

FROM RECOGNITION TO TRANSFORMATION: ADDRESSING GENDER APARTHEID IN AFGHANISTAN



AN APPLIED RESEARCH PROJECT IN PARTNERSHIP
WITH THE CENTER FOR HUMAN RIGHTS ADVOCACY

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BACKGROUND

The Applied Research Project (ARP) is a central component of the Master in International and Development Studies at the Geneva Graduate Institute, offering students the opportunity to engage directly with real-world challenges. As part of this project, our research team, composed of four Master's students, partnered with the Center for Human Rights Advocacy, an international human rights non-governmental organisation, to conduct research with practical relevance to human rights work.

ACKNOWLEDGEMENTS

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We would like to also thank the women artists of Afghanistan whose works greatly enriched this report. Finally, we would like to extend our deepest gratitude to all experts and practitioners, including the people of Afghanistan who agreed to support our work with their expertise and whose valuable insights were essential to this research.

DEDICATION

We would like to dedicate this project to the women and girls of Afghanistan, who continue to advocate for their rights in the face of an institutionalised system of oppression and discrimination. As an all-women team, this project holds particular significance for us and we are honoured to support and amplify, in any way we can, their work and courage. This project is also dedicated to all actors in the international community, who we urge to urgently realise the recommendations offered in this report and continue to take this essential work forward.



EXECUTIVE SUMMARY

As the situation of women and girls across Afghanistan continues to worsen, this Applied Research Project is for Afghanistan's women and girls, all those supporting them, and who join in supporting them. It attempts to outline the historical and current situation of Afghanistan's women and girls, examines existing efforts in response, and then proceeds to offer concrete recommendations for an effective way forward.

This Applied Research Project comes at a crucial moment, between the ongoing operationalisation of the Independent Investigative Mechanism for Afghanistan (IIM-A) and continued momentum towards the recognition and codification of gender apartheid as an international crime.

The Project's recommendations are structured into four interconnected and interdependent stages: progress in one strengthens the others, while failure to address any single pillar weakens overall progress. The Project's recommendations begin by ensuring Afghanistan's women remain at the centre of all efforts ahead; then proceeds to outlining strategies to support progress towards efforts to recognise and codify gender apartheid as an international crime; followed by offering guidelines on preparing for a comprehensive approach to justice through the IIM-A; and finally, a roadmap paving the way towards lasting transformative change. The Tables of Recommendations are intended to serve as a clear blueprint for all actors within the international community to be able to implement them.

The Project argues that for justice to be transformative, it must also address the structural political, social, economic, and patriarchal conditions that sustain exclusion and make violations and abuses possible.

Most importantly, the voices of the women of Afghanistan must define what accountability, prevention, and transformative justice means. One woman interviewed for this report said it best:

"This approach must be shaped by [Afghanistan's] women's own priorities. We know what we need ... Justice must be built with us, not for us. Only then can repair and rebuilding reflect our dignity and our future."

TABLES OF RECOMMENDATIONS



ENSURING AFGHANISTAN'S WOMEN REMAIN AT THE CENTRE OF ALL FUTURE EFFORTS

STATES	• Ensure Afghanistan's women, representing intersecting identities (including, but not limited to, ethnicity, disability, and migration status), serve as substantive decision-makers, capable of influencing outcomes, in all forums on Afghanistan. • Provide long-term, flexible, and direct funding to Afghanistan's women-led civil society organisations both inside Afghanistan and in the diaspora, ensuring a minimum target of 15 per cent of gender-related funding to grassroots organisations. • Women's full and meaningful participation and the protection of women's rights must be a non-negotiable baseline for any engagement. • Regarding the initiative to hold Afghanistan accountable for violations of CEDAW, ensure continuous engagement, collaboration, and transparency with Afghanistan's women and civil society.
IIM-A	• Ensure that the experiences, perspectives, and priorities of the women of Afghanistan are meaningfully integrated across all areas of the IIM-A's work, including through ongoing dialogue.
UN ENTITIES AND INTERNATIONAL HUMAN RIGHTS MECHANISMS	• Guarantee the safe, full, and meaningful participation of Afghanistan's women, including those inside Afghanistan, that allow women to contribute information, expertise, and advocacy. • Centre Afghanistan's women as agents of change, not beneficiaries, in all programming. • Refuse to reinforce restrictions imposed by the Taliban de facto authorities. • The CEDAW Committee should continue to engage with Afghanistan's women, and explicitly position Afghanistan's women as agents of change, empowering their leadership towards realising the recommendations from its 2025 Concluding Observations. • The Special Rapporteur on the situation of human rights in Afghanistan should continue to emphasise that Afghanistan's women must remain at the centre of all efforts ahead.
COURTS	• The Office of the Prosecutor must continue to apply a gender-competent, intersectional, and survivor-centred approach, in accordance with the 2023 Policy on Gender-Based Crimes, across all Afghanistan investigations. • Expand avenues for participation of Afghanistan's women and civil society organisations in any future proceedings. • All courts should ensure that all stages are accessible and comprehensible to Afghanistan's women and communities, including through translation, safe and remote participation options, and clear public communication of updates and outcomes, recognising that the legitimacy of accountability processes depends on their ability to reach those in whose name justice is being pursued.
CIVIL SOCIETY	• Civil society should actively centre Afghanistan women's own epistemologies, forms of resistance, expertise, research, analyses, strategies, agency, and leadership.

ENSURING PROGRESS TOWARDS THE RECOGNITION AND CODIFICATION OF ‘GENDER APARTHEID’ AS AN INTERNATIONAL CRIME

STATES	• Actively support the inclusion of gender apartheid as a distinct crime in the Convention on the Prevention and Punishment of Crimes against Humanity, and resist any attempt to sideline or dilute gender provisions during treaty negotiations. • Ensure that national delegations participating in treaty negotiations on the Crimes against Humanity Convention include gender expertise and the representation of women, and facilitate the participation and leadership of Afghanistan's women as substantive contributors. • Refrain from any action that legitimizes or normalizes the institutionalised system of discrimination and oppression on the basis of gender in Afghanistan.
IIM-A	• Prioritise strategies for the collection, consolidation, preservation and analysis of evidence, as well as documentation and verification of information and evidence, capable of demonstrating the systematic and widespread nature of the institutionalised system of oppression on the basis of gender, to ensure use by multiple justice actors to support a future case of ‘gender apartheid’ if it is codified as an international crime, including a structural investigation approach capable of examining discriminatory structural drivers of violations and abuses, so that justice processes are able to address these structural drivers, so as to maximize the contribution that justice processes can make to building sustainable foundations for lasting change; while also expanding discussions in applicable fora with relevant justice actors on the topic of ‘gender apartheid.’
UN ENTITIES AND INTERNATIONAL HUMAN RIGHTS MECHANISMS	• Maintain consistent attention on the ongoing system of discrimination and oppression on the basis of gender through all available avenues, including, but not limited to, reports, statements, briefings, press releases, and official communications, explicitly characterising the situation as ‘gender apartheid,’ while also supporting and calling for its recognition and codification.
JUDGES, LAWYERS, AND THE ICC’S OTP	• Judges and lawyers should use the concept of gender apartheid credibly and repeatedly to help pave the way for its recognition and codification within international law. • The ICC’s Office of the Prosecutor should build on its Policy on Gender-Based Crimes, reflecting developments in the concept of gender apartheid in its approach to concepts, principles, and practical considerations that ground the Office’s work on gender-based crimes.
CIVIL SOCIETY	• Continue using the term ‘gender apartheid’ consistently and strategically in all advocacy efforts, maintaining sustained attention on the structured and institutionalised nature of the oppression and discrimination and building the momentum necessary for its recognition and codification as an international crime. • Pursue strategic litigation to further build support towards recognition and codification of gender apartheid as an international crime. • Treat the recognition and codification of gender apartheid as the beginning of a long-term process of structural change.

PREPARING FOR A COMPREHENSIVE APPROACH TO JUSTICE THROUGH THE IIM-A

STATES	• Commit sustained financial, technical, and diplomatic support to the newly established IIM-A and ensure this support is maintained over the long term.
IIM-A	• Establish institutional clarity from the beginning, including by setting clear operational priorities from the start to guide all phases, ensuring that efforts remain focused, coherent, and aligned with the mechanism's mandate and long-term objectives. • Set clear indicators to measure the progress of and assess the success of the IIM-A by focusing on how well the work supports future accountability, prevention, and transformation efforts. • Develop an adaptive victim, survivor, and civil society engagement strategy through: (1) inclusive engagement and continuous outreach to reach a broad range of communities across Afghanistan, particularly through accessible participation methods that remove barriers such as low literacy, limited connectivity, and difficulties with travel as well as through structured collaboration with local grassroots networks by recognising their essential role in information and evidence collection, outreach, and trust-building with victims and survivors; (2) ensuring meaningful inclusion of local expertise and affected communities in decision-making processes by structuring layered consultation that reflect their different roles, perspectives, and contributions, particularly given the overlapping nature of actors in the Afghanistan context; and (3) maintaining clear institutional independence and defined roles in all CSO engagement, ensuring that civil society cooperation complements rather than substitutes core investigative functions and avoids perceived alignment with specific actors. • Build a gender-competent institutional environment. • Prioritise a victim- and survivor-centred approach by embedding the perspectives of victims, survivors, and communities into all aspects of the IIM-A's mandate, ensuring that their priorities guide strategies and operational decision-making; while also continuously integrating emerging best practices and resources to adapt standards, methodologies, protocols, and SOPs over time, including through continuous consultation with academics, practitioners, and civil society, recognising that effective victim- and survivor-centred approaches require iterative learning, testing, and adjustment over time; and facilitating victim and survivor access to support pathways. • Adopt an intersectional approach throughout all stages of the work of the IIM-A. • Integrate trauma-informed approaches and institutionalize trauma expertise. • Prepare for multiple future diverse accountability initiatives by prioritising flexibility and long-term readiness by creating a strong, central system to store information and evidence, and keeping the overall strategy adaptable so the IIM-A can respond to new opportunities for justice as they arise. • Strengthen synergies with UN entities and international human rights mechanisms.
CIVIL SOCIETY	• Facilitate connection, participation, and engagement of the people of Afghanistan to international human rights mechanisms, courts, and other applicable fora by providing them as much legal, language, technical, social, health, mental health, and other forms of support and building their capacity to participate and engage effectively.

BEYOND RECOGNITION AND CODIFICATION: TOWARDS LASTING TRANSFORMATIVE CHANGE

STATES	• Prioritise long-term, flexible funding and support for direct partnerships with locally-rooted civil society structures, including women-led organisations, transferring ownership of transformative justice initiatives to these communities to ensure they are culturally grounded, gender sensitive, inclusive, and community-led. • Provide holistic support to victims, survivors, and communities, including by establishing a dedicated victims and survivors fund to enable safe, sustained, full, effective, and meaningful leadership and participation in transformative justice efforts.
IIM-A	• The IIM-A should be understood not only as a retrospective tool focused on past violations and abuses, but also as a preventive institution capable of disrupting ongoing patterns of violations and abuses, deterring future violations and abuses, and supporting transformative justice initiatives. • In implementing a comprehensive victim- and survivor-centred approach, treat survivor engagement as part of a broader strategy aimed at restoring dignity, strengthening agency, and supporting survivors as active participants in processes of accountability, prevention, and social transformation. • Operationalise inclusivity from the beginning, including by recruiting a significant portion of staff from diverse regions, ethnicities, genders, and expertise across Afghanistan, ensuring all affected communities are fairly represented within the mechanism's staff.
UN ENTITIES AND INTERNATIONAL HUMAN RIGHTS MECHANISMS	• In the implementation of each respective mandate, ensure a focus on the underlying social, political, institutional, and economic systems that enable and sustain oppression. • Support the integration of accountability efforts and measures to prevent the recurrence of new violations and abuses to enable meaningful transformation.
THE ICC'S OTP AND NATIONAL AUTHORITIES	• Investigate unaddressed violations and abuses, including those that occurred before the military takeover by the Taliban de facto authorities, to the extent possible.
CIVIL SOCIETY	• Empower the people of Afghanistan, particularly women, recognising them as active agents of change, organisers, and sources of expertise, to advocate for and shape the transformative justice processes they envision, including by systematically consulting a diverse range of communities (both within the country and in the diaspora), conducting a large-scale, systematic mapping of priorities, and supporting the paths for their realisation. • Foster and support innovative forms of women-led resistance and encourage creative solutions. • Pursue transformative justice initiatives aimed at prevention and societal transformation, including but not limited to, digital archives, memorialisation projects, community-led educational programmes, and narrative platforms led by Afghanistan's women to preserve their experiences and resistance, challenge institutionalised systems of gender oppression, and contribute to reshaping collective narratives across generations. • Design or advocate for programmes addressing structural drivers of oppression, including through socio-economic empowerment.

