committed in the context of an institutionalized regime of systematic oppression and domination by one gender group over any other gender group or groups, and committed with the intention of maintaining that regime.”<sup>13</sup> It is argued that the Taliban's edicts are segregationist policies that “secure women's second-class status in perpetuity.”<sup>14</sup> This has been supported by other legal scholars, like Karima Bennouna, who argues that the deprivation

of self-determination, which encapsulates the experiences of Afghan women, is a primary feature of apartheid and reflects the “intentional, systematic, and pervasively discriminatory” nature of the oppression.<sup>15</sup>

Thus, both Bennett and Bennoune contend that the situation in Afghanistan requires a re-conceptualization of the international system. Bennett has argued that gender apartheid should be recognized as a crime against humanity because it “best captures the totality of the distinct and transgenerational harms committed against [Afghan women].”<sup>16</sup> Bennoune further notes that when the state apparatus mandates systematic inequality, the international human rights law model, which centers the state to realize equality, cannot work because “the state becomes the primordial source of discrimination.”<sup>17</sup> Thus, addressing the Taliban's violations against women would require a normative shift in international law that recognizes the abuses as not merely gender persecution but also as a system of apartheid, thereby triggering the international community’s duty to take effective action to end the practice.<sup>18</sup> As Bennett argues, the codification of gender apartheid as a distinct crime to complement existing prohibitions on gender persecution would be an important step towards comprehensive justice for Afghan women.<sup>19</sup>

### **III. Canada’s Involvement in Afghanistan**

#### **A. Canada-Afghanistan Relationship Prior to August 2021**

##### **i) Canada’s Involvement: 1960’s – 2001**

Canada’s involvement in Afghanistan stretches back to the early 1960s, when it provided humanitarian assistance to Afghanistan in response to a series of natural disasters.<sup>20</sup> Canada formally established diplomatic relations with Afghanistan in 1968, but it then severed ties following the Soviet invasion of Afghanistan in 1979, which was followed by civil and internal conflict until 2021.<sup>21</sup>

After the withdrawal of Soviet forces in 1989, a civil war broke out between various mujahideen factions within Afghanistan. The civil war contributed to the rise of the Taliban, a radical group subscribing to an extremist Islamic interpretation of Sharia (the system of Islamic moral and legal guidance based on the teachings of the Qur'an). The Taliban took control of large portions of Afghanistan in 1996. During their first regime, the Taliban effectively imprisoned women and girls in their homes through the denial of their right to education, work, and access to healthcare, as well as by limiting their freedom of movement.<sup>22</sup> Canada condemned Afghanistan’s first Taliban regime between 1996 and 2001, and continued to provide humanitarian aid during this period.<sup>23</sup>

## **ii) Canada's Involvement: 2001-2021**

Following the terrorist attacks of 11 September 2001, Canada—in support of the US-led military coalition—invaded Afghanistan.<sup>24</sup> In October of 2002, US-led allied forces successfully overthrew the Taliban regime, and the Islamic Republic of Afghanistan was established thereafter. Canada re-established diplomatic relations with Afghanistan in 2002<sup>25</sup> and opened its Embassy in Kabul in 2003 shortly after the Afghan Embassy in Ottawa was opened.<sup>26</sup>

Since the beginning of the war and the re-establishment of diplomatic relations, the Canadian government “has made military, political, diplomatic, economic and social commitments that have placed the Canadian-Afghan relationship at the center of Canadian external relations.”<sup>27</sup> Afghanistan has been one of the world’s poorest nations since conflict erupted in the country in the late 1970s, with widespread lack of access to basic infrastructure. Canada aided in the project of state-building from 2001 to 2021, spending “approximately \$4 billion on international assistance to Afghanistan in support of stabilization, reconstruction, peace and development efforts.”<sup>28</sup>

Between 2001 and 2021, Canada also deployed upwards of 40,000 members of the Canadian Armed Forces to Afghanistan as part of the NATO International Security Assistance Force (ISAF).<sup>29</sup> In 2005, Canadian troops shifted to the volatile Kandahar province to combat rising Taliban insurgence activity.<sup>30</sup> As Canadian casualties increased in Kandahar, Canadian public support for the war waned in the fall of 2006. By early 2010, Prime Minister Stephen Harper announced plans to withdraw Canadian military forces from Afghanistan.<sup>31</sup>

According to a report by Foreign Affairs, Trade and Development Canada, from 2004 to 2013, Canada’s Afghanistan Development Program was “characterized by continuity in involvement on the one hand, and by clear changes in strategy and focus on the other”.<sup>32</sup> Initially, from 2004 to 2007, Canada’s Development Program focused on national state-building; this changed to a focus on the stabilization of Kandahar between 2008 and 2011.<sup>33</sup>

In 2011, Canada ended its combat operations in Afghanistan, withdrawing most of its troops but leaving a small contingent of soldiers stationed in Kabul as part of the Kabul mission aimed to train Afghan security as part of the Afghan National Defense and Security Forces (ANDSF).<sup>34</sup> After 2011, Canada’s strategy evolved into a humanitarian program focused on the social sector and gender equality.<sup>35</sup> Canada’s policy towards Afghanistan during this time emphasized four key areas: (1) investing in Afghan youth through development in education and health; (2) advancing security, the rule of law, and human rights; (3) promoting regional diplomacy; and (4) delivering humanitarian assistance.<sup>36</sup>

In 2014, the US-led coalition in Afghanistan, including Canada, formally ended its combat mission, putting the ANDSF in charge of Afghanistan’s security.<sup>37</sup> Although the US military presence in Afghanistan continued until 2021, Canada withdrew all military presence from Afghanistan with

the conclusion of the Kabul mission in March 2014.<sup>38</sup> Since 2014, Canadian assistance has focused on education, health sectors, and the human rights of Afghan women and girls.<sup>39</sup>

As further detailed below, Canada and its allies were ultimately unsuccessful in dismantling the Taliban or securing and stabilizing Afghanistan,<sup>40</sup> although Canada may have helped keep the Taliban insurgency at bay, buying time for governmental institutions to establish themselves.<sup>41</sup> However, by the time Canada ceased military operations in Afghanistan in 2014, Taliban insurgencies and other terrorist groups present in Afghanistan were already destabilizing the government and threatening the population.<sup>42</sup> Critics of Canada's strategy in the counter-insurgency war in Afghanistan contend that battles won were not sufficient to resolve the conflict and that instead political solutions were required.<sup>43</sup>

### **iii) The Taliban's Takeover in 2021**

For six years after the US-led coalition ended its combat mission in 2014, the ANDSF struggled to hold control over territory and defend population centers against the Taliban's attacks.<sup>44</sup> During this time, the US targeted Taliban revenue sources, primarily drug labs and opium production sites, in response to the Taliban's attacks in rural districts.<sup>45</sup>

In February 2020, the US government signed a bilateral peace deal with the Taliban in the absence of the Afghan government, known as the Doha Agreement. Under the agreement, the US pledged to draw down and eventually withdraw their troops in Afghanistan<sup>46</sup> and to work with "all relevant sides"—a term that referred to the Afghan government—to secure the release of up to 5,000 Taliban prisoners held in Afghan government prisons. Notably, the Doha Agreement consistently referred to the Afghan government as the "other side" or "all relevant sides" but never used its official name, the Islamic Republic of Afghanistan.<sup>47</sup> The Taliban agreed to enter negotiations with the government of Afghanistan and to ensure the territory under its control would not be used by terrorist groups. However, no official ceasefire was agreed upon. The agreement also notably lacked guarantees or explicit commitments to protect women's rights and the broader human rights of the people of Afghanistan.<sup>48</sup>

Following a short period of reduced violence, the Taliban resumed attacks on Afghan civilians and security forces and "made significant territorial gains."<sup>49</sup> In the first half of 2021, the Taliban intensified their military campaign against the Afghan government amid the withdrawal of international troops. In April 2021, President Joe Biden announced that American military forces would withdraw completely by September 2021, in accordance with the Doha Agreement.

This reduction of foreign military presence in Afghanistan between May and August 2021 enabled the Taliban to take control of Kabul on 15 August 2021. Under Operation Aegis, Canadian Special Operations Forces were briefly redeployed to Afghanistan to facilitate the evacuation of Canadian citizens and Afghans who worked with Canadian troops.<sup>50</sup> After assisting with the evacuation of more than 3,700 people, Canada ended its airlift operation in Afghanistan on 26 August 2021.<sup>51</sup>

By 30 August 2021, international forces had withdrawn from Afghanistan entirely, and the Taliban declared their authority over the renamed “Islamic Emirate of Afghanistan.”<sup>52</sup>

By early September 2021, the Taliban had taken over all 34 provinces and secured *de facto* control over Afghanistan<sup>53</sup> under the leadership of Mullah Haibatullah Akhundzada, referred to as Amir-ul-Momineen, the Commander of the Faithful.<sup>54</sup> The Taliban secured control over the former government’s offices and personnel, which allowed them access to the existing administrative apparatus and policing structures, including detention centres.<sup>55</sup>

The Taliban’s effective control over Afghanistan has enabled them to once again impose policies that are oppressive towards women and girls, undoing years of progress heralded by women in Afghanistan.<sup>56</sup> Although Taliban officials have discussed the need for a constitution that would define their government, no such constitutional document has been drafted.<sup>57</sup>

## **B. Current Canada-Afghanistan Relationship**

### **i) Canada’s Position on the Taliban Regime**

On 15 August 2021, Canada announced that it had evacuated its embassy in Kabul and suspended bilateral relations with Afghanistan, and that it no longer had a diplomatic presence in Afghanistan.<sup>58</sup>

In November of 2022, the Taliban-appointed chargé d’affaires at Afghanistan’s embassy in Qatar wrote a letter to the Canadian government asking them to allow the Taliban to take control of Afghanistan’s embassy and consulates in Canada.<sup>59</sup> The Canadian government did not respond to that letter,<sup>60</sup> and the embassy and consulates continue to be staffed by diplomats of Afghanistan’s former regime.<sup>61</sup>

In January 2024, Marilyne Guèvremont, a Global Affairs Canada (GAC) official, confirmed that the Canadian government does not and will never recognize the Taliban as the legitimate government of Afghanistan; the Taliban is listed as a terrorist entity under Canada’s *Criminal Code*.<sup>62</sup>

### **ii) Canada’s Special Representative for Afghanistan**

David Sproule has served as Canada’s Special Representative for Afghanistan since October 2022. Based in Doha, Sproule works to represent Canadian interests and support the Afghan people by coordinating with the international community on a joint response to the crisis in Afghanistan.<sup>63</sup> Notably, Sproule, as a GAC representative, has engaged informally with the Taliban more than a dozen times since his appointment.<sup>64</sup> These discussions have been centred on pressing the Taliban for commitments on extending the right to education for women, fighting terrorism, and granting safe passage to Afghans who want to leave Afghanistan.<sup>65</sup> Former Prime Minister Justin Trudeau

also recognized the need to engage with the Taliban, without recognizing them as a legitimate government.<sup>66</sup>

#### **IV. Analysis of the Taliban’s Compliance with International Human Rights Law**

From the outset of their return to power, the Taliban raised concerns regarding whether the new regime would comply with Afghanistan’s international human rights obligations with respect to the rights of women and girls. The Taliban initially declared that they would continue to protect the rights of women and girls in accordance with Sharia law.<sup>67</sup> This statement was ambiguous, as Sharia law is subject to varied interpretations. The Taliban ultimately confirmed that they would govern under Hanafi jurisprudence, a Sharia-based school of Sunni Islamic law.<sup>68</sup> The specifics of what the Taliban considers to be the proper application of Sharia law comes from the book, *‘Al-Emarat al-Islamiya wa Nidhamuha’* which translates to *The Islamic Emirate and its System of Governance*, written by the Chief Justice of Afghanistan, Abdul Hakim Ishaqzai.<sup>69</sup> This text emphasizes a strict interpretation of the Qur’an and limits the public role of women in many ways, including forbidding them from being part of the “political elite,” forbidding them from voting for head of state, closing all women’s post-secondary schools, and mandating religious education (but not any other type of education).<sup>70</sup> It became quickly apparent that the Taliban’s claims that women’s rights would be protected were false.

The Taliban’s impositions on women have been restrictive, oppressive, and regressive, and have worsened over the last five years.<sup>71</sup> As further argued below, the current Taliban regime has violated the human rights of women and girls in Afghanistan, particularly with respect to the right to work; the right to education; the right to health; freedom of movement; freedom of expression; the right to live free from violence and harassment; and the rights of children. A complete and comprehensive list of the Taliban’s alleged human rights violations can be found in the Permanent People’s Tribunal for Women of Afghanistan (“PPT”).<sup>72</sup>

##### **A. Afghanistan’s International Human Rights Obligations**

Afghanistan’s international human rights obligations arise from both international customary and conventional law, which includes the following international human rights treaties that the state is a party to:

- *International Covenant on Civil and Political Rights (ICCPR)*
- *International Covenant on Economic, Social and Cultural Rights (ICESCR)*
- *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*

- *Convention on the Rights of the Child (CRC)*
- *Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT)*
- *UNESCO Convention Against Discrimination in Education*
- *Convention on the Rights of Persons with Disabilities (CRPD)*

Afghanistan's human rights obligations also find their source in the *Universal Declaration of Human Rights (UDHR)*,<sup>73</sup> which sets a standard of fundamental human rights, including equality and non-discrimination,<sup>74</sup> right to life, liberty, and security of the person,<sup>75</sup> and freedom of expression, assembly, and association.<sup>76</sup> Afghanistan has affirmed its commitment to the principles of the UDHR through its ratification of related treaties adopting the UDHR's standards, notably the ICCPR and the ICESCR.

#### **i) International Covenant on Civil and Political Rights (ICCPR)**

Afghanistan acceded to the ICCPR<sup>77</sup> on 24 January 1983. The ICCPR commits Afghanistan to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights, and rights to due process and a fair trial. Under Article 3, Member States to the ICCPR undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the Covenant.

#### **ii) International Covenant on Economic, Social, and Cultural Rights (ICESCR)**

Afghanistan acceded to the ICESCR<sup>78</sup> on 24 January 1983. Under the ICESCR, Afghanistan has an obligation to take steps, individually and through international assistance and cooperation, with a view to achieving progressively the full realization of the rights in the Covenant, including the adoption of legislative measures (Article 2).

Several articles within the Covenant are pertinent to the ongoing situation of gender injustice in Afghanistan, including:

- **Article 3:** The equal right of men and women to the enjoyment of all economic, social, and cultural rights set forth in the present Covenant.
- **Article 6:** The right to work, including the right of everyone to the opportunity to gain their living by work which they freely choose/accept.
- **Article 12:** The right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

- **Article 13:** The right of everyone to education.

### **iii) Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**

Afghanistan ratified CEDAW<sup>79</sup> on 5 March 2003. CEDAW requires State Parties to eliminate discrimination against women and girls in all areas and promotes women's and girls' equal rights.

Under CEDAW, Afghanistan has an obligation to take measures, legislative and otherwise, to ensure the full development and advancement of women, to “modify social and cultural patterns of conduct” which are harmful to women and girls, and to establish legal protection of the rights of women as equal to those of men.<sup>80</sup> The rights of women and girls under CEDAW also include, *inter alia*, the following:

- **Article 7:** The right to equal participation in political and public life.
- **Article 10:** Equal rights with men in the field of education.
- **Article 11:** Equal rights with men in the field of employment.
- **Article 12:** Equal rights with men with respect to access to healthcare.
- **Article 15:** Equality with men before the law.