I. INTRODUCTION



"[Afghanistan's women] despite all the challenges, they are trying to do everything, by at the same time working for other women, for their fellows, for a country, for a future."

- *Woman from Afghanistan, quoted in consultations conducted for this report.*

Since the military takeover of Afghanistan by the Taliban *de facto* authorities in August 2021, the rights and freedoms of women and girls in Afghanistan have been steadily restricted, turning into a relentless effort to erase women and girls from public life.¹ Many describe this as a "death in slow motion" - a life where they are shut out of education, healthcare, work, and society.²

The situation Afghanistan's women and girls are experiencing has been described as a system of segregation and exclusion codified in decrees and directives by the Taliban *de facto* authorities, which enforce their unilateral, strict interpretation of *Sharia* law and are reinforced throughout society.³ According to a report by the Special Rapporteur on the situation of human rights in Afghanistan: "The Taliban's institutionalised gender oppression violates the principles of the Charter of the United Nations and the fundamental spirit and norms of international human rights law."⁴

Many have argued that current legal frameworks, including the concept of gender persecution, do not fully capture the scale and structure of this system.⁵ The concept of '*gender apartheid*,' which has gained increasing attention, offers a possible way to better describe and address the institutionalised regime of systematic segregation that denies Afghanistan's women and girls access to education, employment, freedom of movement, and legal personhood, effectively reducing them to an inferior status within their own society.⁶

One woman from Afghanistan interviewed in the course of this project was unequivocal:

¹ Amnesty International, *Death in Slow Motion: Women and Girls under Taliban Rule*, Index No. ASA 11/5685/2022 (London: Amnesty International, July 27, 2022), 4–9, <https://www.amnesty.org/en/documents/ASA11/5685/2022/en/>.

² Amnesty International, *Death in Slow Motion*, 4.

³ Office of the United Nations High Commissioner for Human Rights (OHCHR), "Gender Apartheid Must Be Recognised as a Crime against Humanity, UN Experts Say," press release, February 20, 2024, <https://www.ohchr.org/en/press-releases/2024/02/gender-apartheid-must-be-recognised-crime-against-humanity-un-experts-say>; Christian Lange, "The Taliban's Approach to Islamic Criminal Law Has Little to Do with the Islam," *The Conversation*, October 5, 2021, republished by Utrecht University, <https://www.uu.nl/en/in-the-media/the-talibans-approach-to-islamic-criminal-law-has-little-to-do-with-the-islam>.

⁴ United Nations Human Rights Council, *The Phenomenon of an Institutionalized System of Discrimination, Segregation, Disrespect for Human Dignity and Exclusion of Women and Girls*, Report of the Special Rapporteur on the Situation of Human Rights in Afghanistan, A/HRC/56/25 (Geneva: United Nations, 13 May 2024), 16, <https://www.ohchr.org/en/documents/country-reports/ahrc5625-phenomenon-institutionalised-system-discrimination-segregation>.

⁵ See e.g., Karima Bennouna, "The International Obligation to Counter Gender Apartheid in Afghanistan," *Columbia Human Rights Law Review* 54, no. 1 (2022), 51 <https://journals.warwick.ac.uk/index.php/feministdisent/article/view/1506>; Lisa Davis and Kirby Anwar, "Three Definitions, One Choice: Defining Gender Apartheid in the Draft Crimes Against Humanity Treaty," *Opinio Juris*, December 2, 2025, <https://opiniojuris.org/2025/12/02/three-definitions-one-choice-defining-gender-apartheid-in-the-draft-crimes-against-humanity-treaty>; End Gender Apartheid Campaign, *Legal Brief on the Inclusion of Gender Apartheid in the Draft Crimes Against Humanity Convention*, 1 <https://endgenderapartheid.today/legal-brief.php>.

⁶ UN Human Rights Council, *Situation of Women and Girls in Afghanistan: Report of the Special Rapporteur on the Situation of Human Rights in Afghanistan and the Working Group on Discrimination against Women and Girls*, UN Doc. A/HRC/53/21 (Geneva: UN Human Rights Council, June 20, 2023), 17 <https://www.ohchr.org/en/documents/country-reports/ahrc5321-situation-women-and-girls-afghanistan-report-special-rapporteur>, "The Special Rapporteur and Working Group have both expressed support for codifying gender apartheid in relation to the Draft Crimes Against Humanity Convention." See also Amnesty International, *Death in Slow Motion*, 16–37.

"It is *gender apartheid* because the situation ... matches with the definition ... It is not happening only against one woman or a group of women. It is happening towards all women and girls in Afghanistan, in a systematic way ... It is an action ... against all women, against half of the population."⁷

This project comes at an important and fast-moving moment, as efforts to recognise and codify *gender apartheid* are starting to gain momentum on one hand, and progress is unfolding following the decision in October 2025 by the United Nations Human Rights Council's (UNHRC's) to establish an ongoing Independent Investigative Mechanism (IIM-A) on the other hand.

The UNHRC, in its Resolution, deplored the "institutionalization of ... [the] system [by the Taliban *de facto* authorities] of discrimination, segregation, domination, disrespect for human dignity and exclusion of women and girls" - harms that the UNHRC notes as "unbearable, unjustifiable and should shock the conscience of humanity" and "may amount to persecution on the grounds of gender, a crime against humanity."⁸ In response, the UNHRC decided to establish the IIM-A to "collect, consolidate, preserve and analyse evidence of international crimes and the most serious violations of international law, including those that may also amount to violations and abuses of international human rights law, committed in Afghanistan, including against women and girls, and to prepare files in order to facilitate and expedite fair and independent criminal proceedings ... in national, regional or international courts or tribunals that have or may in the future have jurisdiction over these crimes, in accordance with international law."⁹

This study adopts a qualitative research design, combining document analysis and expert interviews.¹⁰ Primary sources include international legal instruments, reports, resolutions, materials of UN-mandated investigative mechanisms, advocacy and policy publications, reports and briefs from civil society organisations, and academic literature. To complement these sources, interviews were conducted with experts and practitioners across relevant fields, including: specialists in Afghanistan's transitional justice and peacebuilding efforts with a focus

⁷ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

⁸ UN Human Rights Council, Situation of Human Rights in Afghanistan, Resolution A/HRC/RES/60/2, adopted October 6, 2025 (Geneva: UN Human Rights Council, 2025), <https://digitallibrary.un.org/record/4090564?y=pdf>, Preamble.

⁹ A/HRC/RES/60/2, para. 25.

¹⁰ This study primarily focused on women and girls, so the experiences of children, youth, and men were only partially addressed, underscoring the further need for research that covers gaps in understanding their specific harms, needs, and priorities. The report touches on intersecting forms of oppression, including the compounded vulnerabilities faced by Hazara women, women with disabilities, and LGBTQIA+ individuals, but these and all other marginalised and vulnerable communities warrant deeper, more sustained analysis. Additionally, the perspectives of women still inside Afghanistan remain largely inaccessible due to ongoing risks, highlighting the need for further research to capture their experiences.

on the rights of women and girls, in the codification journey of racial apartheid and justice efforts in previous *ad hoc* tribunals; practitioners involved in international investigative bodies similar to the IIM-A; and a woman activist currently living inside Afghanistan, who shared her experiences of life since the military takeover. Additional perspectives were drawn from experts, practitioners, and scholars who participated in conferences, workshops, and other events related to the research topic.

This project ultimately recommends (1) ensuring Afghanistan's women remain at the centre of all efforts moving forward; (2) recognising and ensuring *gender apartheid* is codified as an international crime; (3) preparing for justice opportunities through the IIM-A; and (4) finally, taking steps towards realising a transformative vision for the future. We will explore how international institutions, States, and civil society actors can effectively support accountability, prevention, and long-term systemic change, while ensuring that Afghanistan's women remain central as leaders and agents of change.

II. HISTORICAL AND CURRENT CONTEXT



A. Women in Afghanistan: Looking Back to Look Forward

This section explores historical context to inform a deeper understanding of the dire situation of Afghanistan's women and girls that continues to unfold today. Notably, in 1919, women "gained suffrage" in Afghanistan and women's rights and gender equality before the law "were progressively enshrined in the constitutions of 1923, 1964 and 1976."¹¹

The Period Pre-1996: the Soviet-Afghan War and the Civil War

Before 1996, Afghanistan was shaped by two major phases of conflict: the Soviet-Afghan War and the subsequent Civil War.¹² The turning point came in 1978 with the "Saur Revolution," which brought the communist People's Democratic Party of Afghanistan (PDPA) to power.¹³ Its Democratic Organisation of Afghanistan Women, founded in 1965, aimed to eliminate female illiteracy, ban forced marriages, and end dowries. Communist regimes pursued gender equality in line with Communist ideals, implementing compulsory education, a minimum marriage age of 16 for girls, and a 1978 decree on equal rights.¹⁴

However, anti-religious policies and gender reforms sparked backlash from conservative rural leaders, fueling rebellions.¹⁵ In December 1979 the Soviet 40th Army entered Afghanistan, assassinated President Hafizullah Amin and installed Babrak Karmal, turning Afghanistan into a major Cold War battlefield (Soviet-Afghan War 1979-1989).¹⁶ At this time, "[p]rogress on gender equality drastically regressed as the mujahidin opposition forces, also with foreign backing, fought against the occupation and saw women's emancipation as a tenet of an external policy imposed on the country, and actively sought to reverse it" and "[d]uring this period, women were subjected to gross human rights abuses and violations."¹⁷

¹¹ A/HRC/53/21, para. 4.

¹² Jean-Patrick Villeneuve and Parwiz Mosamim, '75 Years of Women Representation in Afghanistan: Looking Back to Look Forward', Public Administration and Development 44, no. 4, (2024): 262–79, <https://doi.org/10.1002/pad.2043>; Sokhanwar, M. D., S. Sajjadi, Yahia Baiza, and M. Imani. "Gender justice discourse in the educational system of Afghanistan during the Marxist period (1978–1992)." Policy Futures in Education 16, (2018): 632 - 644, <https://doi.org/10.1177/1478210317723757>; Azizi Lina, "Political Transition and Gender Construction in Afghanistan (Saur Revolution – 1978) up to the Present" SSRN Electronic Journal, (2020): 13-17, <https://doi.org/10.2139/ssrn.4263660>.

¹³ Villeneuve and Mosamim, '75 Years of Women Representation in Afghanistan'; Sokhanwar et al., 'Gender justice discourse in the educational system of Afghanistan during the Marxist period (1978–1992)'; Azizi, 'Political Transition and Gender Construction in Afghanistan (Saur Revolution – 1978) up to the Present.'

¹⁴ Villeneuve and Mosamim, '75 Years of Women Representation in Afghanistan'; Sokhanwar et al., 'Gender justice discourse in the educational system of Afghanistan during the Marxist period (1978–1992)'; Azizi, 'Political Transition and Gender Construction in Afghanistan (Saur Revolution – 1978) up to the Present.'

¹⁵ Ali A. Jalali, 'Afghanistan: The Anatomy of an Ongoing Conflict', The US Army War College Quarterly: Parameters 31, no. 1, (2001): 1–4 <https://doi.org/10.5554/0031-1723.2024>; Mirzada, Hekmatullah. "A Look at The Military Aggression of The Soviet Union to Afghanistan (December 1979-February 1989)." European International Journal of Multidisciplinary Research and Management Studies, (2025): S11-S12, <https://doi.org/10.55640/eijmrms-05-02-19>.

¹⁶ Conor Tobin, 'The United States and the Soviet-Afghanistan War, 1979–1989', in Oxford Research Encyclopedia of American History, 2020, 6-12, <https://doi.org/10.1093/acrefore/9780199329175.013.832>; Hilali, A. Z. "The Soviet penetration into Afghanistan and the Marxist Coup." The Journal of Slavic Military Studies 18, (2005): 673 - 71, <https://doi.org/10.1080/13518040500354984>; Konarovskiy, M. "Events of April 1978 in Afghanistan and Subsequent Entry of Soviet Troops: Some Assessments of Events and Key Personalities." Herald of the Russian Academy of Sciences 92, (2022): S14 - S17, <https://doi.org/10.1134/s101933162207005x>.

¹⁷ A/HRC/53/21, para. 5.

In 1980, Afghanistan signed the UN Convention on the Elimination of All Forms of Discrimination Against Women, urban women gained key roles in education, health, government, and parliament to bolster state legitimacy and prosperity.¹⁸ After the Soviet withdrawal in 1989, the intra-mujahideen war (1992–1996) turned Kabul into a battlefield among rival factions characterized by extreme violence.¹⁹ In this period, “the civil war continued as the deterioration of women’s rights accelerated”: women were once again confined to their homes, veil stipulations returned, women were deprived of office work and girls of education.²⁰ In fact, Afghanistan women were the main victims of the civil war during the Mujahideen.²¹ In this period, there was almost no progress on women’s rights, and women were increasingly prohibited from public services. During the period of the “civil war of 1992–1996, women were subjected to serious human rights violations, including extrajudicial killings, torture, sexual violence, disappearances, displacement, forced marriages, trafficking and abduction, as well as limited access to education.”²²

In 1996, the Taliban, “a fundamentalist and extreme militant Islamic group”²³ regained power in Afghanistan.²⁴

The first Taliban Regime (1996–2001) and The Republic of Afghanistan (2001–2021)

The first Taliban regime (1996–2001) was marked by international isolation, a strict interpretation of *Sharia* law, and the near-total exclusion of women from public, educational, and professional life.²⁵ The “Taliban rule 1.0 saw the imposition of systematic gender apartheid, including the end of education for women and girls, alongside other widespread human rights abuses.”²⁶

The transition from the first Taliban regime (1996–2001) to the Republic of Afghanistan was

¹⁸ Villeneuve and Mosamim, ‘75 Years of Women Representation in Afghanistan.’

¹⁹ Cristiane Sâmia Carvalho, ‘Taliban de facto Insurgency in Afghanistan: A Comparative Analysis between 1996 and 2021’, *Revista de Gestão e Secretariado* 15, no. 4, (2024): 4-5, <https://doi.org/10.7769/gesec.v15i4.3662>; Dorronsoro, Gilles. “Kabul at War (1992–1996): State, Ethnicity and Social Classes.” *South Asia Multidisciplinary Academic Journal*, (2007): 3-6, <https://doi.org/10.4000/samaj.212>; Giustozzi, Antonio. *War, Politics and Society in Afghanistan, 1978–1992*. Washington, DC: Georgetown University Press, Vol. 55, 2 (2001): 323-324, <https://www.proquest.com/scholarly-journals/afghanistan-war-politics-society-1978-1992/docview/218553044/se-2?accountid=11360>.

²⁰ Villeneuve and Mosamim, ‘75 Years of Women Representation in Afghanistan’; Human Rights Watch. *Afghanistan: The Forgotten War—Human Rights Abuses and Violations of the Laws of War since the Soviet Withdrawal*. New York: Human Rights Watch, (2001): 10, <https://www.hrw.org/reports/2001/afghan2/>; Ahmed-Ghosh, Huma. “A History of Women in Afghanistan: Lessons Learnt for the Future or Yesterday and Tomorrow: Women in Afghanistan.” *Journal of International Women’s Studies* 4, no. 3 (2003): 1–14, <https://vc.bridgew.edu/jiws/vol4/iss3/1/>.

²¹ Y. Vijay et al., ‘Women in Afghanistan: Past, Present and Future’. Center for Afghanistan Studies (CAS). 2016, <https://igu.edu.in/isia/cas/women-in-afghanistan-past-present-and-future/>.

²² A/HRC/53/21, para. 6.

²³ Villeneuve and Mosamim, ‘75 Years of Women Representation in Afghanistan.’

²⁴ Villeneuve and Mosamim, ‘75 Years of Women Representation in Afghanistan’; *End the Abuse of Women in Afghanistan* (UNAMA, OHCHR, 2009), 1–32, https://unama.unmissions.org/sites/default/files/vaw-english_1.pdf.

²⁵ Aamir Junaid, ‘External Invasions in Afghanistan: A Comparative Analysis of USSR and USA’, *Journal of Development and Social Sciences* 2, no. III (2021): 1–08, [https://doi.org/10.47205/jdss.2021\(2-III\)01](https://doi.org/10.47205/jdss.2021(2-III)01); ‘Women in Afghanistan: The Back Story’, Amnesty International UK, 6 July 2023, <https://www.amnesty.org.uk/knowledge-hub/all-resources/women-in-afghanistan-the-back-story/>; Sofyan Wimbo Agung Pradnyawan et al., ‘Aspects of International Law and Human Rights on The Return of The Taliban de facto in Afghanistan’, *Audito Comparative Law Journal (ACLJ)* 3, no. 3, (2022): 132–38, <https://doi.org/10.22219/acli.v3i3.23237>.

²⁶ Bennoune, Karima. “The International Obligation to Counter Gender Apartheid in Afghanistan.” *Feminist Dissent*, no. 7 (2024): 14–102. <https://doi.org/10.31273/fd.n7.2023.1506>, P. 31.

primarily driven by the US-led military intervention following the September 11, 2001 attacks.²⁷ Taliban forces retreated from Kabul on 13 November 2001.²⁸ In the aftermath of the Taliban's fall, Afghanistan entered a transitional period. From 26 November to 4 December 2001, UN-sponsored talks on the future of Afghanistan were held in Bonn.²⁹ The Conference agreed on establishing a temporary government for six months, a transitional government for two years, and then an elected government, alongside the drafting of a new Constitution for the Republic of Afghanistan.³⁰

In December 2003, a Constitutional *Loya Jirga* (Grand Council) approved a new Constitution, stemming from the 1964 Constitution promulgated by the king Mohammed Zahir Shah, which women helped to draft.³¹ Bonn set out basic rules for the development of women's roles and pledged "to include them in political life, particularly by participation in the *Loya Jirga* and the interim administration."³² The new Constitution explicitly forbade discrimination and acknowledged equal rights for both men and women, stating that "any kind of discrimination and distinction between citizens of Afghanistan shall be forbidden" and that "the citizens of Afghanistan, man and woman, have equal rights and duties before the law."³³ The Constitution guaranteed a minimum number of seats for women in Afghanistan's bicameral National Assembly.³⁴ The new Constitution also protected women's rights to political participation by stating that "the state shall observe the United Nations Charter, inter-state agreements, as well as international treaties to which Afghanistan has joined, and the Universal Declaration of Human Rights."³⁵

B. Current Situation in Afghanistan: The Institutionalisation of Gender Oppression

After the military takeover by the Taliban *de facto* authorities, the 2004 Constitution was

²⁷ Mohammad Qasim Akbari, 'US Foreign Policy Towards Afghanistan. Brief from 2001 to 2022', *Akademik Tarih ve Dusunce Dergisi*, (25 December 2023): 10, <https://doi.org/10.46868/atdd.2023.609>.

²⁸ Sultan Barakat, 'Setting the Scene for Afghanistan's Reconstruction: The Challenges and Critical Dilemmas', *Third World Quarterly* 23, no. 5 (2002): 801–16, <https://doi.org/10.1080/0143659022000028648>.

²⁹ Barakat, 'Setting the Scene for Afghanistan's Reconstruction.'

³⁰ Kofi Atta Annan, 'Letter Dated 5 December 2001 from the Secretary-General Addressed to the President of the Security Council', United Nations, S/2001/1154, United Nations, Security Council, 5 December 2001, <https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Afgh%20S2001%201154.pdf>.

³¹ 'Agreement on Provisional Arrangements in Afghanistan Pending the Re-Establishment of Permanent Government Institutions (Bonn Agreement) | Peacemaker', https://peacemaker.un.org/en/node/9444?utm_; Yuchen Liu, 'The Historical Evolution and Contemporary Challenges of Women's Struggle for Equality in Afghanistan', *Highlights in Business, Economics and Management* 47 (February 2025): 260–68, <https://doi.org/10.54097/d2zk9s28>.

³² Brown Widney, and Grenfell Laura, 'The Participation of Afghan Women in the Reconstruction Process', *Human Rights Brief* 12, no. 1 (2004): 22–25, <https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1297&context=hrbrief>.

³³ *The Constitution of the Islamic Republic of Afghanistan*, Chapter II: Fundamental Rights and Duties of Citizens, Art. 22, 2004, <https://www.afghanistanmission.ch/en/about-afghanistan/afghanistan-constitution.html>.

³⁴ *The Constitution of the Islamic Republic of Afghanistan*, Chapter IV: Government, Art. 83, 2004.

³⁵ *The Constitution of the Islamic Republic of Afghanistan*, Chapter I: State, Art. 7, 2004.

abrogated and replaced with a patchwork of *Sharia*-derived decrees.³⁶ This created a “legal vacuum” marked by the “inconsistent and opaque application of religious and customary law that reinforces patriarchal norms and entrenches gender inequality.”³⁷

The destruction of constitutional safeguards has destroyed the domestic legal framework through which women could otherwise have sought remedies.³⁸ The closure of the Afghanistan Independent Human Rights Commission, family courts, protection centres for women, and legal aid services has left women without legal redress and with a justice system that “revictimizes survivors of gender-based violence by the very system that should protect them.”³⁹

This erosion of legal protections and human rights has enabled the Taliban *de facto* authorities to establish and institutionalise a “system of discrimination, segregation, disrespect for human dignity and exclusion,” which is “pervasive and methodical” as well as “underpinned and sustained through the choreographed deprivation of human rights.”⁴⁰

These include: “the right to life, liberty and security of person; the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment; the right not to be subjected to arbitrary arrest or detention; the right not to be held in slavery; the right not to be subjected to arbitrary interference with privacy and family; the right to the highest attainable standard of physical and mental health; the right to adequate food; the right to water and sanitation; the right to education; the right to take part in cultural life; the right to equality before the law; and the right to equal protection against discrimination.”⁴¹ According to the Special Rapporteur: “Each deprivation systematically informs and interacts with others, creating a mutually reinforcing architecture of oppression.”⁴² It is “so severe and extensive...that they appear to form a widespread and systematic attack which may amount to crimes against humanity.”⁴³ Selected issues are discussed in greater depth below.

³⁶ CEDAW Committee, Concluding Observations on Afghanistan, UN Doc. CEDAW/C/AFG/CO/4, 2025, para. 8, <https://docs.un.org/en/CEDAW/C/AFG/CO/4>; UN Committee on the Elimination of Discrimination against Women, Fourth periodic report submitted by Afghanistan under article 18 of the Convention, CEDAW/C/AFG/4, United Nations, 2024, 3/44, <https://docs.un.org/en/CEDAW/C/AFG/4>.

³⁷ CEDAW/C/AFG/CO/4, para. 8.

³⁸ CEDAW/C/AFG/CO/4, para. 15.

³⁹ CEDAW/C/AFG/CO/4, para. 15.

⁴⁰ Center for Dialogue and Progress - Geneva, Afghanistan's Civil and Democratic Forces Network, Embassy & Permanent Mission of The Islamic Republic of Afghanistan, 'Panel I: The Architecture of Truth and Accountability Model', UN Workshop: 'Accountability, Truth, and Reconciliation: Foundations for the Return of Constitutional Governance in Afghanistan', Palais des Nations, Geneva, May 11, 2026; A/HRC/56/25, 2-3; CEDAW/C/AFG/4, 3/44-4/44.

⁴¹ A/HRC/56/25, 10; CEDAW/C/AFG/4, 4/44

⁴² A/HRC/56/25, 3; CEDAW/C/AFG/4, 4/44; Richard Bennett, Situation of Human Rights in Afghanistan, A/80/432 (United Nations, 8 October 2025), 4/21 <https://docs.un.org/en/A/80/432>; Richard Bennett, Situation of Human Rights in Afghanistan, A/HRC/55/80 (United Nations, 23 February 2024), 2, <https://www.ohchr.org/en/documents/country-reports/ahrc5580-situation-human-rights-afghanistan-report-special-rapporteur>.