### **iv) Convention on the Rights of the Child (CRC)**

Ratified by Afghanistan on 28 March 1994, the CRC<sup>81</sup> places specific obligations on Afghanistan regarding substantive children’s rights, including the principles of non-discrimination, the best interests of the child, the right to life, survival and development, and the right to participation.<sup>82</sup>

The child’s right to education is set out in Article 28 of the CRC<sup>83</sup>

States Parties acknowledge the child's entitlement to education and commit to progressively realizing this right while ensuring equal opportunities. Specifically, they shall:

- (a) Enforce compulsory primary education, making it universally accessible without cost;
- (b) Promote various types of secondary education, encompassing both general and vocational streams, ensuring accessibility for all children. Measures such as providing free education and offering financial aid to those in need shall be implemented;
- (c) Facilitate access to higher education for all based on individual capacity, employing suitable methods to achieve this goal;

- (d) Provide educational and vocational guidance and information to all children, ensuring its availability and accessibility;

## **v) Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)**

Afghanistan ratified the CAT<sup>84</sup> on 10 April 1987. Among other things, the CAT requires Member States to take effective measures to prevent torture in territories within their jurisdiction.<sup>85</sup> The Convention defines “torture” as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”<sup>86</sup>

Afghanistan is required to make torture an offence under criminal law,<sup>87</sup> investigate allegations of torture,<sup>88</sup> and train and educate law enforcement, civil or military, medical personnel, public officials, and other persons involved in the custody, interrogation, or treatment of any individual subjected to any form of arrest, detention, or imprisonment, regarding the prohibition against torture.<sup>89</sup> Afghanistan is also required to prevent all acts of cruel, inhumane, or degrading treatment or punishment in territories under its jurisdiction.<sup>90</sup>

## **B. The Right to Work**

### **i) Banned Employment**

Upon usurping *de facto* control over Afghanistan, the Taliban banned women from almost all forms of employment, except primary education and certain healthcare roles. Women have also been barred from participating in all levels of government and civil service, including the judiciary.<sup>91</sup>

In December 2022, the Taliban further banned Afghan women from leading and working for non-governmental organizations (NGOs), followed by another ban in April 2023 prohibiting Afghan women from working for the UN in any capacity.<sup>92</sup> Before the Taliban took over in 2021, women comprised 50 to 55 percent of workers in national NGOs and 30 to 45 percent of workers in international NGOs.<sup>93</sup> Many of these organizations’ programs had to temporarily pause due to concerns about the safety of their female workers and uncertainty as to whether organizations could continue with a reduced staff. Many NGOs were ultimately closed. A study conducted on NGOs in March 2023 found that only 30 percent of the organizations were fully operational, and 67 percent of those organizations reported that female staff were not coming to work.<sup>94</sup> The survey

further found that women NGO workers were suffering from severe stress alongside other negative mental health effects.<sup>95</sup>

A lack of women aid workers has made it much more difficult for aid workers to access women-only spaces and provide support. The Humanitarian Access Group survey found that 93 percent of NGOs experienced reduced access to the women they intend to support.<sup>96</sup> This statistic demonstrates the trickle-down effect of banning women from working in NGOs: women receive less aid as a result, further contributing to the conditions of gender injustice created by the Taliban.<sup>97</sup>

The Taliban's almost outright banning of women from working stems from what Dr. Hayat Alvi, the author of *Islamists' Fear of Females*, calls gynophobic misogyny—the fear that women are a dangerous temptation.<sup>98</sup> Alvi asserts that this fear “plays a principal role in the Taliban's and Islamic State's misogyny,” and these actors' subsequent determination to control women's lives and deny them their agency.<sup>99</sup> Notably, this belief is not held by most Muslims; it is an extreme interpretation of Sharia law and the Qur'an, amalgamated with patriarchal and misogynistic norms with which the Taliban identifies.<sup>100</sup>

These bans on employment for women not only violate women's right to work under Article 6 of ICESCR, but also Article 11(1)(a) of CEDAW, which recognizes that the right to work is an inalienable right of all human beings. The Taliban are also in violation of Article 11(1)(b) of CEDAW, which requires Afghanistan to ensure that women have the right to the same employment opportunities as men.<sup>101</sup> Furthermore, the specific banning of women from employment in the government is a violation of Article 7(b) of CEDAW, which provides that women should have equal opportunity as men “to participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government.”<sup>102</sup>

## **ii) Restrictions Within Permitted Employment**

The Taliban have permitted women to remain employed in primary schools and in certain parts of the healthcare sector. However, their work experiences have changed dramatically, as the Taliban have imposed segregation and a gender hierarchy in these workplaces.

For example, in the healthcare sector, the Taliban have imposed highly specific and restrictive rules governing women's conduct, reflecting an intrusive level of control over their behaviour and professional interactions. Women must work separately from male personnel and are prohibited from raising their voice at a male coworker, as such an action would be purportedly against Sharia law. At the same time, women are advised to speak to men in an “insolent manner, and angry tone” and not in a “soft tone” as the latter may “evoke sexual desire in [men].”<sup>103</sup> Such policies have resulted in a significant drop in women's employment; Afghan women's employment in healthcare has declined by 25 percent since the Taliban's takeover.

Furthermore, for those women whose field of employment has not been banned, their ability to access their workspaces has been severely limited. The Taliban prohibit women from going outside in public unless they are escorted by a male family member, or their *mahram*.<sup>104</sup> This is particularly taxing on working women who do not have a male family member to escort them to work and are the sole providers for their family.

### C. The Right to Education

The right to education can be conceived to include three components: a freedom right, a social right, and an equality right.<sup>105</sup>

- Education as a **freedom right** focuses on the “right of parents to educate their children according to their own beliefs,” including their religion, conscience, and thought.<sup>106</sup> This aligns with Article 18(4) of ICCPR, whereby State Parties undertake to respect the liberty of parents and legal guardians to “ensure the religious and moral education of their children in conformity with their own convictions.”<sup>107</sup>
- Education as a **social right** entails the right to a free and compulsory primary education, per Article 28(1) of the CRC. While not necessarily compulsory, different forms of secondary education must be made available and accessible to every child, and higher education must be made accessible to all based on capacity by every appropriate means.<sup>108</sup>
- Education as an **equality right** stipulates that the right to education should be enjoyed without discrimination.<sup>109</sup> This can be found in Article 10 of CEDAW, which requires State Parties to “take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education...”<sup>110</sup>

#### i) Ban on Schooling for Girls

The Taliban closed all post-secondary institutions in August 2021 when they regained power in Afghanistan, but reopened schools for men in September 2021.<sup>111</sup>

Between February and December 2022, public universities were briefly reopened to both men and women.<sup>112</sup> This period of reopening to women reportedly allowed 123,000 women to return to both public and private post-secondary institutions.<sup>113</sup> During this time, the Taliban only banned women and girls from attending high school (grades seven to twelve) while continuing to allow them to attend primary school (grades one to six) and post-secondary institutions.<sup>114</sup>

During the period that women could attend universities, the Taliban required the schools to enforce gender segregation and several forms of gender oppression. For example, there were staggered operating hours based on gender, women and men had to take separate classes, women were required to wear *hijabs*, women were not allowed to give presentations in class or speak to their

male teachers, and there were restrictions placed on the subjects which women were allowed to study.<sup>115</sup>

On December 20, 2022, the Taliban's policy on post-secondary education changed, such that women were no longer allowed to attend private or public post-secondary institutions.<sup>116</sup> The Minister of Higher Education of Afghanistan, as established by the *de facto* Taliban government, sought to justify the restrictions as being "required by Islam," since the gender segregation measures were not being strictly followed.<sup>117</sup> The Minister also cited protecting "women's dignity" as a reason for the new restrictions, since some academic subjects were supposedly not appropriate for women.<sup>118</sup>

Today, schooling up until the sixth grade is the only education available to girls in Afghanistan. However, even within primary education, girls continue to experience discrimination, including infringements on their bodily autonomy. For example, the Taliban have begun mandating "puberty checks" on girls as young as 10 and reports have surfaced that girls who appear to have reached puberty are being expelled.<sup>119</sup> By imposing these bans and engaging in such discriminatory practices, the Taliban has violated the right to education for Afghan women and girls with respect to all components of this right.

The closures of secondary and post-secondary schools have had an impact on the rate of physical abuse and other forms of gender oppression. There has been increased violence against women in schools, particularly against women belonging to religious minorities and other marginalized communities. There are reports of increased violence and harassment directed at individuals perceived to deviate from socially enforced gender and moral norms, as well as against religious minorities such as Sikhs and Hindus.<sup>120</sup>

School closures have also sparked widespread protests against the ban on higher education. On many occasions, Taliban security forces have attacked peaceful protesters or used water cannons to disperse protesters.<sup>121</sup> This response not only violates women and girls' right to education, but also their right to freedom of assembly and expression.

Women and girls with lower socioeconomic status are especially disadvantaged by the ban on attending post-secondary school. With the closure of schools to women, job prospects for women experiencing poverty are significantly limited.

Finally, the restrictions on schooling have forced many school-aged girls to marry at a younger age, as women's career options and access to financial resources have been severely limited without access to education.<sup>122</sup> For example, a girl from the Ghor province who could not attend secondary or post-secondary school reported that her father ordered her to marry when she was 17 years old because she had "no other life prospects."<sup>123</sup> This is but one example of how the Taliban's oppressive policies have impacted women's autonomy far beyond the realm of education.

## **ii) Challenges to Academic Freedom**

In addition to *who* can be taught in school, the Taliban has set limitations on *what* can be taught, which has had reverberating effects on women and girls.

In early 2021, the Taliban announced it would make reforms to ensure that subjects taught at schools followed their interpretation of Sharia law.<sup>124</sup> While the Taliban have expressed their commitment to not change to a *madrassa*-style education system—which emphasizes religious education at the expense of secular curricula<sup>125</sup>—many public schools previously used for co-educational, or women’s educational spaces have been converted into madrassas for boys.<sup>126</sup> These physical changes to buildings for the purpose of creating more Islamic religious schools for boys indicate the Taliban’s intention to limit women’s education in a sustained way.

In late 2021, the Taliban proposed significant curricular changes, which recommended removing several textbooks as a way of propagating the Taliban’s narrative of history.<sup>127</sup> By 2022, the Taliban implemented a highly ideologically driven view of the curriculum, which favoured Islamic religious schools for boys.<sup>128</sup> On January 26, 2024, the *de facto* Minister of Education issued a series of curriculum changes. The Minister announced that subjects such as civic education, calligraphy, life skills, and foreign languages other than Arabic were to be reduced or removed in favour of Islamic studies.<sup>129</sup> He also declared that the government would prioritize the teaching of Islamic subjects and begin hiring religious scholars to teach in schools.<sup>130</sup> As of September 2025, the Taliban banned 140 books written by women and 310 books by Iranian authors or publishers from universities because they violated the Taliban's interpretation of Sharia law.<sup>131</sup>

## **D. Freedom of Movement and Expression**

The Taliban have used the administrative apparatus at their disposal to enforce oppressive edicts that have infringed upon Afghan women and girls' ability to engage in public life in Afghanistan. These infringements send a message that women are not a part of public life under the Taliban regime. This section focuses on two areas of infringement: women and girls’ freedom of movement and freedom of expression—including protests and forms of self-expression.

### **i) Restrictions on Freedom of Movement**

In December 2021, the Taliban announced women must travel with a *mahram* (i.e., a male chaperone, specifically a husband, or a male relative a woman cannot marry like her father, brother, uncle, grandfather, son, grandson, etc.) for any distance greater than 72 km.<sup>132</sup> This greatly limits women’s freedom of movement and makes their travel reliant on the consent of another male. Moreover, even though the rule is for distances greater than 72 km, many women report that over the past two years, the rule has been applied more strictly.<sup>133</sup> Women have been stopped and interrogated by the Taliban for walking without a *mahram* while travelling distances less than 1km.<sup>134</sup> As a further consequence of the enforcement of this policy, many taxi drivers have refused

to accept female passengers travelling without a *mahram*, even for short distances, out of fear of retribution.<sup>135</sup> The Taliban have also ordered airlines to refuse women travelling without a *mahram* on both domestic and international flights.<sup>136</sup>

Women are also forbidden from having driving licenses and the Taliban has ordered driving instructors to stop giving driving lessons to women.<sup>137</sup> These restrictions on movement have been combined with bans imposed on women attending certain public places (such as parks and gyms) or limiting when and how women can attend these places or access services.<sup>138</sup> Many restaurants have reported being forced to segregate their patrons by gender and in January 2022, coffee shop owners were told not to serve women who were not accompanied by a *mahram*.<sup>139</sup> These restrictions on women are shaped by the Taliban's idea that women should not leave the house unless necessary.<sup>140</sup> These edicts have severely limited women's participation in public life, with mounting fear of women's entire erasure from public life.

These restrictions on movement by the Taliban violate Article 15(4) of CEDAW, which states that “[S]tates Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.”<sup>141</sup> Furthermore, the cultural norm of excluding women from public places runs contrary to Article 5 of CEDAW, which requires States to take appropriate measures to “modify the social and cultural patterns of conduct of men and women” with the intention of eliminating prejudices and practices that are based on the idea of women's inferiority.<sup>142</sup>

## **ii) Restrictions on Self-Expression and Visibility of Women**

In May 2022, the Taliban issued a mandatory nationwide order for all women to cover themselves in accordance with the Taliban's strict interpretation of Sharia law, despite the historical and traditional practice of most Afghan women to wear scarves.<sup>143</sup> Specifically, the Taliban said the “best” way for a woman to follow the *hijab* mandate would be to wear all black, loose-fitting clothes with a burqa, ensuring that the face is covered.<sup>144</sup>

Following the *hijab* mandate, the Taliban also ordered all beauty salons be closed in July 2022, since women were not allowed to show their faces and hair in public.<sup>145</sup> These requirements followed the closure of public baths for women in Balkh in December 2021 and the removal of mannequin heads from all clothing stores, as mandated by the Taliban in the same month.<sup>146</sup> By removing a woman's freedom to choose to wear a *hijab* or burqa and removing them (and their likeness) from spaces that provide them with socialization and community, the Taliban used these mandates as a tool to further eliminate women from public life, rendering them invisible in public spaces.

The above restrictions have influenced both women's employment and their mental well-being, as many were owners and employees of businesses required to close. Since 2022, many hospitals have reported an increase in the number of suicides and suicide attempts by women.<sup>147</sup> Even

though this number has increased, it is still most likely an underrepresentation of the actual statistics; due to social stigma many women may not seek help and deaths may not be reported as suicide.<sup>148</sup>

## E. The Right to Live Free from Violence and Harassment

The right to live free from violence, harassment, and discrimination is a fundamental human right established in various international legal frameworks, including the UDHR, ICCPR, and CEDAW. These provisions establish the obligation of states to ensure that women and girls are protected against all forms of violence, including physical, mental, and sexual harm, as well as against any form of discrimination that impairs their fundamental freedoms.