⁴³ 'Afghanistan to Remain Major Crisis in 2026, UN, Partners Warn | UN News', 30 December 2025, <https://news.un.org/en/story/2025/12/1166684>; CEDAW/C/AFG/4, 4/44; Richard Bennett, Situation of Human Rights in Afghanistan, A/HRC/58/80 (United Nations, 20 February 2025), 3, <https://www.ohchr.org/en/documents/country-reports/ahrc5880-report-special-rapporteur-situation-human-rights-afghanistan>.

Table of Decrees/Edicts/Directives/Orders/'Laws'

Decree/Edict/Directive/Order/'Law'	Date	Category (i.e. Education; Health; etc.)	Further Explanation
DEC2-09072021	September 7, 2021	Participation in Public Life, Work	The Taliban <i>de facto</i> authorities announced an entirely male interim administration, and the replacement of the Ministry of Women's Affairs into the Ministry of Promotion of Virtue and Prevention of Vice. ⁴⁴
DEC9-12252021	December 25, 2021	Freedom of Movement	A directive that requires "women to have a male guardian for travel and bans transport for unveiled or unaccompanied women." ⁴⁵
DEC4-10282025	March 2, 2022	Health	The Taliban <i>de facto</i> authorities ordered that female patients without a male guardian (<i>mahram</i>) should not be treated. ⁴⁶
DEC1-12222022-A	December 22, 2022	Education	This directive suspends "education for girls beyond grade six across Afghanistan formalizes the Taliban's nationwide ban on secondary and higher education for females." ⁴⁷
DEC6-06092023	June 9, 2023	Forced Marriage	This order requires community leaders to submit lists of girls (15+) and widows (under 45) for marriage to members of the Taliban <i>de facto</i> authorities. ⁴⁸
DEC12-07312024-2 Law on the Promotion of Virtue and Prevention of Vice	July 31, 2024	Arbitrary Detention, Assembly & Association, Education, Opinion & Expression, Freedom of Movement, Access to Justice, Religion & Belief, Work	This law, published in the Official Gazette, is "[f]ramed as a nationwide legal framework," and "empowers the Ministry of Promotion of Virtue and Prevention of Vice with expansive jurisdiction over all public, private, and media spheres." ⁴⁹ The law "institutionalizes gender segregation, clothing mandates, restrictions on speech and behavior, and introduces discretionary punishment mechanisms administered by non-judicial overseers." ⁵⁰
DEC1-12042024	December 4, 2024	Education, Health, Work	This decree represents a severe escalation in the system of oppression, targeting women's access to professional education in healthcare. ⁵¹
DEC2-12262024	December 26, 2024	Work, Participation in Public Life, Assembly & Association	This directive "mandates the suspension of female employment across all domestic and international NGOs and enforces compliance through threats of license revocation and operational shutdowns." ⁵²
DEC4-03012025	March 1, 2025	Health, Freedom of Movement	This decree "denies girls access to life-saving surgical care and health services." ⁵³
DEC7-03182025	March 28, 2025	Opinion & Expression, Work, Participation in Public Life, Cultural Rights	This directive "formalizes the total erasure of women's voices from broadcast media." ⁵⁴
Criminal Procedure Code for Courts (<i>De Mahakumu Jazaa'i Osulnama</i>)	January 7, 2026	Access to Justice, Equality Before the Law	The Code largely deals with what in Islamic law are called <i>ta'zir</i> punishments. ⁵⁵ These are discretionary. ⁵⁶ The Code has not (yet) been published in the Official Gazette, but it has been circulated to the nation's courts, which the law says are "responsible for [its] implementation." ⁵⁷ It "formally removes equality between men and women before the law" and "places husbands in a position of authority over their wives and limits women's

⁴⁴ 'DEC2-09072021', *Afghanistan Justice Archive*, 2021, <https://afghanistanjustice.org/decrees/dec2-09072021/>.

⁴⁵ 'DEC9-12252021', *Afghanistan Justice Archive*, 2021, <https://afghanistanjustice.org/decrees/dec9-12252021/>.

⁴⁶ 'DEC4-10282025', *Afghanistan Justice Archive*, 2025, https://afghanistanjustice.org/?post_type=ajacpt_decrees&p=6253.

⁴⁷ 'DEC1-12222022-A', *Afghanistan Justice Archive*, 2022, <https://afghanistanjustice.org/decrees/dec1-12222022-a/>.

⁴⁸ 'DEC6-06092023', *Afghanistan Justice Archive*, 2023, <https://afghanistanjustice.org/decrees/dec6-06092023/>.

⁴⁹ 'DEC12-07312024-2', *Afghanistan Justice Archive*, 2024, <https://afghanistanjustice.org/decrees/dec12-07312024-2/>.

⁵⁰ 'DEC12-07312024-2', *Afghanistan Justice Archive*, 2024.

⁵¹ 'DEC1-12042024', *Afghanistan Justice Archive*, 2024, <https://afghanistanjustice.org/decrees/dec1-12042024/>.

⁵² 'DEC2-12262024', *Afghanistan Justice Archive*, 2024, https://afghanistanjustice.org/?post_type=ajacpt_decrees&p=5665.

⁵³ 'DEC4-03012025', *Afghanistan Justice Archive*, 2025, https://afghanistanjustice.org/?post_type=ajacpt_decrees&p=5732.

⁵⁴ 'DEC7-03182025', *Afghanistan Justice Archive*, 2025, https://afghanistanjustice.org/?post_type=ajacpt_decrees&p=5741.

⁵⁵ 'AAN's unofficial translation of the Penal Code for Courts', *Afghanistan Analysts Network - English*, 26 February 2026, <https://www.afghanistan-analysts.org/en/resources/taliban-and-related-documents/aans-unofficial-translation-of-the-penal-code-for-courts/>;

Press Release Regarding the Implications of the "The Criminal Procedure Code for Courts" Issued by the Taliban – Rawadari – For an Equal and Peaceful Afghanistan, 22 January 2026, https://rawadari.org/press_releases/press-release-regarding-the-implications-of-the-the-criminal-procedure-code-for-courts-issued-by-the-taliban/.

⁵⁶ 'AAN's unofficial translation of the Penal Code for Courts', *Afghanistan Analysts Network*; Press Release Regarding the Implications of the "The Criminal Procedure Code for Courts" Issued by the Taliban – Rawadari – For an Equal and Peaceful Afghanistan.

⁵⁷ 'AAN's unofficial translation of the Penal Code for Courts', *Afghanistan Analysts Network*; Press Release Regarding the Implications of the "The Criminal Procedure Code for Courts" Issued by the Taliban – Rawadari – For an Equal and Peaceful Afghanistan.

			ability to seek protection or justice.” ⁵⁸ Moreover, according to the decree, “a husband is only criminally liable for violence within marriage if he causes severe and visible physical injuries.” ⁵⁹ “Other forms of violence – including psychological and sexual violence – are not prohibited.” ⁶⁰
Decree No. 18	May 14, 2026	Child Marriage	Decree No.18, issued by the Taliban <i>de facto</i> authorities, “separates girls who have reached puberty and are married and uses this division to legitimise the marriage of girls upon reaching puberty” and “further provides that a girl’s silence upon reaching puberty may be interpreted as consent to marriage.” ⁶¹

Denial of Access to Education

On 23 March 2022, the *de facto* Ministry of Education in Afghanistan announced that secondary schools for girls, which had been closed since the Taliban *de facto* takeover in August 2021, would remain closed, pending a plan for their reopening in line “with *sharia* and Afghanistan traditions.”⁶² In a letter on 27 December 2022, the *de facto* Ministry of Education informed its provincial directorates of the decision to continue to suspend girls’ education beyond sixth grade.⁶³

“I was so excited to go back to school, but they did not allow us to enter our classrooms. The Taliban told us that we should wait until the next announcement, and go back home... What can I do with my life inside my house?... If I cannot become a nurse, a doctor, an artist, an engineer, who will I be?”

- Testimony of a 17-year-old girl from Afghanistan, as reported in Amnesty International’s Death in Slow Motion: Women and Girls Under Taliban Rule (2022).⁶⁴

The experience described in that testimony is not an isolated one. One Afghanistan woman interviewed in the course of this project spoke directly to what education had meant for girls in Afghanistan: “They worked hard all their lives because that is the only thing that women and girls could do in Afghanistan. ... So they put all their lives into getting to that position.”⁶⁵ When the university ban came, she said, “it really destroyed all their backgrounds, all their efforts and it feels like their futures are also destroyed.”⁶⁶

⁵⁸ ‘UN Women Afghanistan statement on Decree No. 12 issued by the de facto authorities,’ UN Women, 25 February 2026, <https://www.unwomen.org/en/news-stories/statement/2026/02/un-women-afghanistan-statement-on-decree-no-12-issued-by-the-de-facto-authorities>.

⁵⁹ ‘UN Women Afghanistan statement on Decree No. 12 issued by the de facto authorities.’

⁶⁰ ‘UN Women Afghanistan statement on Decree No. 12 issued by the de facto authorities.’

⁶¹ ‘Afghanistan: Silence is not consent to child marriage, UN committee condemns,’ OHCHR, 01 June 2026, <https://www.ohchr.org/en/press-releases/2026/06/afghanistan-silence-not-consent-child-marriage-un-committee-condemns>.

⁶² *The Situation in Afghanistan and Its Implication for International Peace and Security Report of the Secretary-General*, A/76/862-S/2022/485 (United Nations General Assembly, 2022), 3/15 https://unama.unmissions.org/sites/default/files/220615_sg_report_on_afghanistan_s.2022.485.pdf.

⁶³ ‘UN Security Council Press Statement on Afghanistan’, UNAMA, United Nations Peace Operations, <https://unama.unmissions.org/en/un-security-council-press-statement-afghanistan-2>.

⁶⁴ Amnesty International, *Death in Slow Motion: Women and Girls Under Taliban Rule*, Index No. ASA 11/5685/2022, July 27, 2022, 19, <https://www.amnesty.org/en/documents/asa11/5685/2022/en/>.

⁶⁵ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

⁶⁶ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

She described a similar reality for younger girls: “these young girls don’t have any other place. The school is important, everything for them, a place where they could learn something, they could speak with other teachers, students, classmates and where they could get or do some entertaining. All their life was a school and their future also was a school.”⁶⁷ The psychological toll of its removal has been severe. “The majority of women have been struggling with mental health crises and issues,” she said. “Many had suicidal thoughts.”⁶⁸

According to the United Nations Children’s Fund, the ban has affected 2.2 million Afghanistan girls and women.⁶⁹ Clandestine online and underground schools remain an important lifeline; however, such initiatives are being undermined by cuts to international funding.⁷⁰ At the same time, the Taliban *de facto* authorities are planning further restrictions on women’s and girls’ access to *madrassa* education (educational institutions primarily focused on Islamic religious education).⁷¹ In many regions, *madrasas* are the only available option for education and, in addition to providing religious education, they enable the acquisition of other skills and the opportunity to meet and socialize with one another.⁷² Taken together, these developments risk closing the last remaining spaces for learning and community engagement available to women and girls.⁷³

The PVPV Law

The human rights situation of women has further deteriorated in 2024 owing to increased local restrictions and implementation of the so-called “Law on the Promotion of Virtue and Prevention of Vice” (PVPV).⁷⁴ Issued publicly by gazette on 21 August 2024 and approved by the Taliban *de facto* authorities’ leader on 9 July 2024, this “Law” comprises four chapters and thirty-five articles.⁷⁵ The “Law” formalized and expanded certain already existing restrictions against women (including regulations on clothing and the “proper *hijab*”), while also introducing additional constraints.⁷⁶

“It was my sister’s henna night (a part of the wedding ceremony) and we had been

⁶⁷ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

⁶⁸ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

⁶⁹ Catherine Russell, ‘As New School Year Starts in Afghanistan, Almost 400,000 More Girls Deprived of Their Right to Education, Bringing Total to 2.2 Million’, UNICEF, 21 March 2025, <https://www.unicef.org/press-releases/new-school-year-starts-afghanistan-almost-400000-more-girls-deprived-their-right>.

⁷⁰ UN General Assembly, Richard Bennett, Situation of Human Rights in Afghanistan, A/80/432, United Nations, 8 October 2025, 4/21 <https://docs.un.org/en/A/80/432>.