The UDHR and ICCPR set forth the foundational tenet of the right to be free from violence and harassment by recognizing the right of everyone to life, liberty, and security of person.<sup>149</sup> This broad protection implicitly encompasses the right to be free from all forms of violence and harassment. Article 2 of CEDAW additionally requires states to condemn discrimination against women in all its forms and to “pursue by all appropriate means and without delay a policy of eliminating [such] discrimination”.<sup>150</sup> This includes obligations to “modify or abolish existing laws, regulations, customs, and practices that constitute discrimination against women”.<sup>151</sup>

Since reassuming control, the Taliban have systematically violated these internationally recognized rights of women and girls to live free from violence, harassment, and discrimination. These violations encompass a range of repressive actions—as discussed below—from failing to protect women from online harassment to severe instances of state violence and coercion. These practices are in direct violation of the core principles set forth by international human rights instruments.

### i) Harassment

There has been a notable increase in harassment towards women in Afghanistan under the Taliban, including a reported 217 percent increase in posts on social media containing gendered hate speech or abuse towards women, including the naming of prominent Afghan women.<sup>152</sup>

In the western Afghan city of Herat, women report increasing harassment and threats by the Taliban’s morality police for non-compliance with the specific form of *hijab* mandated by the Taliban.<sup>153</sup> This surge in moral policing comes after the Taliban expanded the presence of these officers in Afghanistan’s third-largest city, intensifying fears among the local populace.<sup>154</sup> Incidents of overreach by the morality police have been distressing, with one woman recounting how a routine car journey with her father was interrupted for her alleged failure to wear a *hijab* in the manner prescribed by the Taliban, leading to their vehicle’s impoundment and a summons for questioning.<sup>155</sup> Another woman was forcibly removed from a taxi, accused of improper *hijab* attire, signaling a troubling trend where women increasingly face ostracization from public

transportation.<sup>156</sup> Operating under the Ministry for the Promotion of Virtue and Prevention of Vice, the morality police's aggressive enforcement of the Taliban's austere interpretations of Islamic edicts harks back to the Taliban's form of governance in the 1990s, which was marked by public punishments.<sup>157</sup>

Additionally, the Taliban have intensified their search for individuals who worked with the Afghan security forces and US and NATO forces prior to their takeover, with those individuals and their families facing the risk of torture and executions.<sup>158</sup> This is highlighted in a confidential UN document seen by the media, which reveals that the Taliban has "priority lists" of individuals it aims to apprehend.<sup>159</sup> Most at risk are those who played central roles in the Afghan military, police, and intelligence units. In particular, the Taliban have threatened women who previously served in the police force under the former Afghan government and were trained by the US.<sup>160</sup> The Taliban have been conducting "targeted door-to-door visits" and screening individuals on the way to Kabul airport, with checkpoints set up in major cities.<sup>161</sup> Despite pledges of amnesty for those who worked with the Western-backed elected Afghan government, the reality on the ground paints a harrowing picture of targeted harassment, torture, and executions.

The situation for female journalists and media workers has been particularly dire. Amnesty International has documented cases where women in the media face heightened harassment and attacks, aimed at silencing female voices and dissenting opinions.<sup>162</sup> These actions by the Taliban, such as the targeted harassment of women in prominent roles, underscore the systemic nature of gendered abuse and misogyny under their rule. In some cases, this enforcement escalates beyond harassment to public punishment, including whippings for minor dress code infractions.<sup>163</sup>

## **ii) Treatment of Survivors of Abuse**

The Taliban's policies and practices have had devastating impacts on abuse survivors and have further perpetuated physical and sexual abuse against women, particularly by state officials.

Since 2021, the 23 state-sponsored women's shelters in Afghanistan have been closed. The Taliban claimed that there was no need for such facilities, insisting women experiencing abuse should remain with their male relatives.<sup>164</sup> In the event that a woman did not have a male relative to stay with, or where there were additional safety concerns, they were sent to prison, ostensibly for their "protection."<sup>165</sup> This disturbing practice, documented by the UN Assistance Mission in Afghanistan (UNAMA), not only subjects these survivors to arbitrary deprivation of liberty but also places them in an environment likely to exacerbate their trauma, negatively impacting their mental and physical health.

According to UNAMA, the absence of women's shelters, coupled with the practice of imprisoning abuse survivors, represents a severe violation of women's rights and a stark regression from the progress made in Afghanistan prior to the Taliban's return to power.<sup>166</sup> This approach not only fails

to protect vulnerable women but also risks their re-victimization and stigmatization upon release, illustrating the Taliban's harsh suppression of women's rights under the guise of protection.

### **iii) Arbitrary Detention and Cruel, Inhumane and Degrading Treatment and Torture in Prisons**

Women in Afghanistan have been arbitrarily detained and arrested for “moral” violations—such as being in public without a *mahram* or in the company of a non-*mahram* male, leading to accusations of "moral corruption" or "attempted zina" (extramarital sexual acts)—as well as for peacefully protesting, violating Articles 9 and 12 of the ICCPR, respectively.<sup>167</sup>

The conditions under which women and girls are detained are particularly concerning, as they likely violate prohibitions against torture or other forms of cruel, inhuman, or degrading treatment under CAT.<sup>168</sup> A report by Amnesty International indicates that detainees face isolation, lack of access to legal, medical, or family support, and severe mistreatment, including physical assault, electric shocks, use of chains and water hoses, and forced separation of mothers from their children. One egregious example of the severe physical and sexual torture endured by women in prisons at the hands of the Taliban is Maryam, a woman who was subjected to the use of pipes and brooms for sexual torture, alongside beatings and dehumanization.<sup>169</sup>

Unfortunately, similar atrocities have been documented in detailed reports regarding women's prisons across the provinces of Takhar, Baghlan, and Kunduz.<sup>170</sup> Interviews conducted by the Hasht-e Subh Daily reveal that women's prisons have become centers of torture and sexual assault, with numerous women, including underage girls and former government employees, detained on dubious charges of "illicit relationships" and "moral corruption."<sup>171</sup> The detention environment, characterized by torture and inhumane treatment, overcrowding, insufficient heating, and poor hygiene, directly violates the Taliban's Code of Conduct on System Reform Relating to Prisoners, as well as international standards, such as the Nelson Mandela Rules.<sup>172</sup> The UN Special Rapporteur has highlighted an increase in both the frequency and severity of torture since the Taliban's rise to power.<sup>173</sup>

Compounding these abuses is the systematic denial of procedural rights, with many detainees lacking legal representation or the opportunity for timely court appearances.<sup>174</sup> Detention durations appear to be influenced by the detainees' ability to navigate corrupt practices rather than by any adherence to legal norms.<sup>175</sup> There are reports of women being coerced into marriage with Taliban members as a condition of their release.<sup>176</sup> Moreover, instances of corporal punishment, including flogging and execution for alleged moral offenses, often result from dubious judicial processes, highlighting a broader campaign of intimidation and violence against women that severely undermines their human rights.<sup>177</sup>

UNAMA has observed campaigns in Kabul and Daykundi provinces, led by the Taliban's Ministry for the Propagation of Virtue and Prevention of Vice with police collaboration, where women are

warned, detained, and in some instances, mistreated or extorted for their release.<sup>178</sup> Often, a male guardian must pledge the woman's future compliance to secure her release, under penalty of punishment.<sup>179</sup> Such measures not only demean and endanger Afghan women and girls but also contribute to their stigmatization, heightening the risk of further isolation and abuse.<sup>180</sup>

## F. The Right to Health

Article 12 of the ICESCR recognizes “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”<sup>181</sup> The UN Committee on Economic, Social, and Cultural Rights, the body responsible for monitoring the ICESCR, has a defined set of “underlying determinants of health”, which include: safe drinking water and adequate sanitation, safe food, adequate nutrition and housing, healthy working and environmental conditions, health-related education and information, and gender equality.<sup>182</sup> While the recognition of the right to health does not equate with the right to be healthy, the ICESCR stresses the obligation of States Parties to ensure for their citizens the “highest attainable standard of (...) health.”<sup>183</sup> To attain this goal, functioning public health and health-care facilities, goods, and services must be “available, accessible, acceptable, and of good quality”.<sup>184</sup>

Since the Taliban's takeover in August 2021, the severe decline in monetary and technical support for Afghanistan's public health system has severely harmed the country's healthcare system.<sup>185</sup> Given the Afghan economy's extreme aid dependency, the withdrawal of humanitarian funding by various international organizations has led to the loss of hospital support, shortages of medicine and supplies, and extreme poverty and worsening malnutrition. In addition, the Taliban's patriarchal and misogynistic policies, such as the imposition of strict hijab rules, have taken a toll on women's health.<sup>186</sup> These changes have severely impacted the availability, accessibility, acceptability, and quality of health care required to achieve the right to health.

Reductions in access to healthcare for Afghan women also disproportionately affect women with disabilities, as their need for health services is greater than the average. These varied realities illustrate the importance of intersectionality in understanding the systemic effects of discrimination. Since women with disabilities are already in a more vulnerable state of health, any additional violation of their rights exacerbates the discrimination they experience.

### **i) Lack of Funding and Healthcare Services**

The Afghan economy has been extremely dependent on international development aid since the US-led invasion of the country in 2001. By 2009, “NGOs were delivering basic health services in up to 30 provinces, funded by USAID, the World Bank, and the European Commission.”<sup>187</sup> In 2019, healthcare costs in Afghanistan totalled US\$2.8 billion, of which 20 percent was provided by donors, 77 percent consisted of out-of-pocket payments at the point of service, and only 3 percent was funded by the Afghan government.<sup>188</sup>

After the Taliban's takeover in 2021, the sudden halt to most foreign aid triggered an economic freefall. Due to the resulting economic breakdown, most Afghans could no longer pay for out-of-pocket health expenses.<sup>189</sup> Since 2021, over "124,000 civilians have been evacuated from Afghanistan, including many healthcare providers, further hindering the provision of healthcare services."<sup>190</sup> Coupled with the increase in malnutrition-related illnesses and the outbreak of the measles epidemic in 2022, which led to an increase in patients, the loss of funding and downsizing of healthcare staff have taken a toll on the healthcare system.<sup>191</sup> While some NGOs have continued to provide aid to support the Afghan healthcare system, the current system proves to be untenable. In the words of a UNICEF worker: "Even today, if UNICEF stops, everything will stop. It's not sustainable at all. It hasn't been sustainable in the past. We don't have any other financing mechanisms in place. There is no insurance mechanism."<sup>192</sup>

The loss of funding has also severely impacted the food security of the Afghan people. In September 2023, the World Food Program stated they were "forced to cut 10 million Afghans" in 2023, while 4 million were "acutely malnourished" because funding appeals had fallen short.<sup>193</sup> In 2022, it was estimated that nearly 20 million people in Afghanistan needed food assistance.<sup>194</sup>

## **ii) Effects on Women and Girls' Right to Health**

In addition to the malfunction of the healthcare system, ongoing Taliban policies targeting women have served to further prohibit Afghan women and girls from accessing essential health care services.

The lack of access to higher education for Afghan women has exacerbated the pre-existing shortage of female healthcare workers. As women are banned from pursuing secondary and post-secondary education, young women are neither able to attend medical schools nor able to attain the high school educational requirements for medical training.<sup>195</sup>

These restrictions pose a significant barrier to Afghan women's access to healthcare, as only female healthcare workers are allowed to treat women. This can have a particularly devastating impact on access to maternal health care, particularly in the aftermath of calamities. For instance, in a devastating earthquake that hit Afghanistan on 31 August 2025, relief efforts were largely impaired as minimal support was available for pregnant women directly impacted by the disaster due to the Taliban imposed restrictions on female workers.<sup>196</sup> While some pregnant women were able to receive treatment, there remained more than 11,000 pregnant women in urgent need of care after the earthquake.<sup>197</sup> Afghanistan's maternal deaths per capita have been very high, including before the Taliban takeover. A lack of new female healthcare professionals and specialists in women's health will mean an increased maternal death rate.<sup>198</sup>

Furthermore, the Taliban's restriction on women's mobility without the accompaniment of a *mahram* has further limited access of women and children to healthcare services.<sup>199</sup> It has been reported that in certain provinces, female NGO workers are only permitted to work if they are

accompanied by a *mahram*, which greatly restricts their ability to treat patients. In a number of medical facilities, it is a requirement for both female patients and healthcare staff to be accompanied by a *mahram*.<sup>200</sup>

The strict imposition of *hijab* rules has further impeded women's access to healthcare. An NGO representative in Kandahar, informing a Human Rights Watch ("HRW") report on the access to health crisis for Afghan women, said that the Taliban has refused women access to health care services if not accompanied by a *mahram* and complying with *hijab* rules.<sup>201</sup> This is particularly true of Taliban enforcement in rural areas. As one staff member interviewed by HRW at a humanitarian organization explained: "The situation is really bad. My sister is in Samangan and she's the only healthcare trainer. The Taliban went to her clinic and my sister wanted to speak to them. They put a curtain in front of her. If someone comes and is dying and doesn't have full *hijab*, you can't treat her."<sup>202</sup> Together, the multitude of discriminatory policies have had a devastating effect on Afghan women and girls' right to health.

In the most recent report on the health crisis affecting Afghan women, released by UN Special Rapporteur Richard Bennett in late February 2026, Bennett characterizes the effects of the Taliban's policies—such as the ban on medical education and training for women, and restrictions on freedom of movement—as imposing more barriers to access an already crippling medical system. These policies "will lead to unnecessary suffering, illness, and death, and could amount to femicide"<sup>203</sup> Bennett's report further supports the understanding of this discrimination as systemic; he states: "these policies are not isolated measures—they form an institutionalized system of gender discrimination that denies women and girls autonomy over their own bodies, health, and futures, [...] They provide further evidence that the Taliban is committing crimes against humanity."<sup>204</sup>

## G. The Rights of the Child

The CRC sets out the basic principles with respect to the rights for all children up to the age of 18, which include:

1. **Non-discrimination:** The rights of all children are to be respected without discrimination of any kind. This is regardless of their gender, their socioeconomic status; their religion, ethnicity, spoken language; or whether they have special needs.
2. **The best interests of the child:** When decisions are made that affect the lives of children, the best interests of the child must be considered.
3. **The right to life and development:** Governments should enable children to live and grow to be the best they can be.

4. **Participation:** Children have the right to give their opinions on all matters that affect them and to have their voices heard. Children's views should always be taken seriously, no matter their age.<sup>205</sup>

Currently, the Taliban's policies are violating the rights of Afghan children on all fronts. Children's access to basic public services has been "disrupted due to protracted conflict, displacement, extreme poverty and food insecurity, lack of livelihood opportunities and lack of investment in public services, and natural disasters."<sup>206</sup> As a result, Afghan children face heightened risk of serious human rights violations, such as child labour, forced marriage, recruitment and use in armed conflict, sexual violence, school drop-out, and unsafe migration as a result.

Between 2021 and 2022, there were 4,519 verified grave violations recorded against 3,545 children from newborns to 17 years in Afghanistan, with most of them being the killing and maiming of children attributed to the Taliban.<sup>207</sup> Currently, "children make up more than half (57 percent) of the population in need of emergency humanitarian assistance in Afghanistan."<sup>208</sup>

These conditions have also driven harmful survival and coercive practices affecting children, most notably child labour and recruitment, and forced marriage, as further discussed below.

### **i) Child Labour and Recruitment**

In 2016, at least a quarter of Afghan children between ages 5 and 14 were "...[working] for a living or to help their families."<sup>209</sup> The humanitarian crisis following the Taliban takeover in August 2021, coupled with the COVID-19 pandemic, droughts, and worsening economic conditions, resulted in an increase in the prevalence of child labour.

"[C]arpet weaving is a sector with one of the largest numbers of child labourers, particularly girls between the ages of 11 and 15."<sup>210</sup> Children working in the carpet sector experience physical injuries "...such as carpal tunnel syndrome, neuralgia, and swollen finger joints from long hours sitting at the loom and performing repetitive motions with sharp equipment."<sup>211</sup> They also suffer from eye strain and respiratory problems from close work in poor lighting and inhaling fine wool dust.<sup>212</sup>

The increased rate of child labour has severely impacted the right of development of children, including their "physical, mental, spiritual, moral and psychological development."<sup>213</sup> By being forced to work, children are subjected to extreme physical and psychological dangers and increasingly become unable to receive a proper education.

Afghanistan reportedly had programs aimed at preventing and ending child labour, but the US Department of Labor was unable to determine whether these programs continued following the Taliban takeover.<sup>214</sup> These programs included a Kabul-based Juvenile Rehabilitation Center

program that provided educational, social, and psychological support to children who were previously engaged in armed conflicts, as well as a program by the Child Protection Units of the Afghan National Police to ensure that children in Afghanistan were not recruited to join armed conflict.<sup>215</sup>

## **ii) Forced Marriage**

Since the takeover in 2021, some Taliban members have forcibly married underage girls, despite orders issued by Taliban leader Haibatullah Akhundzada prohibiting underage marriages by Taliban forces. For example, in July 2021, as Taliban leaders took control of the provinces of Badakhshan and Takhar, religious leaders in these areas were ordered to provide a list of girls over 15 who could be married to fighters.<sup>216</sup> According to a Rawadari report, "in [the] Imam Sahib district of Kunduz province, [a local Taliban commander] who had previously been married twice, forcibly married a 15-year-old girl as his third wife."<sup>217</sup> Similarly, in the Darqad district of Takhar province, the district governor, who was already married to two wives, forcibly married a young girl in August 2022.<sup>218</sup>

These forced marriages may constitute acts of sexual slavery in violation of core principles of the CRC, such as prohibitions on slavery and trafficking laid out in Articles 11, 35 and 36—provisions that are designed to protect children against sexual exploitation and abuse.<sup>219</sup>

## **V. Canada's Responsibility to Address Gender Injustice in Afghanistan**

Canada has lauded itself to be a leader in women's rights. In 2021, the Minister of Foreign Affairs announced that it was adopting a "feminist foreign policy,"<sup>220</sup> which placed gender equality and women's rights at the core of the country's international policies. In January 2024, Canada renewed its commitment to being a leader in advancing human rights, "[...] by speaking out on important issues", including sponsoring resolutions on violence against women and girls.<sup>221</sup>

Even as early as 2000, Canada voted in favour of the ground-breaking Security Council Resolution 1325—the UN's Women, Peace and Security Agenda—that recognized the disproportionate impact of violent conflict and war on women and the critical role played by women in peacebuilding efforts.<sup>222</sup>

Additionally, Canada ratified a number of international human rights treaties that protect the rights of women and girls, including:

- *International Covenant on Civil and Political Rights* (ICCPR) (acceded to 19 May 1976)
- *International Covenant on Economic, Social and Cultural Rights* (ICESCR) (acceded to 19 May 1976)

- *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)* (ratified 10 December 1981)
- *Convention on the Rights of the Child (CRC)* (ratified 13 December 1991)

Given its commitments to upholding international human rights around the world, particularly those of women and girls, Canada has a responsibility to address the systemic discrimination of women and girls in Afghanistan.

## A. Canada's Efforts to Address Women's Rights in Afghanistan

### **i) Canada's National Action Plan on Women Peace and Security**

On 1 November 2017, the Government of Canada launched its National Action Plan on Women Peace and Security (NAP),<sup>223</sup> which outlined its expressed commitments to advance the Women Peace and Security (WPS) agenda. The overarching objectives of the NAP are to (1) “[i]ncrease the meaningful participation of women... in conflict prevention, conflict resolution, and post-conflict state building” and (2) prevent gender-based violence, sexual exploitation and abuse perpetrated in conflict. Canada's NAP on the WPS agenda provided for a whole-of-government approach to advance gender equality initiatives and promote the human rights of women and girls around the world.<sup>224</sup>

In its 2020-2021 progress report on the NAP, Canada acknowledged that “preserving...[hard-won progress made on women's rights in Afghanistan]...is a priority for Canada,” and stated that, to date, it has provided civil society organizations with “practical tools to counter hardline stances on women's rights issues and, ultimately, bolster their participation in the peace process.”<sup>225</sup> In 2021, Canada's Ambassador to Afghanistan and Canada's designated representative for the WPS agenda issued a joint statement reiterating Canada's commitment toward protecting the rights of Afghan women.<sup>226</sup>

In May 2024, Canada released its third NAP entitled “Foundations for Peace” encompassing its proposed plan from 2023-2029. It highlights six focus areas: (1) Building and sustaining peace; (2) Security, justice and accountability; (3) Crisis response; (4) Sexual and gender-based violence (SGBV); (5) Leadership and capabilities; and (6) Inclusion. While the NAP references Canada's commitment to tackling gender-based violence globally via crisis response and accountability efforts, it does not outline specific commitments, nor does it reference the dire human rights context in Afghanistan specifically.<sup>227</sup>

### **ii) Canada's Feminist International Assistance Policy in Afghanistan**

In June 2017, Canada announced its priority to promote gender equality in Afghanistan through the announcement of the Feminist International Assistance Policy (FIAP).<sup>228</sup> Based on this policy framework, Canada supported Afghanistan's NAP on WPS, which sought to increase women's

participation in peace processes and the security sector.<sup>229</sup> Among other things, Canada supported capacity development of Afghan institutions, including the Afghanistan Independent Human Rights Commission, and civil service organizations.<sup>230</sup>

Until the suspension of bilateral diplomatic relations with Afghanistan, “the Canadian Embassy [in Afghanistan] was recognized as a safe venue for facilitating discussions”, as well as for hosting events on the protection and promotion of women’s rights and gender equality.<sup>231</sup> The Embassy hosted quarterly roundtable discussions on women’s rights in Kabul, which included participants from civil service organizations, women’s rights activists, government representatives, and implementing partners.<sup>232</sup>

For its part, GAC’s response to the situation of gender injustice in Afghanistan had been primarily focused on coordinated diplomatic messaging with Canada’s Special Representative for Afghanistan, including on social media channels. GAC was also responsible for communicating Canada’s position as an advocate for the right to education, access to employment, and freedom of movement for Afghan women and girls, and engaged in multilateral forums, like the UN and G7, to shed light in their dire human rights situation.<sup>233</sup>

While GAC indicated in their Five-Year Departmental Evaluation Plan 2023-2024 to 2027-2028 that its work abroad was “guided by its feminist foreign policy,” Prime Minister Mark Carney rejected this idea at the 2025 G20 Summit in South Africa. Carney stated “that [Canada no longer considers its approach to global engagement as a feminist foreign policy]”<sup>234</sup> effectively putting an end to the FIAP.

### **iii) Canada’s Involvement in the CEDAW Case at the International Court of Justice**

The Taliban’s revival of the attack on the fundamental human rights of Afghan women and girls prompted Germany, Canada, Australia, and the Netherlands to formally take steps to call on Afghanistan to cease its violations of CEDAW. This is the first step towards officially filing proceedings against Afghanistan before the International Court of Justice (“ICJ”), which has jurisdiction under Article 29 of CEDAW to hear disputes between two or more State Parties “concerning the interpretation or application” of the treaty. As Afghanistan ratified CEDAW without reservation to Article 29 in 2003, the ICJ will hear the dispute regarding Afghanistan’s violations of CEDAW if the issue is not settled by the parties.<sup>235</sup> Importantly, although the Taliban is not recognized as the legitimate government of Afghanistan, as the *de facto* governing body, it is bound by and liable for the international legal obligations previously agreed to by Afghanistan.

### **iv) Canada’s Humanitarian Assistance to Afghanistan**

Since the Taliban took over in August 2021, Canada joined the international community in barring assistance to Afghanistan.<sup>236</sup> Under section 83.03 of Canada’s *Criminal Code*, non-governmental organizations operating in Afghanistan could be found in violation of anti-terrorism laws by virtue

of, for example, paying rent or visa charges in Afghanistan.<sup>237</sup> This prevented humanitarian organizations from implementing Canadian-funded programs under the Taliban regime in Afghanistan, thereby hindering Afghans from receiving support.<sup>238</sup>

In June 2022, the Special Committee on Afghanistan of the House of Commons published the report *Honouring Canada's Legacy in Afghanistan: Responding to the Humanitarian Crisis and Helping People Reach Safety*, after it conducted hearings “to examine and review the events related to the fall of Afghanistan to the Taliban [...] with the primary objective of assessing the humanitarian assistance to be put in place by Canada to assist the Afghan people.”<sup>239</sup> Some of the key recommendations in the report included that:

- Canada ensure that GAC supports trusted organizations whose primary focus is vulnerable populations, while ensuring that its humanitarian assistance is reaching the most vulnerable populations in Afghanistan based on need.
- Canada act immediately to ensure that registered Canadian organizations have the necessary assurances to deliver humanitarian assistance without fear of prosecution for violating Canada's anti-terrorism laws.
- Canada review the anti-terrorism financing provisions under its *Criminal Code* to ensure that those provisions do not unduly restrict legitimate humanitarian action that complies with international humanitarian principles and law.

On June 20, 2023, in response to the report, the Canadian Parliament enacted Bill C-41: *An Act to amend the Criminal Code and to make consequential amendments to other Acts*,<sup>240</sup> which purports to remove Canadian barriers to humanitarian aid in Afghanistan, such as through permitting specifically authorized persons to carry out aid activities that would otherwise contravene the *Criminal Code*. However, Parliament did not set a timeline for launching the permit process and some humanitarian groups have argued that the exemption is not enough for them to provide urgent support in Afghanistan.<sup>241</sup>

Currently, more than 24.4 million Afghans are in dire need, with more than 75 percent of those urgently awaiting humanitarian assistance being women and children.<sup>242</sup> Afghan women and girls are especially vulnerable to acute hunger, mental health challenges, and medical challenges in the face of natural disasters.<sup>243</sup> The edicts against women's education and their participation in NGO work have increased the barriers for Afghan girls and women to access aid, leaving them even more vulnerable to the Taliban's oppressive policies and the natural disasters that Afghanistan is prone to.<sup>244</sup> Afghan women have reported to the UN that to access aid services they require proper clothing, including the Islamic headscarf, and the national identity card of a male, which present additional barriers to their ability to access humanitarian assistance.<sup>245</sup>

Although Canada has continued to provide its own humanitarian aid to Afghanistan—such as providing over 143 million Canadian dollars in humanitarian assistance in 2022<sup>246</sup>—the ongoing

and dire situation in Afghanistan suggests that more effective efforts are needed. The limited opportunities for women to participate in NGOs and domestic governance under the Taliban create massive obstacles to meeting their gender-specific needs, including access to maternal healthcare.<sup>247</sup> This is exacerbated by the fact that humanitarian assistance is unlikely to adequately reach those most affected by the Taliban regime.<sup>248</sup> For this reason, Canada should pursue alternative lawful means, especially efforts under existing multilateral treaties, to uphold its duties.

## B. Recommendations to Canada

The Taliban’s systematic and institutionalized violations of the rights of Afghan women and girls—including severe restrictions on employment, education, healthcare, mobility, and public participation—have been widely criticized, condemned, and even described as gender apartheid.<sup>249</sup> This situation engages the responsibility of the international community, including Canada, to take meaningful and sustained action to address these grave human rights violations.

While the Government of Canada has taken important steps demonstrating its recognition of the severity of the human rights crisis in Afghanistan, significant gaps remain in the use of diplomatic, political, and multilateral tools available to support Afghan women and girls and promote accountability. What allies are they working with to put pressure on the Taliban? How are they offering political support to women and advocacy groups in the region? What other diplomatic channels are they or should they be using to combat gender apartheid? It is important that Canada strengthen its efforts in coordination with international partners and fully utilize available international mechanisms to respond to the Taliban’s system of gender-based oppression.

The following recommendations outline measures Canada should adopt to advance the rights of women and girls of Afghanistan.

### **i) Cooperating Internationally to Realize Economic, Social, and Cultural rights in Afghanistan**

As a State party to ICESCR, Canada must “take steps, individually and through international assistance and co-operation [...] to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the [ICESCR]”.<sup>250</sup> It has been acknowledged by experts that while ICESCR contains no provision on the scope of its application, several of the articles therein have an explicit international cooperation dimension, such as Article 2.

The *Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights* (Maastricht Principles)—a set of principles developed by expert opinion summarizing the extraterritorial obligations (ETOs) states have to realize economic, social,

and cultural rights (ESCRs) under international law—provide an important source for understanding Canada’s responsibilities to the women and girls of Afghanistan.

ETOs encompass the following:

- “Obligations relating to the acts and omissions of a State, within or beyond its territory, that have effects on the enjoyment of human rights outside of that State’s territory; and
- Obligations of a global character that are set out in the UN Charter and human rights instruments to act, separately, and jointly through international cooperation, to realize human rights universally.”<sup>251</sup>

Under the Maastricht Principles, Canada has obligations to respect, protect, and fulfil ESCRs in situations outside of its territory where, among other things:

- The State’s acts or omissions bring about foreseeable effects on the enjoyment of ESCRs, whether within or outside its territory; and
- The State, acting separately or jointly, whether through its executive, legislative, or judicial branches, is in a position to exercise decisive influence or to take measures to realize economic, social, and cultural rights extraterritorially, in accordance with international law.

Given its history of military participation in and subsequent withdrawal from the counter-insurgency war in Afghanistan, combined with its leadership in women, peace, and security matters, Canada has been and remains in a unique position to influence the situation of human rights in Afghanistan.

During its military operations in Afghanistan, the Canadian government—having knowledge of the Taliban’s resurgence in rural Afghanistan—should have known that Canada’s withdrawal from the country would allow the Taliban to regain control over Afghanistan, which would have devastating effects on the rights of Afghan women and girls. As early as 2012, Canada knew that “the situation of women and girls was especially dire after decades of denial of their human rights, equality and access to services and other resources” by the Taliban, as outlined in its report to Parliament.<sup>252</sup> Reports show that Afghan women ministers made pleas to Canadian politicians for help and shared warnings about atrocities and the erosion of women’s rights two months before the Taliban took control of Kabul in 2021.<sup>253</sup> Despite having this information, the Canadian government did little to prevent the Taliban from regaining control.

Although Canada has no physical control over Afghan territory today, it remains in a position of influence, such as through the country’s public procurement system and international diplomacy.<sup>254</sup> Canada previously served as the co-chair of the *Women Peace and Security Focal Point Network* at the UN and is the only UN Member State to have appointed an Ambassador for

Women, Peace, and Security.<sup>255</sup> This designation imposes responsibility on Canada to co-operate with other states to help fulfill the Women, Peace, and Security agenda.