⁷¹ A/80/432.

⁷² A/80/432.

⁷³ A/80/432.

⁷⁴ UN Women, ‘UN Women deeply concerned by new Afghanistan morality law’, 28 August 2024,

<https://www.unwomen.org/en/news-stories/statement/2024/08/un-women-deeply-concerned-by-new-afghanistan-morality-law>.

⁷⁵ OHCHR and UN Women, CEDAW: Legal Review, 2026, 5; Richard Bennett, Study on the So-Called Law on the Promotion of Virtue and Prevention of Vice, A/HRC/58/74 (United Nations, 2025), 6

<https://www.ohchr.org/sites/default/files/2025-02/a-hrc-58-74-pvpv-study.pdf>.

⁷⁶ Study on the So-Called Law on the Promotion of Virtue and the Prevention of Vice, 9.

playing music at home. At around midnight, a vehicle of the PVPV department stopped in front of our door. They asked for the bride's father. My father introduced himself and tried to apologise for playing music, but they forcibly pushed him into the vehicle and detained my elder brother as well. Despite the pleas and mediation of those present, the officials took both of them away. That night, the wedding celebration turned into distress and anxiety, and my sister wept until morning. The following day, a number of local elders went to the PVPV, and my father and brother were released on guarantee."

- Testimony of an Afghanistan woman from Ghazni province, as reported in Rawadari's Afghanistan Human Rights Situation Report (2025).⁷⁷

With the enforcement of the PVPV law, discrimination, restrictions, and social control over women have become more organized and far-reaching, extending into many more aspects of their personal and social lives.⁷⁸

Far from constituting an isolated regulatory measure, the PVPV represents a comprehensive and deeply regressive framework that consolidates the array of discriminatory and oppressive measures imposed since 2021.⁷⁹ The PVPV law's "status," provisions, and methods of enforcement underscores the institutional, intentional, and ideological nature of the system of gender oppression in Afghanistan.⁸⁰ The "Law," combined with restrictions on the lives and rights of the people of Afghanistan, particularly women and girls, forms part of a deliberate, calculated strategy to entrench control by enforcing a rigid and repressive social order.⁸¹ As such, "the PVPV functions as both a symptom and a tool of Taliban oppression, persecution and control."⁸²

Violence Against Women

The institutionalization of gender-based oppression has been accompanied by systematic physical violence against women.⁸³ In March 2024, the Supreme Leader formally endorsed public flogging and stoning to death for offences, in particular as adultery, grounded in the

⁷⁷ Afghanistan Human Rights Situation Report (Rawadari, 2025), 43, https://rawadari.org/wp-content/uploads/2026/03/RW_Annual_Report_Human_Rights_AFG-ENG.pdf.

⁷⁸ Afghanistan Human Rights Situation Report (Rawadari, 2025), 6.

⁷⁹ Study on the So-Called Law on the Promotion of Virtue and the Prevention of Vice., A/HRC/58/74 (OHCHR, 2025), 16, <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session58/advance-version/a-hrc-58-74-aev.pdf>.

⁸⁰ Study on the So-Called Law on the Promotion of Virtue and the Prevention of Vice, 16.

⁸¹ Study on the So-Called Law on the Promotion of Virtue and the Prevention of Vice, 18.

⁸² Study on the So-Called Law on the Promotion of Virtue and the Prevention of Vice, 18.

⁸³ CEDAW/C/AFG/CO/4, 4/17. see also Amnesty International, "Afghanistan 2024," <https://www.amnesty.org/en/location/asia-and-the-pacific/south-asia/afghanistan/report-afghanistan/>; The Advocates for Human Rights. "Afghanistan's Compliance with the Convention on the Elimination of All Forms of Discrimination against Women." Submission to CEDAW, 2023, 2, <https://www.theadvocatesforhumanrights.org/Res/Afghanistan%20CEDAW%20DP%20TAHR%20WCADP.pdf>.

extremist interpretation of Islamic law of the Taliban *de facto* authorities.⁸⁴ The UN Committee on the Elimination of Discrimination against Women (CEDAW) has further documented credible reports of arbitrary arrest and detention, beating, flogging, and the use of electroshocks and chemical sprays as punishment for human rights advocacy or so-called “moral crimes.”⁸⁵ In response, the CEDAW Committee has called upon the *de facto* authorities to immediately revoke the March 2024 endorsement, abolish all forms of corporal punishment imposed for dress code violations, movement restrictions, or so-called “moral crimes,” and release all women arbitrarily detained for exercising their fundamental rights.⁸⁶

Lack of Access to Justice

A central concern raised by women from Afghanistan is the near-total absence of access to justice, particularly within formal legal institutions.⁸⁷ As one Afghanistan woman interviewed in the course of this process stated: “Previously, there were so many organisations who were defending women's rights or prevention of violence against women or human rights organisations. Right now, none of them exist. No female lawyers exist.”⁸⁸ This creates a situation in which, she explained, “Women are not comfortable to speak freely.”⁸⁹

She further described how this silence is not the absence of cases but the absence of recognition, noting that “there are thousands of cases of women, female victims of violence ... that they have cases in the court, that they are not allowed to interview the court. They are not allowed to listen.”⁹⁰ She argued that the system “will just empower the men to do more abuses, to do whatever they want so there is no one to ask them or to question them.”⁹¹ This exclusion also shapes legal outcomes, as she noted that in practice, “all the decisions are made against women.”⁹²

Criminal Procedure Code for Courts

These concerns are reinforced by recent legal developments. In early 2026, Taliban *de facto* authorities issued a new penal code, specifically the “Criminal Procedure Code for Courts”

⁸⁴ CEDAW/C/AFG/CO/4, 4/17; Amnesty International, “Afghanistan 2024”; “Afghanistan's Compliance with the Convention on the Elimination of All Forms of Discrimination against Women.”, 5.

⁸⁵ CEDAW/C/AFG/CO/4, 4/17; Amnesty International, “Afghanistan 2024,”; The Advocates for Human Rights. ‘Afghanistan's Compliance with the Convention on the Elimination of All Forms of Discrimination against Women.’, 2-5.

⁸⁶ CEDAW/C/AFG/CO/4, 4/17; Amnesty International, “Afghanistan 2024,”; The Advocates for Human Rights. ‘Afghanistan's Compliance with the Convention on the Elimination of All Forms of Discrimination against Women.’, 5.

⁸⁷ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

⁸⁸ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

⁸⁹ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

⁹⁰ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

⁹¹ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

⁹² Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

(*Mahakumu Jazaai Osulnama*) signed on January 7, 2026.⁹³ This code allows men to beat their wives so long as they don't break bones or leave visible, lasting wounds.⁹⁴ Even if the violence is severe enough to cause visible fractures or injuries, the maximum prison penalty for the husband is 15 days (the punishment for animal abuse is more severe: the decree says that anyone who forces animals like dogs or cockerels to fight should be sentenced to five months in prison).⁹⁵

In that case, the law further places the burden of proof on women, requiring them to present visible evidence of injury before a male judge in court while fully veiled.⁹⁶ Moreover, restrictions preventing women in Afghanistan from leaving their homes without a male "guardian" imply that they must be accompanied by a man; who may, in many cases, be the perpetrator of the abuse.⁹⁷ One woman from Afghanistan interviewed recounted having heard "the stories of so many women who got imprisoned because just they refused to go back to the ... life that they had with their husband because of the judge's decision. They refused it and they got imprisoned."⁹⁸ This reflects a broader reality in which, as she put it, "a woman is experiencing violence and abuse and torture at home," yet still lacks access to justice, even in instances of severe physical violence:⁹⁹ "So, recently we heard that a woman was killed by her family-in-law. How she could get justice in the Taliban's court?"¹⁰⁰

"Our life is more like a constant resistance against everything out there. No one sees us. No one cares about us. This new law is not just a law – it is making our bodies their field of control. No one would see our pain unless our bones are broken. They are legalising fear. We are living in fear and silence."

- Testimony of a former university student in western Herat, as reported in The Telegraph (2026)¹⁰¹

Lack of Access to Healthcare

The gender-based oppression by the Taliban *de facto* authorities extends to significantly

⁹³ Alex Kwok J. HKU Faculty of Law and CN/HK, 'New Taliban de facto Penal Code Legalizes Domestic Violence against Women', 21 February 2026, <https://www.iurist.org/news/2026/02/Taliban-de-facto-new-penal-code-legalizes-domestic-violence-against-women/>.

⁹⁴ Mick Krever Yeung Isobel, 'Taliban de facto Gives Green Light to Domestic Violence, Bans Dissent, and Makes Sodomy Punishable by Death', CNN, 1 March 2026, <https://edition.cnn.com/2026/03/01/asia/taliban-afghanistan-domestic-violence-legal/>.

⁹⁵ Mick Krever, Yeung Isobel, 'Taliban de facto Gives Green Light to Domestic Violence, Bans Dissent, and Makes Sodomy Punishable by Death'.

⁹⁶ Mick Krever, Yeung Isobel, 'Taliban de facto Gives Green Light to Domestic Violence, Bans Dissent, and Makes Sodomy Punishable by Death.'

⁹⁷ Mick Krever, Yeung Isobel, 'Taliban de facto Gives Green Light to Domestic Violence, Bans Dissent, and Makes Sodomy Punishable by Death.'

⁹⁸ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

⁹⁹ Mick Krever, Yeung Isobel, 'Taliban de facto Gives Green Light to Domestic Violence, Bans Dissent, and Makes Sodomy Punishable by Death.'

¹⁰⁰ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

¹⁰¹ Akhtar Makoi, 'Taliban Allows Men to Beat Wives – so Long as They Don't Break Bones', *The Telegraph*, 19 February 2026, <https://www.telegraph.co.uk/world-news/2026/02/19/taliban-allow-men-to-beat-wives-so-long-dont-break-bones/>.

constraining their access to basic healthcare services.¹⁰² Since the military takeover by the Taliban *de facto* authorities, a combination of pervasive fear, severe limitations on mobility, prohibitions on female education, and entrenched patterns of systemic discrimination has significantly impeded women's and girls' ability to obtain necessary medical care.¹⁰³ Fear of arrest, detention, or harassment for perceived non-compliance leads some women to delay or avoid seeking care, while health workers report colleagues leaving their jobs for the same reasons.¹⁰⁴

For those who do attempt to access healthcare, the journey can be arduous, often requiring travel across considerable distances to reach a medical facility, only to be denied treatment solely on the basis of their gender.¹⁰⁵ Moreover, physical access to health facilities often depends on compliance with mandatory dress codes, as well as on the requirement that women be accompanied by a *mahram* who is willing and able to accompany them.¹⁰⁶ This is especially challenging for women-headed households, widows, internally displaced and returnee women, separated or unaccompanied women and girls, those whose *mahram* has a disability, and those who may not have family support, for example LGBT+ women.¹⁰⁷

"In emergency situations, the need for a mahram becomes decisive; without one, women cannot visit health facilities."

- Testimony of an Afghanistan woman from Badakhshan province, as reported in the UN Special Rapporteur's Report on Women's and Girls' Right to Health in Afghanistan (2026).¹⁰⁸

One woman from Afghanistan recounted her own experience travelling across a province with her husband when she fell ill: "We went a very long distance and I was in real pain and there was no clinic and there was no hospital."¹⁰⁹ Even accompanied by her husband, obtaining care proved extraordinarily difficult.¹¹⁰ The implications for women without that support were, in her view, potentially fatal: "Imagine if there is a female patient alone and she has no one to be accompanied or a male chaperone or she got that sudden or urgent medical situation. In that

¹⁰² Richard Bennett, Report on women's and girls' right to health in Afghanistan, A/HRC/61/63, United Nations, 23 February 2026, 4 https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session61/advance-version/a-hrc-61-63-auv.pdf?utm_

¹⁰³ A/HRC/61/63, 11.

¹⁰⁴ A/HRC/61/63, 8.

¹⁰⁵ 'FAQs: What It's like to Be a Woman in Afghanistan Today', UN Women – Headquarters, 7 August 2025, <https://www.unwomen.org/en/articles/faqs/faqs-afghanistan>.

¹⁰⁶ A/HRC/61/63, 8.

¹⁰⁷ A/HRC/61/63, 7.

¹⁰⁸ A/HRC/61/63, 7.