To that end, Canada can play a leadership role in coordinating international pressure against the Taliban. For example, in June 2024, the UN Secretary-General hosted the third Doha meeting (“Doha III”), inviting the Special Envoys of Member States, international organisations, and the Taliban to find a “common international approach” to address Afghanistan’s political, human rights, and humanitarian crises. The meeting notably excluded Afghan women and civil society representatives at the Taliban’s request, which was accepted by the UN.<sup>256</sup> This decision by the international community both re-enforced the Taliban’s discriminatory policies and did nothing to hold the Taliban accountable for its human rights violations against Afghan women and girls.<sup>257</sup> Although GAC published a statement noting the UN’s decision as “extremely disappointing,” it nonetheless participated in Doha III<sup>258</sup> rather than boycotting the meeting to apply pressure on the Taliban government to change its policies.

Such coordinated efforts to influence the realization of ESCRs in Afghanistan are strongly supported by the Maastricht Principles. Article 28 of the Maastricht Principles provides that State Parties to ICESCR must act, separately, and jointly through international cooperation, to fulfil the ESCRs. This includes creating an “international enabling environment” per Article 29:

## **29. Obligation to Create an International Enabling Environment**

States must take deliberate, concrete and targeted steps, separately, and jointly through international cooperation, to create an international enabling environment conducive to the universal fulfilment of economic, social and cultural rights, including in matters relating to bilateral and multilateral trade, investment, taxation, finance, environmental protection, and development cooperation.

The compliance with this obligation is to be achieved through, inter alia:

- a) elaboration, interpretation, application and regular review of multilateral and bilateral agreements as well as international standards;
- b) measures and policies by each State in respect of its foreign relations, including actions within international organizations, and its domestic measures and policies that can contribute to the fulfilment of economic, social and cultural rights extraterritorially.

The above obligations suggest that Canada should leverage its position internationally vis-à-vis Afghanistan to enable a rights-respecting environment in the country.

## **ii) The International Recognition of the Prohibition Against Gender Apartheid**

### *a) Gender Apartheid as a Peremptory Norm*

Scholars have proposed that the prohibition against apartheid be expanded to include gender apartheid. Karima Bennouna, former UN Special Rapporteur in the field of cultural rights argues that the existing legal frameworks condemning apartheid (specifically racial apartheid) and giving rise to international obligations can be directly applied to the gender apartheid regime as it exists in Afghanistan.<sup>259</sup> As Bennouna explains, an expansive interpretation of apartheid completes past feminist jurisprudential efforts to respond to the challenges of the 21st Century, achieving conceptual harmony in the treatment of race and sex under international conventional law.<sup>260</sup>

The move to expand the definition of apartheid to include gendered discrimination can be found as early as the 1990s, when feminist legal scholars argued for the need to adopt gender apartheid as a peremptory international norm in the same manner as racial apartheid. In 1997, Courtney Howland noted that international human rights instruments recognize racial and gender discrimination as equal in gravity, with the UN Charter stating that all members should “pledge themselves to take joint and separate action (...) for the achievement” of “the promotion of universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.” According to Howland, this language, particularly the mention of “without distinction,” makes it clear that racial discrimination should be equally prohibited as discrimination based on sex, language, or religion.<sup>261</sup>

Ann Elizabeth Mayer similarly noted the importance of recognizing the gravity of gender apartheid, calling out the international community’s unfortunate treatment of gender apartheid as a “benign apartheid”.<sup>262</sup> She contrasted the “uncompromisingly tough stance that the international community (...) [had] taken on racial apartheid with the much weaker and more ambivalent stance that has been taken regarding analogous discrimination against women,” finding that governments of modern states, which are largely controlled by men, tend to depoliticize the phenomenon of gender apartheid by claiming that it is rooted in religion and culture, rather than recognizing the governments’ crucial role in enabling the system.<sup>263</sup> According to Mayer, this difference in the treatment of racial and gender apartheid is striking, given how “many of the same patterns of oppression and domination that were recognized as underlying South African apartheid can be found in the ways that men have subjugated women, especially in some Middle Eastern countries where women are completely excluded from roles in the political establishment.”<sup>264</sup>

Though an expansion of apartheid to include gender apartheid would require re-interpretation, such a shift would represent a transformative feminist approach to international law, one that would be very welcome in addressing the institutionalized and systemic gendered oppression taking place in Afghanistan.<sup>265</sup>

Furthermore, the recognition of gender apartheid as a violation of a peremptory norm would place greater responsibility on third states, such as Canada, to take measures to protect women and girls

in Afghanistan. Under Articles 25 of the Maastricht Principles, states have ETOs in circumstances where another state is violating *jus cogens* laws:

## 25. Basis for Protection

States must adopt and enforce measures to protect economic, social and cultural rights through legal and other means, including diplomatic means in each of the following circumstances:

[...]

(e) where any conduct impairing economic, social and cultural rights constitutes a violation of a peremptory norm of international law. Where such a violation also constitutes a crime under international law, States must exercise universal jurisdiction over those bearing responsibility or lawfully transfer them to an appropriate jurisdiction.

Additionally, the International Law Commission (ILC) *Draft Articles on Responsibility of States for Internationally Wrongful Acts* (ILC Draft Articles)—which have been cited by a variety of courts and tribunals, including the International Court of Justice<sup>266</sup>—extend obligations on states for breaches of peremptory norms.

Article 41 of the ILC Draft Articles in particular sets out the obligations of states with respect to serious breaches of peremptory norms:

### **Article 41. Particular consequences of a serious breach of an obligation under this chapter**

1. States shall cooperate to bring to an end through lawful means any serious breach [of an obligation arising under a peremptory norm of general international law] within the meaning of article 40.
2. No State shall recognize as lawful a situation created by a serious breach within the meaning of article 40, nor render aid or assistance in maintaining that situation.
3. This article is without prejudice to the other consequences referred to in this Part and to such further consequences that a breach to which this chapter applies may entail under international law.<sup>267</sup>

Note that under Article 40 of the ILC Draft Articles, a breach of an obligation arising under a peremptory norm of general international law is considered serious where “it involves a gross or systematic failure by the responsible State to fulfil the obligation.”<sup>268</sup>

While the above open-ended duty does not envision specific legal mechanisms for responding to serious breaches of peremptory norms, the ILC has stated that Article 41.1 contemplates both cooperation at the level of international organizations, including the UN, as well as non-institutionalized forms of cooperation.<sup>269</sup>

#### *b) Updating Existing Treaties to Include Gender Apartheid*

Multiple legal pathways have been proposed to codify gender apartheid within international treaty law. In its recent Joint Report, the Human Rights Council's Working Group on Discrimination Against Women and Girls strongly urged UN Member States and observers to consider including "gender apartheid" as an enumerated crime against humanity under Article 2 of the Draft Articles on the Prevention and Punishment of Crimes Against Humanity.<sup>270</sup> This recommendation is currently under review by the UN General Assembly's Sixth Committee.

The Working Group has also recommended extending the definition of apartheid to encompass gender-based apartheid under Article 7(2)(h) of the Rome Statute of the International Criminal Court,<sup>271</sup> while others have argued that gender apartheid should be included in the *Convention on the Suppression and Punishment of the Crime of Apartheid* (Apartheid Convention)—a<sup>272</sup> treaty directed towards the specific practice of racial apartheid.<sup>273</sup>

However, a more productive path for Canada to discharge its duty to cooperate might involve pushing for expanded application of CEDAW to gender apartheid. These efforts may even be aimed at replicating certain sections of the Apartheid Convention within the context of CEDAW and its Optional Protocol. One especially valuable aspect of the Apartheid Convention was the "Group of Three"—the three-person monitoring body authorized under Article IX of the Apartheid Convention that held individuals and institutions accountable for treaty violations.<sup>274</sup> As Victor Kattan and David Johnson explain:

The work of Group of Three included, inter alia, circulating the names of individuals, organizations, and institutions suspected of committing, aiding, or abetting the crime against humanity of apartheid (wherever it occurred) to all UN Member States; drawing up a Statute for a permanent international penal tribunal; convening studies and working groups to think of ways to further implementation of the Convention; and drawing attention to the role of transnational corporations in sustaining apartheid.<sup>275</sup>

Similar measures directed against gender apartheid, and especially the ability for a reporting body to name and blame individuals and corporations from any State Party for their support of the Taliban's discriminatory policies, would go a long way in terms of promoting compliance with Canada's duty to cooperate.

Canada can take a leadership role in recognizing “gender apartheid” under international treaty law by requesting a Special Session of the CEDAW Committee through Rule 3.1(b) of the CEDAW Rules of Procedure to propose changes to the convention.<sup>276</sup>

### **iii) Domestic Measures to Protect Women’s Rights in Afghanistan**

Canada should take a number of measures domestically to strengthen its response to the ongoing human rights crisis facing women and girls in Afghanistan.

Canada should update its NAP to identify how the government will address systemic gender-based discrimination in Afghanistan, which the most recent NAP does not.<sup>277</sup> The NAP should both identify the systemic discrimination currently taking place in Afghanistan and provide concrete action to achieve the country’s NAP objectives. This includes consulting Afghan women in accordance with Canada’s renewed commitment to consult key stakeholders on WPS issues.<sup>278</sup> As part of this objective, Canada should consult those who have fled Afghanistan and now live in Canada, to obtain first-hand accounts of the violations committed by the Taliban and ensure that Canadian government action adequately reflect their calls for justice.

Canada should provide technical and financial support to civil society organizations, particularly local women’s rights organizations in Afghanistan, enabling them to advocate for the improvement of women’s rights on national, regional, and international levels. Many of the organizations in Afghanistan are active but in dire need of support. Canadian support could be channeled through the UN or through international NGOs.

Canada should explore non-criminal means to financially isolate the Taliban. Under the *Special Economic Measures Act*,<sup>279</sup> the Minister of Foreign Affairs can “cause to be seized or restrained ...any property situated in Canada that is owned ... by a foreign state”, or a person associated with that state,<sup>280</sup> where “gross and systematic human rights violations have been committed in [that] foreign state.”<sup>281</sup> This power has been recently exercised to seize the assets of individuals associated with Russia’s 2022 invasion of Ukraine.<sup>282</sup> Given that the Taliban’s practices surely meet the legal threshold for the Minister’s exercise of their seizure powers, the *Special Economic Measures Act* thereby offers a potential mechanism for Canada to quickly respond to any suspicions that property is being held in Canada for purposes of the Taliban, even in the absence of a criminal conviction.

### **iv) Diplomatic Efforts to Support Women and Girls in Afghanistan**

Canada should develop its current NAP objectives (2023-2029) to reflect its diplomatic commitments, not just humanitarian, to the advancement of women’s rights in Afghanistan. In developing a concrete strategy to promote advocacy efforts within the international community for the rights of Afghan women and girls, Canada may help ease widespread abuses.<sup>283</sup> This may include using diplomatic channels and international platforms to raise awareness about human

rights violations in Afghanistan; advocating for international pressure on the Taliban government to respect human rights and uphold its international obligations; and establishing monitoring and reporting mechanisms to track human rights violations in Afghanistan, including gender-based violence, discrimination, and restrictions on women's rights.

Canada should also engage in international cooperation efforts in support of Afghan women and girls. Arif Lalani, Canada's former ambassador to Afghanistan and a distinguished fellow with the Centre for International Governance Innovation, has argued that a Canadian diplomatic presence in Afghanistan would give Ottawa a better sense of what women are doing to work around the new restrictions, such as securing work through private-sector employment and pursuing education via online courses.<sup>284</sup> However, the Canadian government should be careful about taking steps that would legitimize the current *de facto* government. Other options to consider may include sending delegates to Afghanistan, engaging closely with international organizations, such as the UN and EU missions in Afghanistan, becoming more active in Qatar, and engaging in joint diplomatic efforts, sharing intelligence, and coordinating humanitarian aid.

Some Afghan activists have called for a ban against the Taliban's participation in international sport. Friha Rezayee, one of the first two female athletes to represent Afghanistan at the Olympics and founder of the NGO Women Leaders of Tomorrow, previously argued against the Taliban regime's official inclusion in the 2024 Paris Olympic Games given their repeated violations of international human rights law and prohibitions against women's competition in international sports.<sup>285</sup> It is argued that, in view of the global visibility of international sporting events such as the Olympics, sports boycotts may leverage international opinion against states in breach of international law,<sup>286</sup> as with the rugby and cricket boycotts that exerted political pressure on South Africa's apartheid government.<sup>287</sup>

#### **v) Taking a Leadership Role in the Proposed Case Against Afghanistan Under CEDAW at the ICJ**

Canada must assert informed, representative, and thoughtful leadership in the case it is seeking to bring to the ICJ alongside the Netherlands, Germany, and Australia. The importance of this case towards dismantling the systemic discrimination against Afghan women and girls, holding the Taliban to account for the crime against humanity of gender persecution, and ensuring the recognition of gender apartheid should not be understated.

ICJ's decisions carry much weight in the international arena. Afghanistan would be legally obligated to abide by this decision. Failing to do so, Canada, as the filing country, has recourse to appeal to the UN Security Council, which can enforce the judgment.<sup>288</sup> Under Article 94 of the UN Charter, the Security Council can "take measures to ensure compliance," including "sanctions, travel bans, inquiry commissions," and recommendations for the "General Assembly [to] take further actions, such as suspending a country's UN privileges."<sup>289</sup>

In upholding its international human rights commitments, Canada should ensure that any case it brings to the ICJ, in interpreting and applying CEDAW, articulates the gravity and systemic nature of violations in the context of the Taliban's gender-oppressive ideology. In doing so, feminist scholarship around intersectionality and stereotyping may assist in depicting the propagation of systemic discrimination. Feminist scholars such as Professors Rebecca Cook, Sophia Moreau, and Shey Atrey can be relied upon to demonstrate how systemic discrimination manifests and what tools may be used to effectively remedy the systemic nature of oppression against Afghan women and girls.

Canada should centre the lived experiences of Afghan women and girls, particularly given the fact that the ICJ does not have formal procedures for the direct participation of victims/survivors in its proceedings. At the same time, Canada should be mindful not to perpetuate the stereotype of Afghan women and girls as "victims/survivors of the Taliban" but rather as "agents of change" who can contribute to and lead proceedings of the case, including through consultation with Afghan female legal professionals.<sup>290</sup>

Reports from the Special Rapporteur on the situation of human rights in Afghanistan, as well as NGO and think tank reports that meet rigorous data-collection standards, should also be consulted to facilitate its fact-finding and evidence-gathering. Canada also has at its disposal the PPT, which provides evidence of the Taliban's violations of various international law treaties. Consulting these sources provide a clear picture of the severity of CEDAW violations committed by the Taliban.

Canada's continued leadership and involvement in the potential ICJ case is especially important at this juncture in light of recent developments regarding Germany's overall position towards Afghanistan. Beginning in September 2025, Germany has met and negotiated with the Taliban on the deportation of Afghan asylum seekers back to Afghanistan<sup>291</sup> and has revoked its promise to provide sanctuary to hundreds of Afghan asylum seekers within Pakistan.<sup>292</sup> This raises serious concerns regarding Germany's position in the ongoing dispute with Afghanistan and necessitates leadership on Canada's part to ensure women and girls in Afghanistan are not forgotten and left behind.

## VI. Endnotes

---

<sup>1</sup> United Nations Special Rapporteur on the situation of human rights in Afghanistan and the Working Group on discrimination against women and girls, *Situation of women and girls in Afghanistan*, UNHRC, 53<sup>rd</sup> Session, UN Doc A/HRC/53/21 (15 June 2023), online: <<https://www.ohchr.org/en/documents/country-reports/ahrc5321-situation-women-and-girls-afghanistan-report-special-rapporteur>> at para 11.

<sup>2</sup> *Ibid* at paras 12, 17.

<sup>3</sup> *Ibid* at paras 47-48.

<sup>4</sup> *Ibid* at paras 57-59.

<sup>5</sup> Amnesty International, “Amnesty International Report 2022/23: The State of the World’s Human Rights,” Amnesty International (27 March 2023), online: <[www.amnesty.org/en/documents/po110/5670/2023/en/](http://www.amnesty.org/en/documents/po110/5670/2023/en/)> at 66.

<sup>6</sup> Amnesty International, “Afghanistan: The Taliban’s war on women: The crime against humanity of gender persecution in Afghanistan,” Amnesty International (25 May 2023), online: <[www.amnesty.org/en/documents/asa11/6789/2023/en/](http://www.amnesty.org/en/documents/asa11/6789/2023/en/)> at 20.

<sup>7</sup> *Ibid*.

<sup>8</sup> United Nations Special Rapporteur on the situation of human rights in Afghanistan, *The phenomenon of an institutionalized system of discrimination, segregation, disrespect for human dignity and exclusion of women and girls* (13 May 2024) Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General at 4.

<sup>9</sup> *Supra* note 1 at para 97.

<sup>10</sup> *1993 UN Declaration of the Elimination of Violence Against Women*, 20 December 1993, UNGA 48/104.

<sup>11</sup> *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, 1249 UNTS 13, art 5 (entered into force 3 September 1981).

<sup>12</sup> Karima Bennouna, *The International Obligation to Counter Gender Apartheid in Afghanistan* (2022) Rev 54(1) Columbia Human Rights Law at 1, 25.

<sup>13</sup> *Supra* note 1 at para 95.

<sup>14</sup> Rangita de Silva de Alwis, Catherine Amirfar, and Helena Kennedy, “Closing the Accountability Gap and Redrawing the Boundaries of International Law: An All-Tools Approach to Addressing Systemic Discrimination on the Basis of Sex” (30 May 2025) 63(2): 389 Columbia Journal of Transnational Law at 415.

<sup>15</sup> *Supra* note 12 at 25.

<sup>16</sup> *Supra* note 8 at 13.

<sup>17</sup> *Supra* note 12 at 26.

<sup>18</sup> *Supra* note 8 at 14.

<sup>19</sup> *Ibid*.

<sup>20</sup> Embassy of the Islamic Republic of Afghanistan in Ottawa, “Diplomatic History” (2019), online: *Embassy of the Islamic Republic of Afghanistan* <<https://www.afghanembassy.ca/bilateral-relationship/diplomatic-history.html>>.

<sup>21</sup> *Ibid*.

<sup>22</sup> *Supra* note 1 at para 6.

<sup>23</sup> *Supra* note 20.

<sup>24</sup> Stephen Azzi and Richard Foot, “Canada and the War in Afghanistan,” *The Canadian Encyclopedia* (5 February 2021). online: <<https://thecanadianencyclopedia.ca/en/article/international-campaign-against-terrorism-in-afghanistan>>.

<sup>25</sup> *Supra* note 20.

<sup>26</sup> Global Affairs Canada “Canada-Afghanistan relations” (29 October 2025), online: *Government of Canada* <[www.international.gc.ca/country-pays/afghanistan/relations.aspx?lang=eng](http://www.international.gc.ca/country-pays/afghanistan/relations.aspx?lang=eng)>.

<sup>27</sup> Kenneth Holland & Christopher Kirkey, “An evaluation of Canada's engagement in Afghanistan” (2013) 68:2 *Int'l J.* 269.

<sup>28</sup> *Supra* note 26.

<sup>29</sup> *Ibid*.

<sup>30</sup> Veterans Affairs Canada, “Combat in Kandahar” (7 September 2022), online: *Government of Canada*, <[www.veterans.gc.ca/eng/remembrance/wars-and-conflicts/afghanistan/kandahar](http://www.veterans.gc.ca/eng/remembrance/wars-and-conflicts/afghanistan/kandahar)>.

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

- 
- <sup>32</sup> Global Affairs Canada. *Synthesis Report: Summative Evaluation of Canada's Afghanistan Development Program, Fiscal year 2004–2005 to 2012–2013* (March 2015) at 47, online: <<https://www.international.gc.ca/departement-ministere/assets/pdfs/evaluation/2015/adp-pda-eng.pdf>> at 2.
- <sup>33</sup> *Ibid.*
- <sup>34</sup> *Supra* note 24.
- <sup>35</sup> *Supra* note 32.
- <sup>36</sup> Employment and Social Development Canada, “Afghanistan” (21 May 2012), online (news releases): <<https://www.canada.ca/en/news/archive/2012/05/afghanistan.html>>
- <sup>37</sup> Center for Preventive Action, “Instability in Afghanistan” (17 August 2023), *Global Conflict Tracker*, online: <<https://www.cfr.org/global-conflict-tracker/conflict/war-afghanistan>>.
- <sup>38</sup> *Ibid.*
- <sup>39</sup> Global Affairs Canada, *June 2020 Evaluation of International Assistance Programming in Afghanistan: Final Report International Assistance Evaluation Division* (Ottawa: GAC, 2020) at 4 online: <https://www.oecd.org/content/dam/oecd/en/toolkits/derec/evaluation-reports/derec/canada/afghanistan-evaluation-report.pdf>.
- <sup>40</sup> *Supra* note 24.
- <sup>41</sup> *Ibid.*
- <sup>42</sup> *Ibid.*
- <sup>43</sup> *Ibid.*
- <sup>44</sup> *Supra* note 37.
- <sup>45</sup> *Ibid.*
- <sup>46</sup> *Ibid.*; *Agreement for Bringing Peace to Afghanistan between the Islamic Emirate of Afghanistan which is not recognized by the United States as a state and is known as the Taliban and the United States of America*, (29 February 2020), online: <<https://www.state.gov/wp-content/uploads/2020/02/Agreement-For-Bringing-Peace-to-Afghanistan-02.29.20.pdf>>
- <sup>47</sup> *Supra* note 37.
- <sup>48</sup> *Ibid.*
- <sup>49</sup> *Ibid.*
- <sup>50</sup> Catharine Tunney, “Canada's airlift mission from Kabul ends, leaving many behind” (26 August 2021), online: <<https://www.cbc.ca/news/politics/canada-afghanistan-last-flight-1.6153899>>
- <sup>51</sup> Government of Canada, “AFGH – Initial Evacuation Efforts – April 25, 2022”, online <<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/transparency/committees/afgh-apr-25-2022/initial-evacuation-efforts.html?>>
- <sup>52</sup> *Supra* note 6 at 1; *Supra* note 1 at 4.
- <sup>53</sup> *Supra* note 6 at 1.
- <sup>54</sup> *Supra* note 37.
- <sup>55</sup> *Ibid.*
- <sup>56</sup> *Ibid.*
- <sup>57</sup> *Ibid.*
- <sup>58</sup> Zahra Nader and Hamayon Rastgar, “Afghan Canadians,” *The Canadian Encyclopedia* (21 June 2018). online: <<https://www.thecanadianencyclopedia.ca/en/article/afghan-canadians>>; *Supra* note 26.
- <sup>59</sup> Tom Blackwell, “Ottawa Rejects Taliban Bid for Afghanistan’s Canadian Embassy” (26 February 2024), online <<https://nationalpost.com/news/politics/ottawa-rejects-taliban-bid-for-afghanistans-canadian-embassy>> [*Blackwell*]; Besmellah Zahidi, “Canada Rejected Taliban’s Bid for Afghanistan Embassy in Ottawa” (25 March 2024), online: <<https://kابلnow.com/2024/02/canada-rejected-talibans-bid-for-afghanistan-embassy-in-ottawa/>>
- <sup>60</sup> *Ibid.*
- <sup>61</sup> *Ibid Blackwell.*
- <sup>62</sup> *Ibid.*
- <sup>63</sup> *Supra* note 26.
- <sup>64</sup> Raffy Boudjikianian, “Canadian officials have met with Taliban more than a dozen times since Kabul fell: documents”, *CBC News* (05 October 2022), online: < Canadian officials have met with Taliban more than a dozen times since Kabul fell: documents | *CBC News* > [*Boudjikianian*].
- <sup>65</sup> *Ibid.*; Dylan Robertson, “Canada's former Afghan envoy suggests Ottawa send diplomats to Taliban-held country,” *CTV News* (15 November 2023), online: < <https://www.ctvnews.ca/politics/canada-s-former-afghan-envoy-suggests-ottawa-send-diplomats-to-taliban-held-country-1.6645714> >.
- <sup>66</sup> *Ibid Boudjikianian.*

---

<sup>67</sup> Belquis Ahmadi and Scott Worden, “Two Years of the Taliban’s ‘Gender Apartheid’ in Afghanistan,” United States Institute of Peace (14 September 2023), online: < <https://www.usip.org/publications/2023/09/two-years-talibans-gender-apartheid-afghanistan> >.

<sup>68</sup> Afghanistan Analysis Network, “A Taleban Theory of State: A Review of the Chief Justice’s Book of Jurisprudence,” Afghanistan Analysis Network (August 2023), online: < <https://www.afghanistan-analysts.org/en/wp-content/uploads/sites/2/2023/09/chief-justice-book-review-FINAL-.pdf> > at 8 [*Taleban Theory of State*]; U.S Department of State, “2022 Report on International Religious Freedom: Afghanistan,” U.S Department of State, online: < <https://www.state.gov/reports/2022-report-on-international-religious-freedom/afghanistan/> > at s. 2; Ron Synovitz, “Taliban ‘Tribal Version’: Shari’a Is Not The Same Everywhere,” Radio Free Europe (2 October 2021), online: < <https://www.rferl.org/a/taliban-sharia-law-afghanistan/31488108.html> >

<sup>69</sup> *Ibid* *Taleban Theory of State*.

<sup>70</sup> *Ibid*.

<sup>71</sup> UN News. “Four years on, here’s what total exclusion of women in Afghanistan looks like,” UN News (11 August 2025), online: < <https://news.un.org/en/story/2025/08/1165622> >

<sup>72</sup> People’s Tribunal for Women of Afghanistan. *Indictment* (August 2025), online: < [Peoples-Tribunal-for-Women-of-Afghanistan-Indictment.pdf](https://www.peoples-tribunal-for-women-of-afghanistan.org/indictment) >

<sup>73</sup> *Universal Declaration of Human Rights*, GA Res 217A (III), UNGAOR, 3rd Sess, Supp No 13, UN Doc A/810 (10 December 1948) 71.

<sup>74</sup> *Ibid* at arts 1, 2, 7.

<sup>75</sup> *Ibid* at arts 3,5.

<sup>76</sup> *Ibid* at arts 18, 19, 20.

<sup>77</sup> *International Covenant on Civil and Political Rights*, GA Res 2200A (XXI), 21 UNGAOR Supp. No. 16 at 52, UN Doc A/6316 (23 March 1976), 999 UNTS 171.

<sup>78</sup> *International Covenant on Economic, Social and Cultural Rights*, GA Res 2200A (XXI), 21 UNGAOR Supp. (No. 16) at 49, UN Doc A/6316 (3 January 1976), 993 UNTS. 3.

<sup>79</sup> *Supra* note 11.

<sup>80</sup> *Ibid*.

<sup>81</sup> *Convention on the Rights of the Child*, GA Res 44/25, 44 UNGAOR Supp. (No. 49) at 167, UN Doc A/44/49, Annex [UNCRC] (2 September 1990).

<sup>82</sup> *Ibid*.

<sup>83</sup> *Ibid*.

<sup>84</sup> *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, GA res 39/46, 39 UNGAOR Supp. (No. 51) at 197, UN Doc A/39/51, Annex [UNCAT] (26 June 1987).

<sup>85</sup> *Ibid* at art 2.

<sup>86</sup> *Ibid* at art 1.

<sup>87</sup> *Ibid* at art 4.

<sup>88</sup> *Ibid* at arts 12, 13.

<sup>89</sup> *Ibid* at art 10.

<sup>90</sup> *Ibid* at art 16.

<sup>91</sup> United Nations Special Rapporteur on the situation of human rights in Afghanistan, *Access to justice and protection for women and girls and the impact of multiple and intersecting forms of discrimination* A/HRC/59/25 (11 June 2025), online: <<https://www.ohchr.org/sites/default/files/2025-06/a-hrc-59-25-auv-1-en.pdf>> at paras 22-23.

<sup>92</sup> Sema Hasan, “Religious Freedom and Women’s Rights in Afghanistan: Issue Update,” United States Commission on International Religious Freedom (August 2023), online: <[https://www.uscirf.gov/sites/default/files/2023%20Religious%20Freedom%20and%20Womens%20Rights%20in%20Afghanistan%20Issue%20Update\\_Final.pdf](https://www.uscirf.gov/sites/default/files/2023%20Religious%20Freedom%20and%20Womens%20Rights%20in%20Afghanistan%20Issue%20Update_Final.pdf)> at 4.

<sup>93</sup> Gabija Leclerc and Rosamund Shreeves, “Women’s rights in Afghanistan an ongoing battle,” European Parliament Research Services (April 2023), online:

<[https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/747084/EPRS\\_BRI\(2023\)747084\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/747084/EPRS_BRI(2023)747084_EN.pdf)> at 8.

<sup>94</sup> UN Women, “Tracking Impact Report on the ban on women working with NGOs, INGOs and UN in Afghanistan - seventh snapshot,” (October 2023) online: <<https://reliefweb.int/report/afghanistan/tracking-impact-report-ban-women-working-ngos-ingos-and-un-afghanistan-seventh-snapshot-october-2023>>.

<sup>95</sup> *Ibid*.

<sup>96</sup> *Ibid*.