¹⁰⁹ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

¹¹⁰ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

long distance, what would happen to her? I would say she would die in that long distance between finding another clinic or hospital.”¹¹¹

In certain provinces, the situation is further compounded by restrictions preventing women from receiving care from male healthcare providers.¹¹² This limitation is exacerbated by a significant shortage of female health professionals, a direct consequence of the decree enacted in December 2024 by the Taliban *de facto* authorities, which prohibited women from pursuing medical or midwifery education.¹¹³ The results are alarming: women are living shorter, less healthy lives.¹¹⁴ Maternal mortality risks are rising, especially with high rates of adolescent birth due to child marriage.¹¹⁵ And most women can not even make decisions about their own health, as such matters are often controlled or decided by male relatives.¹¹⁶

Child and Forced Marriage

Additionally, as the Special Rapporteur on the human rights situation in Afghanistan has noted, military takeover has dramatically increased the levels of discrimination many women and girls face within their families.¹¹⁷ This discrimination encourages harmful practices including “forced and/or child marriage, polygamy, dowry obligations, discriminatory requirements for guardianship and custody of children, legal and practical inequalities in divorce and division of matrimonial assets, lack of access to the right to remarry following dissolution of marriage or death of the husband, and the unequal status of widows and of women and girls in relation to inheritance.”¹¹⁸ Judges and provincial governors, have been emboldened by the Taliban *de facto* authorities to be complicit in these abuses by, for example, upholding child and forced marriages and supporting impunity for these and other forms of gender-based violence.¹¹⁹

While Afghanistan already had some of the world’s highest rates of child, early, and forced marriage before the military takeover, with around 28 per cent of women aged 15-49 married before 18, no nationwide assessment has since been conducted.¹²⁰ Nonetheless, available

¹¹¹ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

¹¹² UN Women – Hqrs., ‘FAQs.’

¹¹³ Afghanistan’s Taliban *de facto* Ban Medical Training for Women | Human Rights Watch, 3 December 2024, <https://www.hrw.org/news/2024/12/03/afghanistans-Taliban-de-facto-ban-medical-training-women>.

¹¹⁴ Afghanistan’s Taliban *de facto* Ban Medical Training for Women | Human Rights Watch.

¹¹⁵ UN Women – Hqrs., ‘FAQs.’

¹¹⁶ UN Women – Hqrs., ‘FAQs.’

¹¹⁷ *The Regime of Systematic Domination and Oppression of Women and Girls Institutionalized by the Taliban in Afghanistan, an Emblematic Example*, Annex A (End Gender Apartheid, 2025), 3-4, <https://endgenderapartheid.today/download/2025/EGA%20Legal%20Brief%20Annex.pdf>; A/HRC/53/21, 12-14.

¹¹⁸ *The Regime of Systematic Domination and Oppression of Women and Girls Institutionalized by the Taliban in Afghanistan, an Emblematic Example* 3-4; A/HRC/53/21, 12-14.

¹¹⁹ *The Regime of Systematic Domination and Oppression of Women and Girls Institutionalized by the Taliban in Afghanistan, an Emblematic Example*, 3-4; United Nations Assistance Mission in Afghanistan, Human Rights in Afghanistan: 15 August 2021-15 June 2022, UNAMA Human Rights Service, July 2022, https://unama.unmissions.org/sites/default/files/unama_human_rights_in_afghanistan_report_-_june_2022_english.pdf, 31-32.

¹²⁰ Amnesty International, *Death in Slow Motion: Women and Girls Under Taliban Rule*, 57; UNICEF, “Girls increasingly at risk of child marriage in Afghanistan”, 12 November 2021, <https://www.unicef.org/rosa/press-releases/girls-increasingly-risk-child-marriage-afghanistan>.

indicators suggest that these rates are increasing.¹²¹ According to staff members of international and national organisations working on child, early and forced marriage, as well as Afghanistan women's rights defenders and other women interviewed by Amnesty International, some of the most common drivers of child, early and forced marriage since August 2021 include the following: the economic and humanitarian crisis; lack of educational and professional prospects for women; families' perceived need to protect their daughters from marriage with a Taliban member; families forcing women and girls to marry Taliban members; and Taliban members forcibly marrying women and girls.¹²²

As one Afghanistan woman interviewed for this project explained, "Families are forced to sell their daughters because of poverty, and there are people who use this situation, and the poverty of the families, and try to make them sell their daughters ... this kind of child marriage happens."¹²³ She also linked these practices to the systematic exclusion of girls from education and the broader climate of fear:

"They are forcing their daughters to get married, and that also happens, to the young girls, for example, 13, 14, 15 ... And unfortunately, because they see that there is no future for their daughters, there is no education, there are no schools for their daughters to graduate from school or study at university. None of them are possible. And there are a lot of restrictions for women. So many families that don't have, for example, male children, force their daughters to get married, so they have a male child ... by having a son-in-law, to be safer against the Taliban, and against other people."¹²⁴

Denial of Employment

The impact of measures taken by the Taliban *de facto* authorities is also evident in the labor force. Afghanistan now exhibits one of the largest gender gaps in employment globally, with only one in four women participating in the workforce or actively seeking employment, compared to nearly 90 per cent of men.¹²⁵ The Taliban *de facto* authorities have issued sweeping bans that bar women from working in sectors that once offered employment opportunities, such as the civil service, national and international NGOs, and beauty salons.¹²⁶ Most women who do work are forced into low-paying, unstable jobs in the informal

¹²¹ Amnesty International, *Death in Slow Motion: Women and Girls Under Taliban Rule*, 57; UNICEF, "Girls increasingly at risk of child marriage in Afghanistan."

¹²² Amnesty International, *Death in Slow Motion: Women and Girls Under Taliban Rule*, 58.

¹²³ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

¹²⁴ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

¹²⁵ UN Women – Hqrs., 'FAQs'; Richard Bennett, *Situation of Human Rights in Afghanistan*, A/79/330 (United Nations, 30 August 2024), 15/23-17/23 <https://www.ohchr.org/en/documents/country-reports/a79330-report-special-rapporteur-situation-human-rights-afghanistan>.

¹²⁶ A/79/330.

economy.¹²⁷ Even accessing money is a challenge: less than seven per cent of Afghanistan's women have a bank account or use a mobile money service.¹²⁸ One woman from Afghanistan described the impossible position in which many families now find themselves:

"I know many women who have been working and they have been the breadwinner. If they accepted these restrictions and all these things that the Taliban wants women to do, I would definitely say that their family would die because no one else is feeding the family, no one else is working for them or feeding their family."¹²⁹

Inter-generational Impacts

Furthermore, the long-term consequences of current restrictions in Afghanistan, particularly on women's access to education, are likely to affect an entire generation, effectively undermining their right to a future.¹³⁰ Rebuilding educational and professional pathways after prolonged exclusion will be extremely difficult, and these structural impacts are likely to shape the country for decades to come.¹³¹

Gender Apartheid

Taken together, these developments demonstrate that gender-based discrimination in Afghanistan is not episodic or informal, but has been systematically embedded within the country's legal, social, and institutional framework.¹³² As the CEDAW Committee observed in General Recommendation No. 40, patriarchy in its most extreme manifestation "takes the form of an institutionalised regime of systematic oppression and domination of women, committed with the intention of maintaining a regime that is increasingly referred to as 'gender apartheid'."¹³³ The Committee further stressed that "it is therefore crucial to codify the crime of 'gender apartheid' to create full accountability for gender-based crimes."¹³⁴

This framing has been affirmed by multiple international experts, advocates, lawyers, human rights defenders, activists, and more, including the Working Group on discrimination against

¹²⁷ A/79/330.

¹²⁸ A/79/330.

¹²⁹ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

¹³⁰ Office of the United Nations High Commissioner for Human Rights (OHCHR) and United Nations Entity for Gender Equality and the Empowerment of Women (UN Women). CEDAW: Legal Review of Measures Introduced by Afghanistan's De Facto Authorities That Impact Women and Girls. Geneva: OHCHR and UN Women, 2026, 20, <https://www.ohchr.org/en/documents/research-papers/cedaw-based-legal-review-convention-elimination-all-forms-discrimination>.

¹³¹ Expert interview, expert in gender-sensitive strategies and transitional justice processes conducted by the authors, 21st April 2026, confidential.

¹³² Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

¹³³ 'General Recommendation No 40. on the Equal and Inclusive Representation of Women in Decision-Making Systems', OHCHR, 2024, 6/29-7/29, <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-recommendation-no-40-equal-and-inclusive>.

¹³⁴ 'General Recommendation No 40. on the Equal and Inclusive Representation of Women in Decision-Making Systems', 2024, 7/29.

women and girls,¹³⁵ UN Secretary-General Antonio Guterres,¹³⁶ and the Special Rapporteur on Afghanistan,¹³⁷ all of whom have affirmed that the situation in Afghanistan reflects an institutionalised system of gender-based apartheid.¹³⁸ For the woman of Afghanistan we interviewed: “I join local and international experts in calling it *gender apartheid* ... It is a deliberate way of ... stripping [women] of freedom, ... human rights, identity, and dignity, and reducing them to a dehumanised existence.”¹³⁹ The implications of this characterization will be examined in greater depth later in this report.

¹³⁵ Situation of Women and Girls in Afghanistan, UN Working Group on discrimination against women and girls, 2023, <https://unworkinggroupwomenandgirls.org/reports/situation-of-women-and-girls-in-afghanistan/>; CEDAW/C/AFG/4.

¹³⁶ António Guterres, ‘The Secretary-General’s Remarks to the Security Council on the Promotion and Strengthening of the Rule of Law in the Maintenance of International Peace and Security: The Rule of Law Among Nations’, United Nations, 12 January 2023, <https://www.un.org/sg/en/content/sg/statements/2023-01-12/the-secretary-generals-remarks-the-security-council-the-promotion-and-strengthening-of-the-rule-of-law-the-maintenance-of-international-peace-and-security-the-rule-of-law>; CEDAW/C/AFG/4.

¹³⁷ A/HRC/56/25; CEDAW/C/AFG/4.

¹³⁸ António Guterres, ‘The Secretary-General’s Remarks to the Security Council on the Promotion and Strengthening of the Rule of Law in the Maintenance of International Peace and Security: The Rule of Law Among Nations’; A/HRC/56/25; CEDAW/C/AFG/4.

¹³⁹ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

III. EXISTING EFFORTS TO ADDRESS THE SITUATION OF WOMEN AND GIRLS IN AFGHANISTAN: CHALLENGES AND OPPORTUNITIES



The entire ecosystem of organisations, bodies, and mechanisms should be mobilized to its fullest potential to strengthen efforts to comprehensively address the situation of Afghanistan's women and girls. This section outlines existing efforts by international human rights mechanisms; OHCHR and UNAMA; courts and tribunals; and civil society.

A. International Human Rights Mechanisms

i. Charter-Based Bodies

The United Nations Commission on Human Rights, established in 1946, was the main United Nations body “working to promote and protect human rights.”¹⁴⁰ The UNHRC, established by the United Nations General Assembly in 2006, replaced the Commission, and is “the main intergovernmental body within the United Nations responsible for human rights.”¹⁴¹ The UNHRC “consists of different mechanisms and entities, as set out in the Council’s ‘Institution-building package’ (Resolution 5/1) of 2007,” including, the Universal Periodic Review (UPR) and the Special Procedures.¹⁴² The UNHRC has also established investigative bodies “as crucial tools for addressing serious violations of international humanitarian law and human rights law,” most recently establishing the IIM-A.¹⁴³ The Special Rapporteur on the Situation of Human Rights in Afghanistan, the UPR, and the new IIM-A will be discussed in turn.

a. The Special Rapporteur on the Situation of Human Rights in Afghanistan

Mandate and Renewal

On 7 October 2021, two months after the military takeover by the Taliban *de facto* authorities, the United Nations Human Rights Council adopted resolution 48/1, establishing the mandate of a Special Rapporteur on the situation of human rights in Afghanistan, appointed for a renewable term of one year.¹⁴⁴

Since 11 April 2022, Mr. Richard Bennett has served as Special Rapporteur on the situation of human rights in Afghanistan.¹⁴⁵ His appointment has been renewed on four occasions, each

¹⁴⁰ ‘Brief historic overview of the Commission on Human Rights,’

<https://www.ohchr.org/sites/default/files/Documents/HRBodies/CHR/BriefHistoric.doc>.