- 
- <sup>97</sup> Human Rights Watch, “A Disaster for the Foreseeable Future” (12 February 2024), online: <<https://www.hrw.org/report/2024/02/12/disaster-foreseeable-future/afghanistans-healthcare-crisis>>.
- <sup>98</sup> Hayat Alvi, “Islamists’ Fear of Females The Roots of Gynophobic Misogyny among the Taliban and Islamic State,” (January 2022), online: <<https://media.defense.gov/2026/Jan/14/2003856269/-1/1/0/JIPA%20-%20ALVI%20-%202022.PDF>> at 81.
- <sup>99</sup> Ibid.
- <sup>100</sup> Ornicha Daorueng, “This Is Not Islam: The Taliban’s Rule over Women Shames Humanity, International Center for Sustainability” (22 October 2025), online: <<https://icfs.org.uk/this-is-not-islam-the-talibans-rule-over-women-shames-humanity/>>.
- <sup>101</sup> *Supra* note 11 at art 11.
- <sup>102</sup> Ibid at art 7(b)(2).
- <sup>103</sup> Human Rights Watch, “Afghanistan: Taliban Deprive Women of Livelihoods, Identity,” (18 January 2022), online: <<https://www.hrw.org/news/2022/01/18/afghanistan-taliban-deprive-women-livelihoods-identity>>.
- <sup>104</sup> *Supra* note 5 at 66.
- <sup>105</sup> Sandra Fredman, *Comparative Human Rights Law* (Oxford: Oxford University Press, 2018).
- <sup>106</sup> Ibid at 357.
- <sup>107</sup> *Supra* note 77 art 18(4).
- <sup>108</sup> *Supra* note 81 at art 28(1)(b), (c)
- <sup>109</sup> *Supra* note 105 at 358.
- <sup>110</sup> *Supra* note 11 at art 10.
- <sup>111</sup> United States of America Bureau of Democracy, Human Rights, and Labour, “2022 Country Reports on Human Rights Practices: Afghanistan,” online: <<https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/afghanistan/>>.
- <sup>112</sup> Ibid.
- <sup>113</sup> Ibid.
- <sup>114</sup> Belquis Ahmadi & Hodei Sultan, “Taking a Terrible Toll: The Taliban’s Education Ban,” United States Institute of Peace (13 April 2023), online: <<https://afghanistanpeacecampaign.org/2023/04/15/taking-a-terrible-toll-the-talibans-education-ban/>>.
- <sup>115</sup> *Supra* note 111.
- <sup>116</sup> Ibid.
- <sup>117</sup> Ibid.
- <sup>118</sup> Ibid.
- <sup>119</sup> Ibid.
- <sup>120</sup> Ibid.
- <sup>121</sup> “Afghanistan protests: Taliban use water cannon on women opposing university ban”, BBC News (24 December 2022), online: <<https://www.bbc.com/news/world-asia-64086257>>.
- <sup>122</sup> *Supra* note 111.
- <sup>123</sup> Ibid.
- <sup>124</sup> Ibid.
- <sup>125</sup> Ingrid Burke Friedman, “This Mass Dehumanization of Women Is Gender Apartheid, Nothing Else’ — Ziauddin Yousafzai on the Roots of the Taliban’s Crackdown on Girls’ Education,” Jurist News (13 November 2023), online: <<https://www.jurist.org/features/2023/11/13/ziauddin-yousafzai-afghan-education-ban-1/>>
- <sup>126</sup> *Supra* note 111.
- <sup>127</sup> Ibid.
- <sup>128</sup> Ibid.
- <sup>129</sup> United Nations General Assembly, United Nations Security Council, *The situation in Afghanistan and its implications for international peace and security: report of the Secretary-General*, 78th Sess, UN Doc A/78/789-S/2024/196 (28 February 2024), online: <<https://docs.un.org/en/S/2024/196>> at 3.
- <sup>130</sup> Ibid.
- <sup>131</sup> BBC News, “Taliban ban books written by women from Afghan universities”, BBC News (19 September 2025), online: <<https://www.bbc.com/news/articles/c0kn7yyzrjgo>>.
- <sup>132</sup> Afghan Witness, “Two years of Taliban rule: documenting human rights abuses using open source,” Afghan Witness (15 August 2023), online: <[https://www.info-res.org/app/uploads/2024/11/AW\\_-ANNIVERSARY\\_REPORT\\_150823\\_FINAL.pdf](https://www.info-res.org/app/uploads/2024/11/AW_-ANNIVERSARY_REPORT_150823_FINAL.pdf)> at 15 [*Two years of Taliban rule*].
- <sup>133</sup> Ibid *Two years of Taliban rule*; Amnesty International, “Afghanistan: Death In Slow Motion” (2022), online: <<https://www.amnesty.org/en/documents/asa11/5685/2022/en/>> at 34 [*Death In Slow Motion*].

---

<sup>134</sup> Ibid.

<sup>135</sup> *Supra* note 133 *Death in Slow Motion*.

<sup>136</sup> Ibid at 33.

<sup>137</sup> *Supra* note 132 at 15, 33.

<sup>138</sup> *Supra* note 6 at 13.

<sup>139</sup> *Supra* note 133 *Death in Slow Motion* at 49.

<sup>140</sup> Ibid at 35.

<sup>141</sup> *Supra* note 11 at art 15.

<sup>142</sup> Ibid at art 5.

<sup>143</sup> *Supra* note 132 at 16.

<sup>144</sup> Ibid at 15.

<sup>145</sup> Afghan Witness, “Women protest in Kabul over Taliban ban on beauty salons” (28 July 2023), online: <<https://www.afghanwitness.org/reports/women-protest-in-kabul-over-taliban-ban-on-beauty-salons>>.

<sup>146</sup> Voice of America, “Afghan Shops Remove Heads of Mannequins in Line With Taliban Order” (2 January 2022), online: <<https://www.voanews.com/a/afghan-shops-remove-heads-of-mannequins-in-line-with-taliban-order/6379748.html>>.

<sup>147</sup> *Supra* note 132 at 18.

<sup>148</sup> Ibid.

<sup>149</sup> *Supra* note 73 at art 3.

<sup>150</sup> *Supra* note 11 at art 2.

<sup>151</sup> Ibid.

<sup>152</sup> Afghan Witness, “Violence behind a screen: rising online abuse silences Afghan women” (20 November 2023), online: <<https://www.info-res.org/post/violence-behind-a-screen-rising-online-abuse-silences-afghan-women>>.

<sup>153</sup> RFE/RL’s Radio Azadi, “Afghan Women Complain Of Harassment, Threats By Taliban’s Morality Police” (17 July 2023), online: <<https://www.rferl.org/a/afghanistan-women-taliban-harassment-threats-morality-police/32507354.html>>.

<sup>154</sup> Ibid.

<sup>155</sup> Ibid.

<sup>156</sup> Ibid.

<sup>157</sup> Ibid.

<sup>158</sup> Radio Free Europe, “Taliban 'Intensifying' Search For Afghans Who Helped U.S., UN Says,” *Radio Free Europe* (21 August 2021), online: <<https://www.rferl.org/a/afghanistan-taliban-searching-us/31419008.html>>.

<sup>159</sup> Ibid.

<sup>160</sup> Radio Free Europe, “The Azadi Briefing: Taliban Threatens Former Afghan Policewomen”, *Radio Free Europe* (11 October 2024), online: <<https://www.rferl.org/a/afghanistan-taliban-policewomen-germany/33155178.html>>.

<sup>161</sup> *Supra* note 158.

<sup>162</sup> *Supra* note 6.

<sup>163</sup> Qazi Zada, S., & Qazi Zada, M. Z, “The Taliban and women’s human rights in Afghanistan: the way forward,” *The International Journal of Human Rights*, 28(10), (2024) online: <https://doi.org/10.1080/13642987.2024.2369584> at 1687–1722.

<sup>164</sup> Nicholas Yong, “Afghanistan: Taliban sends abused women to prison – UN,” *BBC News* (15 December 2023), online: <<https://www.bbc.com/news/world-asia-67724424#>>.

<sup>165</sup> Ibid.

<sup>166</sup> Ibid.

<sup>167</sup> *Supra* note 6.

<sup>168</sup> Ibid.

<sup>169</sup> Avina Khorasani, “From Sexual Assault to Torture: Women’s Plight in Taliban Prisons Across Northeastern Provinces of Afghanistan,” *8am Media* (6 February 2024), online: <<https://8am.media/eng/from-sexual-assault-to-torture-womens-plight-in-taliban-prisons-across-northeastern-provinces-of-afghanistan/>>.

<sup>170</sup> Ibid.

<sup>171</sup> Ibid.

<sup>172</sup> *Supra* note 6.

<sup>173</sup> Ibid.

<sup>174</sup> Ibid.

<sup>175</sup> Ibid.

---

<sup>176</sup> Ibid; *Supra* note 169.

<sup>177</sup> *Supra* note 6.

<sup>178</sup> Al Jazeera, "UN 'concerned' Taliban detaining Afghan women for dress code violations", *Al Jazeera* (11 January 2024), online: < <https://www.aljazeera.com/news/2024/1/11/un-concerned-taliban-detaining-afghan-women-for-dress-code-violations> >

<sup>179</sup> Ibid.

<sup>180</sup> Ibid.

<sup>181</sup> *Supra* note 78 at art 12.

<sup>182</sup> Office of the United Nations High Commissioner for Human Rights & World Health Organization, "The Right to Health: Fact Sheet No. 31" at 3.

<sup>183</sup> The Committee on Economic, Social and Cultural Rights, "Fact Sheet No.16" (Rev.1) at 3.

<sup>184</sup> *Supra* note 182 at 4.

<sup>185</sup> *Supra* note 97 at 1.

<sup>186</sup> United Nations News, "Afghanistan: The Taliban rule has erased women from public life, sparked mental health crisis" (August 2024), online: <https://news.un.org/en/story/2024/08/1153151>

<sup>187</sup> *Supra* note 97 at 11.

<sup>188</sup> Najibullah Safi and Palwasha Anwari, "Afghanistan: Sustaining Health Care Delivery," London School of Economics (24 October 2022) online: <https://blogs.lse.ac.uk/southasia/2022/10/24/afghanistan-sustaining-health-care-delivery> at 2.

<sup>189</sup> *Supra* note 97 at 12.

<sup>190</sup> *Supra* note 188.

<sup>191</sup> *Supra* note 97 at 17.

<sup>192</sup> Mustafa Basij-Rasikh, Elisa S Dickey, and Alyssa Sharkey, "Primary healthcare system and provider responses to the Taliban takeover in Afghanistan," *BMJ Global Health* (2024) online: < <https://pmc.ncbi.nlm.nih.gov/articles/PMC10882370/pdf/bmjgh-2023-013760.pdf> > at 8.

<sup>193</sup> UN Office for the Coordination of Humanitarian Affairs, "Afghanistan: Humanitarian Update, September 2023," October 19 2023, online: <https://reliefweb.int/report/afghanistan/wfp-afghanistan-situation-report-september-2023>

<sup>194</sup> United Nations, "Afghanistan: nearly 20 million going hungry," UN News (9 May 2022) online: < <https://news.un.org/en/story/2022/05/1117812> >.

<sup>195</sup> *Supra* note 97 at 30.

<sup>196</sup> Ruchi Kumar. "Did Restrictions on Women Workers Hamper Afghanistan's Earthquake Response?" *Al Jazeera*, (27 Sept 2025), online: <[www.aljazeera.com/news/2025/9/27/aid-restrictions-on-women-worsened-afghanistans-earthquake-response](http://www.aljazeera.com/news/2025/9/27/aid-restrictions-on-women-worsened-afghanistans-earthquake-response)>.

<sup>197</sup> Ibid.

<sup>198</sup> *Supra* note 97 at 30.

<sup>199</sup> Najibullah Safi, Palwasha Anwari, and Helah Safi, "Afghanistan's health system under the Taliban: key challenges," (23 Sept 2022), online: <<https://www.thelancet.com/action/showPdf?pii=S0140-6736%2822%2901806-2>> at 1.

<sup>200</sup> *Supra* note 97 at 25.

<sup>201</sup> Ibid.

<sup>202</sup> Ibid at 29.

<sup>203</sup> United Nations Special Rapporteur on the situation of human rights in Afghanistan, *Report on women's and girls' right to health in Afghanistan* A/HRC/61/63 (23 February 2026), online:<<https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session61/advance-version/a-hrc-61-63-auv.pdf>> at 9.

<sup>204</sup> Ibid at 17.

<sup>205</sup> Government of Canada, "The United Nations Convention on the Rights of the Child: An Overview for Children and Teenagers," Government of Canada (5 November 2021), online: < <https://www.canada.ca/en/public-health/services/national-child-day/united-nations-convention-rights-of-the-child.html> >

<sup>206</sup> United Nations Office of the Special Representative of the Secretary-General for Children and Armed Conflict, "Afghanistan: A dire situation for children due to a lack of access to basic services and increased vulnerabilities," *United Nations* (22 December 2023), online <<https://childrenandarmedconflict.un.org/2023/12/afghanistan-a-diresituation-for-children-due-to-a-lack-of-access-to-basic-services-and-increased-vulnerabilities/>>.

<sup>207</sup> Ibid.

<sup>208</sup> War Child, "Afghanistan," *Stichting War Child Alliance*, online: <<https://www.warchild.net/afghanistan/>>.

- 
- <sup>209</sup> Human Rights Watch, “They Bear All the Pain: Hazardous Child Labor in Afghanistan,” (14 July 2016), online: <<https://www.hrw.org/report/2016/07/15/they-bear-all-pain/hazardous-child-labor-afghanistan>>.
- <sup>210</sup> U.S Department of Labor, “2022 Findings on the Worst Forms of Child Labor: Afghanistan,” U.S Department of Labor (2022), online: <[https://www.dol.gov/sites/dolgov/files/ILAB/child\\_labor\\_reports/tda2022/Afghanistan.pdf](https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2022/Afghanistan.pdf)> at 2.
- <sup>211</sup> *Supra* note 209.
- <sup>212</sup> *Ibid*.
- <sup>213</sup> Ziba Vaghri, “Article 6: The Rights to Life, Survival, and Development” in *Monitoring State Compliance with the UN Convention on the Rights of the Child* (London: Springer, 2022) at 31.
- <sup>214</sup> *Supra* note 210 at 106.
- <sup>215</sup> *Ibid*.
- <sup>216</sup> Vrinda Narain, “The world must not look away as the Taliban sexually enslaves women and girls,” *The Conversation* (15 August 2021), online: <<https://theconversation.com/the-world-must-not-look-away-as-the-taliban-sexually-enslaves-women-and-girls-165426>>.
- <sup>217</sup> Rawadari, “The Human Rights Situation of Children in Afghanistan: Violations of Civil and Political Rights,” (November 2023), online: <<https://rawadari.org/reports/the-human-rights-situation-of-children-in-afghanistan-violations-of-civil-and-political-rights/>> at 10.
- <sup>218</sup> *Ibid* at 11.
- <sup>219</sup> *Supra* note 81.
- <sup>220</sup> Global Affairs Canada, “Canada’s Feminist International Assistance Policy,” *Government of Canada* (15 August 2025), online: <[https://www.international.gc.ca/world-monde/issues\\_developpement-enjeux\\_developpement/priorites-priorites/policy-politique.aspx?lang=eng](https://www.international.gc.ca/world-monde/issues_developpement-enjeux_developpement/priorites-priorites/policy-politique.aspx?lang=eng)>
- <sup>221</sup> Global Affairs Canada, “Departmental Results Report 2023-24,” *Government of Canada* (27 November 2023), online: <[www.international.gc.ca/transparency-transparence/departemental-plan-ministeriel/2023-2024.aspx?lang=eng](http://www.international.gc.ca/transparency-transparence/departemental-plan-ministeriel/2023-2024.aspx?lang=eng)>.
- <sup>222</sup> United Nations Security Council, *Resolution 1325* (2000), UNSCOR, 55th Sess, (2000), online: <<https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/WPS%20SRES1325%20.pdf>>.
- <sup>223</sup> Government of Canada, “Canada’s National Action Plan on Women, Peace and Security,” *Government of Canada* (15 August 2025), online: <[https://www.international.gc.ca/world-monde/issues\\_developpement-enjeux\\_developpement/gender\\_equality-egalite\\_des\\_genres/cnap\\_wps-pnac\\_fps.aspx?lang=eng](https://www.international.gc.ca/world-monde/issues_developpement-enjeux_developpement/gender_equality-egalite_des_genres/cnap_wps-pnac_fps.aspx?lang=eng)>.
- <sup>224</sup> Global Affairs Canada, “Progress Report on Canada’s National Action Plan 2017-2022 for the Implementation of the United Nations Security Council Resolutions on Women, Peace and Security Fiscal Year 2020-2021,” *Government of Canada* (13 July 2022), online: <[www.international.gc.ca/transparency-transparence/women-peace-security-femmes-paix-securite/2020-2021-progress-reports-rapports-etapes.aspx?lang=eng#a6\\_3](http://www.international.gc.ca/transparency-transparence/women-peace-security-femmes-paix-securite/2020-2021-progress-reports-rapports-etapes.aspx?lang=eng#a6_3)>.
- <sup>225</sup> *Ibid*.
- <sup>226</sup> Global Affairs Canada, “Statement by Minister of Foreign Affairs, Minister of International Development and Minister of Small Business, Export Promotion and International Trade on International Women’s Day,” *Government of Canada* (8 March 2021), online: <[www.canada.ca/en/global-affairs/news/2021/03/statement-by-minister-of-foreign-affairs-minister-of-international-development-and-minister-of-small-business-export-promotion-and-international-tr.html](http://www.canada.ca/en/global-affairs/news/2021/03/statement-by-minister-of-foreign-affairs-minister-of-international-development-and-minister-of-small-business-export-promotion-and-international-tr.html)>.
- <sup>227</sup> Global Affairs Canada. “Foundations for Peace: Canada’s National Action Plan on Women, Peace and Security – 2023 to 2029,” *Government of Canada* (15 January 2026), online: <[www.international.gc.ca/transparency-transparence/women-peace-security-femmes-paix-securite/2023-2029-foundation-peace-fondation-paix.aspx?lang=eng#a4](http://www.international.gc.ca/transparency-transparence/women-peace-security-femmes-paix-securite/2023-2029-foundation-peace-fondation-paix.aspx?lang=eng#a4)>.
- <sup>228</sup> *Supra* note 220.
- <sup>229</sup> Global Affairs Canada, “Evaluation of International Assistance Programming in Afghanistan: 2014/15 to 2019/20,” *Government of Canada* (June 2020), online: <[www.oecd.org/derec/canada/afghanistan-evaluation-report.pdf](http://www.oecd.org/derec/canada/afghanistan-evaluation-report.pdf)> at 25.
- <sup>230</sup> *Ibid* at 23.
- <sup>231</sup> *Ibid* at 21.
- <sup>232</sup> *Ibid*.
- <sup>233</sup> Global Affairs Canada, “Departmental Results Report 2022-23”, *Government of Canada* (last modified: 30 Oct 2025) online: <https://international.canada.ca/en/global-affairs/corporate/reports/departemental-results/global-affairs-2022-2023-departemental-results> >.
-

---

<sup>234</sup> National Post Staff, “Carney Declares End to Canada’s ‘Feminist Foreign Policy,’ Breaking from Trudeau Era Doctrine,” *National Post* (23 Nov 2025), online: <[nationalpost.com/news/canada/mark-carney-canada-feminist-foreign-policy](https://nationalpost.com/news/canada/mark-carney-canada-feminist-foreign-policy)>.

<sup>235</sup> *Supra* note 11 art 29.

<sup>236</sup> Ali M Latifi, “How a law change could soon allow Canadian aid to return to Afghanistan”, *The New Humanitarian* (4 April 2023), online: <<https://www.thenewhumanitarian.org/news/2023/04/04/law-change-canadian-aid-return-afghanistan>>.

<sup>237</sup> CanWaCH, “The Criminal Code blocks Canadian humanitarian assistance to Afghanistan” (22 June 2022), online: <[canwach.ca/article/the-criminal-code-blocks-canadian-humanitarian-assistance-to-afghanistan/](https://canwach.ca/article/the-criminal-code-blocks-canadian-humanitarian-assistance-to-afghanistan/)>.

<sup>238</sup> *Ibid*.

<sup>239</sup> House of Commons, *Honouring Canada’s Legacy in Afghanistan: Responding to the Humanitarian Crisis and Helping People Reach Safety: Report of the Special Committee on Afghanistan*, 44-1, (June 2022) at 10, (Chair: Sukh Dhaliwal) online:

<<https://www.ourcommons.ca/Content/Committee/441/AFGH/Reports/RP11826943/afghrp01/afghrp01-e.pdf>>.

<sup>240</sup> Bill C-41, *An Act to amend the Criminal Code and to make consequential amendments to other Acts*, 1st Sess, 44th Parl, 2023 (assented to 20 June 2023), SC 2023, c 14.

<sup>241</sup> Dylan Robertson, “Aid groups say Ottawa still hampering work in Afghanistan, despite legislation”, *CBC News* (23 November 2023), online: <[cbc.ca/news/politics/ottawa-afghanistan-aid-work-1.7037932](https://www.cbc.ca/news/politics/ottawa-afghanistan-aid-work-1.7037932)>.

<sup>242</sup> World Vision Canada, “What is happening in Afghanistan – and why?” (6 April 2022), online: <[worldvision.ca/stories/child-protection/what-is-happening-in-afghanistan](https://worldvision.ca/stories/child-protection/what-is-happening-in-afghanistan)>.

<sup>243</sup> The Associated Press, “Restricted rights put Afghan women and girls in a ‘deadly situation’ during quakes, UN official says”, *CTV News* (22 October 2023), online: <[ctvnews.ca/world/article/restricted-rights-put-afghan-women-and-girls-in-a-deadly-situation-during-quakes-un-official-says/](https://www.ctvnews.ca/world/article/restricted-rights-put-afghan-women-and-girls-in-a-deadly-situation-during-quakes-un-official-says/)>; *Supra* note 132.

<sup>244</sup> *Supra* note 132.

<sup>245</sup> Associated Press, “Afghan women, girls face array of challenges after deadly earthquakes, UN says”, *PBS News* (22 October 2023), online: <[pbs.org/newshour/world/afghan-women-girls-face-array-of-challenges-after-deadly-earthquakes-un-says](https://www.pbs.org/newshour/world/afghan-women-girls-face-array-of-challenges-after-deadly-earthquakes-un-says/)>.

<sup>246</sup> *Supra* note 26.

<sup>247</sup> *Supra* note 203 at 11.

<sup>248</sup> *Ibid* at 7.

<sup>249</sup> *Supra* note 1 at para 95.

<sup>250</sup> *Supra* note 78 at art 2.

<sup>251</sup> *Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights*, (Heidelberg, ETO Consortium, 2013) art 8.

<sup>252</sup> Government of Canada, “Canada’s Engagement in Afghanistan: Fourteenth and Final Report to Parliament”, (Ottawa: Privy Council Office, 2012) online: <[publications.gc.ca/collections/collection\\_2012/bcp-pco/CP12-2-14-2012-eng.pdf](https://publications.gc.ca/collections/collection_2012/bcp-pco/CP12-2-14-2012-eng.pdf)> at 6.

<sup>253</sup> Marie Woolf, “Afghan women ministers warned Canada of Taliban atrocities in June: senator”, *CBC News* (4 October 2021), online: <[www.cbc.ca/news/politics/afghan-women-ministers-taliban-atrocities-1.6199101](https://www.cbc.ca/news/politics/afghan-women-ministers-taliban-atrocities-1.6199101)>.

<sup>254</sup> *Supra* note 251 at art 26.

<sup>255</sup> Alice Craft, “Can Canada Come to the Rescue? The Fall of Afghanistan and the WPS agenda” (1 August 2022), online: <[mcgill.ca/rnwps/article/our-blog/can-canada-come-rescue-fall-afghanistan-and-wps-agenda](https://www.mcgill.ca/rnwps/article/our-blog/can-canada-come-rescue-fall-afghanistan-and-wps-agenda)>.

<sup>256</sup> Jacqui True, “The UN’s Diplomatic Defeatism in Afghanistan: Forward or Back for Women, Peace and Security (WPS)?” (26 June 2024), online: <[internationalaffairs.org.au/australianoutlook/the-uns-diplomatic-defeatism-in-afghanistan-forward-or-back-for-women-peace-and-security-wps/](https://internationalaffairs.org.au/australianoutlook/the-uns-diplomatic-defeatism-in-afghanistan-forward-or-back-for-women-peace-and-security-wps/)>.

<sup>257</sup> Amina Zurmati & Qudratullah Zurmati, “The Doha Meeting: Where Were the Afghan Women?” *The Diplomat* (3 July 2024), online: <[thediplomat.com/2024/07/the-doha-meeting-where-were-the-afghan-women/](https://thediplomat.com/2024/07/the-doha-meeting-where-were-the-afghan-women/)>.

<sup>258</sup> Global Affairs Canada, “Statement on Canada’s attendance at UN meeting on Afghanistan,” *Government of Canada* (30 June 2024), online: <[canada.ca/en/global-affairs/news/2024/06/statement-on-canadas-attendance-at-un-meeting-on-afghanistan.html](https://www.canada.ca/en/global-affairs/news/2024/06/statement-on-canadas-attendance-at-un-meeting-on-afghanistan.html)>.

<sup>259</sup> *Supra* note 12 at 1.

<sup>260</sup> *Ibid* at 84.

<sup>261</sup> Courtney W Howland, “Challenge of Religious Fundamentalism to the Liberty and Equality Rights of Women: An Analysis under the United Nations Charter” (1997) 35:2 *Columbia Journal of Transnational Law* 271 at 327.

<sup>262</sup> Ann Elizabeth Mayer, “A Benign Apartheid: How Gender Apartheid Has Been Rationalized” (2000) 5:2 *UCLA Journal of International Law & Foreign Affairs* 237 at 237.

- 
- <sup>263</sup> Ibid at 239.
- <sup>264</sup> Ibid at 245.
- <sup>265</sup> Ibid.
- <sup>266</sup> Elena Baylis, “The International Law Commission's Soft Law Influence,” 13 *FIU Law Review* 1007 (2019) at 1016.
- <sup>267</sup> “Report of the Commission to the General Assembly on the work of its fifty-third session” (UN Doc A/56/10) in *Yearbook of the International Law Commission 2001*, vol 2, part 2 (New York and Geneva: UN, 2007) at 29 (UNDOC. A/CN.4/SER.A/2001/Add.1 (Part2)).
- <sup>268</sup> Ibid.
- <sup>269</sup> Annie Bird, “Third State Responsibility for Human Rights Violations” (2011) 21:4 *European Journal of International Law* 883 at 888-89.
- <sup>270</sup> Working group on discrimination against women and girls, “Gender apartheid must be recognised as a crime against humanity, UN experts say” (20 February 2024), online: <[www.ohchr.org/en/press-releases/2024/02/gender-apartheid-must-be-recognised-crime-against-humanity-un-experts-say](http://www.ohchr.org/en/press-releases/2024/02/gender-apartheid-must-be-recognised-crime-against-humanity-un-experts-say)>.
- <sup>271</sup> Ibid.
- <sup>272</sup> Victor Kattan and David Johnson, “The Crime of Apartheid beyond Southern Africa: A Call to Revive the Apartheid Convention’s “Group of Three”,” (21 September 2023), online (blog): <[www.ejiltalk.org/the-crime-of-apartheid-beyond-southern-africa-a-call-to-revive-the-apartheid-conventions-group-of-three/](http://www.ejiltalk.org/the-crime-of-apartheid-beyond-southern-africa-a-call-to-revive-the-apartheid-conventions-group-of-three/)>.
- <sup>273</sup> Ibid.
- <sup>274</sup> Ibid.
- <sup>275</sup> Ibid.
- <sup>276</sup> *Rules of procedure of the Committee on the Elimination of Discrimination against Women*, CEDAW, 2001, UN Doc A/56/38 (2001) Annex I at 90.
- <sup>277</sup> *Supra* note 227.
- <sup>278</sup> Ibid at 36.
- <sup>279</sup> *Special Economic Measures Act*, SC 1992, c 17.
- <sup>280</sup> Ibid at s 4(1)(b).
- <sup>281</sup> Ibid at s 4(1.1)(c).
- <sup>282</sup> Government of Canada, *Canadian Sanctions Related to Russia* (Ottawa: GC, 2024) online: <[www.international.gc.ca/world-monde/international\\_relations-relations\\_internationales/sanctions/russie.aspx?lang=eng](http://www.international.gc.ca/world-monde/international_relations-relations_internationales/sanctions/russie.aspx?lang=eng)>
- <sup>283</sup> Heather Barr, “What Do Canada, France, Germany, and Sweden Owe Afghan Women? Taliban abuses demand action from countries with a ‘feminist foreign policy’” (23 March 2022), online: <[www.hrw.org/news/2022/03/23/what-do-canada-france-germany-and-sweden-owe-afghan-women](http://www.hrw.org/news/2022/03/23/what-do-canada-france-germany-and-sweden-owe-afghan-women)>.
- <sup>284</sup> *Supra* note 65.
- <sup>285</sup> Shireen Ahmed, “Women Afghan athletes differ on whether Olympic ban will help their cause”, *CBC News* (21 March 2024), online: <[www.cbc.ca/sports/olympics-afghanistan-ban-shireen-ahmed-1.7147402](http://www.cbc.ca/sports/olympics-afghanistan-ban-shireen-ahmed-1.7147402)>.
- <sup>286</sup> See e.g. Marlene Goldsmith, “Sporting Boycotts as a Political Tool” (1995) 67:1 *Aust L J* 11.
- <sup>287</sup> See e.g. Douglas Booth, “Hitting Apartheid for Six? The Politics of the South African Sports Boycott” (2003) 38:3 *J Contemp Hist* 477.
- <sup>288</sup> Open Society Justice Initiative, “Q&A Briefing: Bringing a Case Before the International Court of Justice for the Rights of Afghan Women and Girls” (April 2024) at 5, online (pdf): <[www.justiceinitiative.org/uploads/77b7185d-7ba6-4ef9-8fa5-a7155234b0de/Q&A-Litigating-for-the-Rights-of-Afghan-Women-and-Girls-Before-the-ICJ-Final.pdf](http://www.justiceinitiative.org/uploads/77b7185d-7ba6-4ef9-8fa5-a7155234b0de/Q&A-Litigating-for-the-Rights-of-Afghan-Women-and-Girls-Before-the-ICJ-Final.pdf)>.
- <sup>289</sup> *Ibid* at 6.
- <sup>290</sup> Fereshta Abbasi, Natasha Arnpriester, and Duru Yavan, “An Avenue to Justice for Afghan Women: Bringing a CEDAW Case Before the International Court of Justice”, *The Cambridge Journal of Law, Politics, and Art* (13 May 2024), online: <[www.cjlpa.org/post/an-avenue-to-justice-for-afghan-women-bringing-a-cedaw-case-before-the-international-court-of-justi](http://www.cjlpa.org/post/an-avenue-to-justice-for-afghan-women-bringing-a-cedaw-case-before-the-international-court-of-justi)>.
- <sup>291</sup> Jens Thurau, “German government nears deal with Taliban on deportations”, *DW News* (19 September 2025), online: <[www.dw.com/en/german-government-nears-deal-with-taliban-on-deportations/a-74046942](http://www.dw.com/en/german-government-nears-deal-with-taliban-on-deportations/a-74046942)>
- <sup>292</sup> Deborah Cole, “Germany Drops Promise to Resettle Hundreds of Afghans”, *The Guardian* (11 December. 2025), online: <[www.theguardian.com/world/2025/dec/11/germany-afghanistan-u-turn-migration-pakistan](http://www.theguardian.com/world/2025/dec/11/germany-afghanistan-u-turn-migration-pakistan)>.



**International Human  
Rights Program**