¹⁴¹ ‘Welcome to the Human Rights Council,’ OHCHR, <https://www.ohchr.org/en/hr-bodies/hrc/about-council>.

¹⁴² ‘Welcome to the Human Rights Council.’

¹⁴³ ‘The Human Rights Council mechanisms and entities,’ OHCHR, <https://www.ohchr.org/en/hr-bodies/hrc/other-sub-bodies>; A/HRC/RES/60/2.

¹⁴⁴ Office of the United Nations High Commissioner for Human Rights, ‘Special Rapporteur on Afghanistan,’ OHCHR, <https://www.ohchr.org/en/special-procedures/sr-afghanistan>; A/HRC/RES/48/1, para. 12, 4.

¹⁴⁵ Office of the United Nations High Commissioner for Human Rights, ‘Special Rapporteur on Afghanistan,’ OHCHR, <https://www.ohchr.org/en/special-procedures/sr-afghanistan>.

time for a period of one year.¹⁴⁶ The most recent resolution extending his term was adopted on 6 October 2025.¹⁴⁷

The mandate, according to applicable resolutions (48/1, 51/20, 54/1, 57/3 and 60/2), includes the following:

- “report on the developing situation of human rights, and to make recommendations to improve it;
- assist in fulfilling the human rights obligations arising from international treaties that Afghanistan has ratified;
- offer support and advice to civil society;
- to seek, receive, examine and act on information from all relevant stakeholders pertaining to the situation of human rights in Afghanistan;
- document and preserve information relating to human rights violations and abuses;
- Integrate a gender perspective, a child’s right perspective and a survivor-centered approach throughout the work of the mandate;
- report to the Human Rights Council and to the General Assembly.”¹⁴⁸

Relationship to UNAMA and the OHCHR

The Special Rapporteur remains an independent expert.¹⁴⁹ The resolutions emphasised he should benefit from “additional dedicated and specific expertise ... provided by the Office of the High Commissioner, in particular in the areas of fact-finding, legal analysis, the rights of women and girls and of persons belonging to minorities, the right to education, forensics, torture and other cruel, inhuman or degrading treatment or punishment”; “additional resources for children’s rights, translation, documentation, information- and evidence-gathering and preservation”; “additional resources and expertise for for strengthening documentation and preservation, including for information and communications technology licensing and security, and for Dari and Pashto language capacity”; and “additional resources and expertise to strengthen documentation and preservation of the information collected, including a specific

¹⁴⁶ UN Human Rights Council, *Situation of Human Rights in Afghanistan*, A/HRC/RES/51/20 (United Nations, 2022), <https://docs.un.org/en/A/HRC/RES/51/20>, para. 20; UN Human Rights Council, *Situation of Human Rights in Afghanistan*, A/HRC/RES/54/1 (United Nations, 2023), <https://docs.un.org/en/A/HRC/RES/54/1>, para. 22; UN Human Rights Council, *Situation of Human Rights in Afghanistan*, A/HRC/RES/57/3 (United Nations, 2024), <https://docs.un.org/en/A/HRC/RES/57/3>, para. 22; UN Human Rights Council, *Situation of Human Rights in Afghanistan*, A/HRC/RES/60/2 (United Nations, 2025), <https://docs.un.org/A/HRC/RES/60/2>, para. 33.

¹⁴⁷ A/HRC/RES/60/2, para. 33, 9.

¹⁴⁸ Office of the United Nations High Commissioner for Human Rights, ‘Special Rapporteur on Afghanistan’, OHCHR, <https://www.ohchr.org/en/special-procedures/sr-afghanistan>.

¹⁴⁹ OHCHR, ‘Special Rapporteur on Afghanistan’; OHCHR, ‘Special Procedures of the Human Rights Council’, OHCHR, <https://www.ohchr.org/en/special-procedures-human-rights-council>.

capacity for analysis and reporting.”¹⁵⁰ Furthermore, he “works closely” with the United Nations Assistance Mission in Afghanistan (UNAMA).¹⁵¹

Key Efforts

In carrying out his mandate, the Special Rapporteur has sought, received, examined and acted on information from relevant stakeholders pertaining to the situation of human rights of women and girls in Afghanistan; undertaken country visits to Afghanistan and to the region and engage with relevant stakeholders; he has strived to assist relevant authorities in Afghanistan in fulfilling Afghanistan’s obligations under international human rights instruments; he has offered advice and support to civil society and other relevant stakeholders; he has submitted comprehensive reports to the Human Rights Council and General Assembly on the situation of human rights in Afghanistan, including comprehensively covering the situation of women and girls; and he has engaged publicly on issues of concerns, including through press releases and communications including letters to relevant authorities on alleged violations of human rights.¹⁵² The Special Rapporteur also continues to advocate for the codification of *gender apartheid* as an international crime.¹⁵³

Challenges and Opportunities

However, while the Special Rapporteur plays a critical role, several challenges persist with respect to his ability to effectively carry out his mandate; notably, because of the limitation of the resources available to carry out his work and his lack of direct access to the field, as he was barred by the Taliban *de facto* authorities from entering Afghanistan in November 2024.¹⁵⁴

Recently, a new opportunity emerged for the Special Rapporteur, with the establishment of the Independent Investigative Mechanism for Afghanistan (IIM-A).¹⁵⁵ Specifically, Resolution 60/2 reflects a decision that the Mechanism shall: “Build on the work and findings of the [Special Rapporteur], and to this end be able to make use of relevant information collected by the Special Rapporteur, with the consent of information providers as appropriate, and continue to collect evidence”; and “that the mandate of the Special Rapporteur to document and preserve

¹⁵⁰ OHCHR, ‘Special Rapporteur on Afghanistan’; A/HRC/RES/48/1, para. 13; *See also*, A/HRC/RES/51/20, para. 22; A/HRC/RES/54/1, para. 24; A/HRC/RES/60/2, paras. 34, 35, 36, 38.

¹⁵¹ OHCHR, ‘Special Rapporteur on Afghanistan.’

¹⁵² OHCHR, ‘Special Rapporteur on Afghanistan.’

¹⁵³ Documents Listing, OHCHR,

https://www.ohchr.org/en/documents-listing?field_content_category_target_id%5B182%5D=182&field_entity_target_id%5B1257%5D=1257&view_mode=document-list; *See e.g.*, A/80/432, paras. 95-97.

¹⁵⁴ Office of the United Nations High Commissioner for Human Rights, ‘UN Special Rapporteur Says Committed to People of Afghanistan despite Taliban *de facto* barring Entry’, OHCHR, 21 August 2024,

<https://www.ohchr.org/en/statements-and-speeches/2024/08/un-special-rapporteur-says-committed-people-afghanistan-despite>.

¹⁵⁵ A/HRC/RES/60/2, para. 26(b), 36.

information relating to human rights violations and abuses as outlined by the Human Rights Council in its resolution 51/20 and subsequent resolutions on Afghanistan will continue and remain valid until such time that the investigative mechanism is operational and the information collected can be safely preserved and, to the extent possible, transmitted to the investigative mechanism for its use...”

Welcoming the resolution, Mr. Bennett emphasised that the establishment of the Mechanism “should be matched by a firm and continued commitment to pursue accountability through all available avenues.”¹⁵⁶ At a recent side event at the margins of the 62nd session of the UN Human Rights Council, *Strengthening Coordination, Survivor-Centred Accountability, and Prevention in Light of the IIM-A’s Operationalisation*, Mr. Bennett emphasised: “My mandate stands ready to support the work of the Mechanism, including through the body of analysis we’ve built already on human rights violations, the evidence that we have gathered and will continue to gather and the networks of Afghan women and survivors we continue to work with.”¹⁵⁷ Their collaboration could thus help to realise the aims put forth in Resolution 60/2.

b. The Universal Periodic Review (UPR)

The Universal Periodic Review (UPR) is one of the core instruments of the Human Rights Council. It requires that each UN Member State undergo a peer review of the human rights situation in its territory on a regular basis (every 4.5 years).¹⁵⁸ The review is based on three main sources: a national report submitted by the State under review, reports from independent human rights mechanisms (including Special Procedures, treaty bodies and other UN entities), and information provided by other human rights institutions and non-governmental organisations.¹⁵⁹ Reviews are conducted by the UPR Working Group, but all UN Member States may participate in the interactive dialogue, with the possibility to make comments, ask questions, and formulate recommendations.¹⁶⁰ Afghanistan underwent its 4th country review on 29 April 2024.¹⁶¹

¹⁵⁶ Office of the United Nations High Commissioner for Human Rights, “Establishment of Independent Investigative Mechanism for Afghanistan Answers the Call of Afghan Victims, Says UN Expert,” press release, October 7, 2025, <https://www.ohchr.org/en/press-releases/2025/10/establishment-independent-investigative-mechanism-afghanistan-answers-call>.

¹⁵⁷ ‘Strengthening Coordination, Survivor-Centred Accountability, and Prevention in Light of the IIM-A’s Operationalisation,’ Side Event at the margins of the 62nd session of the Human Rights Council, 18 June 2026, <https://hrc62session.sched.com/event/2PEo/strengthening-coordination-survivor-centred-accountability-and-prevention-in-light-of-the-iim-as-operationalisation>; https://www.linkedin.com/posts/center-for-human-rights-advocacy_hrc62-side-event-afghanistan-activity-7476182482074124288-0vQQ?utm_source=share&utm_medium=member_desktop&rcm=ACoAApCCEYBfgKCZtYnyulzDzmh42IBd.fB484.

¹⁵⁸ OHCHR, ‘Universal Periodic Review.’

¹⁵⁹ Office of the United Nations High Commissioner for Human Rights, ‘Basic Facts about the UPR,’ Office of the United Nations High Commissioner for Human Rights, <https://www.ohchr.org/en/hr-bodies/upr/basic-facts>.

¹⁶⁰ OHCHR, ‘Basic Facts about the UPR.’

¹⁶¹ Office of the United Nations High Commissioner for Human Rights, ‘Universal Periodic Review - Afghanistan’, OHCHR, <https://www.ohchr.org/en/hr-bodies/upr/af-index>.

Since their takeover, the Taliban *de facto* authorities have repeatedly sought to appoint representatives to the UN.¹⁶² However, the General Assembly has consistently “defer[red] its decision on the credentials pertaining to the representatives ... of Afghanistan ...”¹⁶³ to subsequent sessions, thereby maintaining the status quo.¹⁶⁴ In practice, this has meant that the credentials of the previously accredited representatives of the Islamic Republic of Afghanistan have not been withdrawn.¹⁶⁵ Therefore, the Permanent Mission of Afghanistan to the United Nations in New York continues to serve as the country’s diplomatic representation to the UN, while the Embassy and Permanent Mission of the Islamic Republic of Afghanistan represents it in Geneva.¹⁶⁶ In addition, with respect to the UPR process, “the Permanent Mission of the Islamic Republic of Afghanistan (PMoIRA) to the United Nations Office and other international organisations in Geneva (UNOG),”¹⁶⁷ has “undertaken the task of preparing [the] National Report [for Afghanistan] for the 4th UPR cycle.”¹⁶⁸

Key Recommendations

Regarding the rights of women and girls, key recommendations included the reversal of discriminatory decrees, the lifting of bans on education and employment for women and girls, and the restoration of the Ministry of Women’s Affairs.¹⁶⁹ Ireland recommended that Afghanistan “[r]everse fully decrees implemented by the Taliban that infringe on the human rights of Afghans, including restrictions on women and girls rights to education, employment, legal remedies, health and freedom of movement and restrictions targeted at the LGBTQI+ community and ethnic and religious minorities.”¹⁷⁰ New Zealand similarly called for Afghanistan to “rescind discriminatory edicts and decrees issued since August 2021 by the Taliban which curtail the fundamental rights and freedoms of women and girls and people of ethnic, religious and other minority groups.”¹⁷¹

Several States also framed the situation of women and girls in terms of accountability and

¹⁶² UN General Assembly. Credentials Committee, *Report of the Credentials Committee : General Assembly, 76th Session, A/76/550* (United Nations, 2021), <https://docs.un.org/en/A/76/550>, 2; UN General Assembly. Credentials Committee, *Report of the Credentials Committee : General Assembly, 77th Session, A/77/600* (United Nations, 2022), <https://digitallibrary.un.org/record/3997323?v=pdf>, 2; UN General Assembly. Credentials Committee, *Report of the Credentials Committee : General Assembly, 78th Session, A/78/605* (United Nations, 2023), <https://digitallibrary.un.org/record/4029917?v=pdf>, 2; UN General Assembly. Credentials Committee, *Report of the Credentials Committee : General Assembly, 79th Session, A/79/613* (United Nations, 2024), <https://digitallibrary.un.org/record/4067717?v=pdf>, 2.

¹⁶³ A/76/550, 2.

¹⁶⁴ A/76/550, 2; A/77/600, 2; A/78/605, 2; A/79/613, 2.

¹⁶⁵ Howard Thorne, ‘Depoliticizing the United Nations Credentials Process amid the Taliban’s Return to Power Notes’, *Vanderbilt Journal of Transnational Law* 56, no. 3 (2023): 951–82, <https://heinonline.org/HOL/P?h=hein.journals/vantl56&i=979>, 965–966.

¹⁶⁶ Permanent Mission Of Afghanistan To The United Nations, ‘Permanent Mission Of Afghanistan To The United Nations’, Permanent Mission of Afghanistan to the United Nations, <https://afghanmission-un.org/>; A/79/613, 2; Embassy and Permanent Mission of the Islamic Republic of Afghanistan, ‘Home’, Embassy and Permanent Mission of the Islamic Republic of Afghanistan – Geneva – Switzerland, <https://www.afghanistanmission.ch/en/>.

¹⁶⁷ Afghanistan, *National Report Submitted Pursuant to Human Rights Council Resolutions 5/1 and 16/21 : [Universal Periodic Review] : Afghanistan*, A/HRC/WG.6/46/AFG/1 (United Nations, 2024), <https://digitallibrary.un.org/record/4051297?v=pdf>, 4.

¹⁶⁸ A/HRC/WG.6/46/AFG/1, 4.

¹⁶⁹ UN Human Rights Council. Working Group on the Universal Periodic Review (46th sess. : 2024 : Geneva), *Report of the Working Group on the Universal Periodic Review : Afghanistan*, A/HRC/57/5 (United Nations, 2024), <https://docs.un.org/en/A/HRC/57/5>, 10–21.

¹⁷⁰ A/HRC/57/5, recommendation 109.26, Ireland, 12.

¹⁷¹ A/HRC/57/5, recommendation 109.27, New Zealand, 12.

prevention.¹⁷² Finland recommended that Afghanistan “ensure accountability for human rights violations, including by ensuring that all forms of gender-based violence are criminalized.”¹⁷³ Uruguay called to “increase efforts to effectively combat impunity related to acts of violence against women and prevent, investigate, prosecute and punish acts of discrimination perpetrated against women,”¹⁷⁴ and Luxembourg called for “... equality before the law and access to justice for women and girls.”¹⁷⁵ Preventive recommendations were also prominent: Liechtenstein urged measures to “... prevent femicides...” and acts including “...arbitrary detention, sexual abuse and any form of torture, ill-treatment or punishment of women and girls...,”¹⁷⁶ while Germany recommended measures to “...prevent and investigate cases of violence against women and girls, protect female victims and hold perpetrators to account.”¹⁷⁷

Other recommendations focused on women’s participation in public, political, economic and social life. The Netherlands recommended that Afghanistan “eliminate restrictions on and promote women’s full, equal and meaningful participation in all aspects of social, political, economic, legal and public life...,”¹⁷⁸ while Norway called for “tak[ing] concrete steps to protect and ensure women’s participation in economic, social and political life in accordance with [CEDAW].”¹⁷⁹

Challenges and Opportunities

The UPR has been described as a peer-review mechanism through which States examine one another’s human rights records and make recommendations aimed at improving the human rights situation under review.¹⁸⁰ It therefore draws international attention to country-specific human rights issues through dialogue between Member States and the public formulation of recommendations.¹⁸¹ In the case of Afghanistan, this is particularly important, as the situation has significantly deteriorated since the previous review in January 2019, prior to the military takeover by the Taliban *de facto* authorities.¹⁸² The 4th cycle was therefore especially relevant in documenting this decline. During the fourth review, the delegation of Afghanistan stated that “Afghanistan, under the Taliban, remained the most repressive country in the world, in particular for women and girls.”¹⁸³

¹⁷² A/HRC/57/5.

¹⁷³ A/HRC/57/5, recommendation 109.32, Finland, 12.

¹⁷⁴ A/HRC/57/5, recommendation 109.210, Uruguay, 22.

¹⁷⁵ A/HRC/57/5, recommendation 109.200, Luxembourg, 21.

¹⁷⁶ A/HRC/57/5, recommendation 109.203, Liechtenstein, 21.

¹⁷⁷ A/HRC/57/5, recommendation 109.212, Germany, 22.

¹⁷⁸ A/HRC/57/5, recommendation 109.172, Kingdom of the Netherlands, 19.

¹⁷⁹ A/HRC/57/5, recommendations 109.176, Norway, 19.

¹⁸⁰ Edward McMahon and Marta Ascherio, ‘A Step Ahead in Promoting Human Rights? The Universal Periodic Review of the UN Human Rights Council’, *Global Governance* 18, no. 2 (2012): 231–48, <https://www.istor.org/stable/23269951>, 231.

¹⁸¹ McMahon and Ascherio, ‘A Step Ahead in Promoting Human Rights?’, 231, 246–247.

¹⁸² OHCHR, ‘Universal Periodic Review - Afghanistan.’

¹⁸³ A/HRC/57/5, para. 9, 3.

Although the Permanent Mission of Afghanistan accepted 215 recommendations, challenges remain with respect to implementation, particularly those concerning women and girls, as the Taliban *de facto* authorities consistently reject many human rights norms.¹⁸⁴

Nevertheless, the UPR remains important because it identifies specific recommendations made by States, creating concrete areas for follow-up, including gender-based violence, access to justice, accountability, prevention, education, employment, and participation.¹⁸⁵ States who made such recommendations should work closely with Afghanistan's women, civil society organisations, human rights defenders and relevant United Nations entities and international human rights mechanisms to help realise them, even in the face of non-cooperation by the Taliban *de facto* authorities.¹⁸⁶ In this sense, the UPR can support collective action through which States, civil society and the United Nations may coordinate advocacy and accountability efforts.¹⁸⁷

c. The Independent Investigative Mechanism for Afghanistan (IIM-A)

Successful Advocacy Efforts

Since the early 2000s, civil society groups have called for the establishment of an accountability mechanism for Afghanistan.¹⁸⁸ This movement regained momentum following the military takeover by the Taliban *de facto* authorities. Since then, a sustained advocacy campaign has been led by both international and national human rights organisations calling for the establishment of an investigative mechanism for Afghanistan.¹⁸⁹ Initially driven by civil society, the movement gained further traction in 2025 with the support of States and United Nations experts.¹⁹⁰

On 20 March 2025, following years of advocacy by civil society organisations and Afghanistan stakeholders, a joint statement was delivered during the 58th session of the UNHRC by the

¹⁸⁴ OHCHR, 'Universal Periodic Review - Afghanistan'.

¹⁸⁵ A/HRC/57/5, recommendations 109.1–109.243, 10–23; see especially recommendations 109.32, Finland, 12; 109.122, New Zealand, 17; 109.123, United Kingdom, 17; 109.172, Kingdom of the Netherlands, 19; 109.200, Luxembourg, 21; 109.203, Liechtenstein, 21; 109.209, United States of America, 21; 109.212, Germany, 22.

¹⁸⁶ UN Human Rights Council, *Institution-Building of the United Nations Human Rights Council*, A/HRC/RES/5/1 (United Nations, 2007), <https://docs.un.org/en/A/HRC/RES/5/1>, para. 33, para. 36–38, 5–6; Alice Storey and Melisa Oleschuk, *Empowering Civil Society Organisations at the UPR - Strengthening Implementation of Recommendations from the UN's Universal Periodic Review*, 22 August 2024, <https://www.bcu.ac.uk/research/law/centre-for-human-rights/consultancy/upr-project-at-bcu/implementing-recommendations-from-the-uns-upr>, 10–11.

¹⁸⁷ Storey and Oleschuk, *Empowering Civil Society Organisations at the UPR - Strengthening Implementation of Recommendations from the UN's Universal Periodic Review*, 10–11.

¹⁸⁸ Dyan Mazurana et al., *Legal Commitments, Systemic Violations: A Comprehensive Analysis of the Taliban de facto and CEDAW Obligations in Afghanistan (2021–2025)* (Feinstein International Center (Tufts University), 2026), <https://fic.tufts.edu/wp-content/uploads/Taliban-de-facto-CEDAW-Analysis-Complete.pdf>, 6.

¹⁸⁹ Mazurana et al., *Legal Commitments, Systemic Violations*, 6.

¹⁹⁰ Human Rights Watch, 'UN Rights Council Creates Afghanistan Accountability Body', Human Rights Watch, 6 October 2025,

<https://www.hrw.org/news/2025/10/06/un-rights-council-creates-afghanistan-accountability-body>.

government of Iceland, on behalf of a group of States (Iceland, South Africa, Chile, Costa Rica, Liechtenstein, Switzerland, Luxembourg, Colombia, Slovenia, Spain, Czechia, Mexico, France and Afghanistan), calling for the establishment of an investigative mechanism for Afghanistan.¹⁹¹

This initiative was notably supported by the Special Rapporteur on the situation of human rights in Afghanistan in his report submitted to the 59th session of the UNHRC, in which he recommended the establishment of an “independent accountability mechanism with a comprehensive mandate to investigate and establish the facts and root causes of past and ongoing violations and abuses of international human rights and humanitarian law.”¹⁹²

A few months later, in August 2025 a coalition of over 100 Afghanistan and international civil society organisations collectively reiterated this call in an open letter to the Permanent Representatives of Member and Observer States of the UNHRC, emphasizing the urgency of establishing such a mechanism.¹⁹³

Following this sustained advocacy, a draft resolution (A/HRC/60/L.9) proposing the establishment of an investigative mechanism was introduced by a group of States, primarily led by the European Union.¹⁹⁴ It was subsequently adopted without a vote at the 60th Regular session of the UNHRC.¹⁹⁵

Resolution 60/2 of the United Nations Human Rights Council

On 6 October 2025, the Independent Investigative Mechanism for Afghanistan (IIM-A) was established through the adoption of the resolution 60/2 by the UNHRC.¹⁹⁶ The resolution highlights the “urgent and imperative need to ensure accountability, by bringing perpetrators of crimes involving violations and abuses of human rights and violations of international humanitarian law to justice through a comprehensive, multidimensional, survivor- and victim-centred, gender-responsive approach to accountability efforts and applying a comprehensive approach to transitional justice, and to prevent and redress human rights violations and abuses.”¹⁹⁷

¹⁹¹ Government of Iceland, ‘HRC58 - Joint Statement - Accountability in Afghanistan’, 20 March 2025,

<https://www.government.is/diplomatic-missions/embassy-article/2025/03/20/HRC58-Joint-Statement-by-Iceland-Accountability-in-Afghanistan/>.

¹⁹² Richard Bennett, *Access to Justice and Protection for Women and Girls and the Impact of Multiple and Intersecting Forms of Discrimination*, A/HRC/59/25 (United Nations, 2025), <https://www.ohchr.org/sites/default/files/2025-06/a-hrc-59-25-aiv-1-en.pdf>, 18.

¹⁹³ HRD+, ‘Open Letter’, 28 August 2025, https://hrd-plus.net/wp-content/uploads/2025/08/Open_Letter_Final.pdf.

¹⁹⁴ United Nations Human Rights Council. *Situation of Human Rights in Afghanistan*. A/HRC/60/L.9. United Nations, 2025. <https://docs.un.org/en/a/hrc/60/l.9>, 8;

Human Rights Watch, ‘UN Rights Council Creates Afghanistan Accountability Body.’

¹⁹⁵ A/HRC/RES/60/2.

¹⁹⁶ A/HRC/RES/60/2, 1.

The Mechanism is mandated to “collect, consolidate, preserve and analyse evidence of international crimes and the most serious violations of international law, including those that may also amount to violations and abuses of international human rights law, committed in Afghanistan, including against women and girls...”¹⁹⁸ It is also tasked with “prepar[ing] files in order to facilitate and expedite fair and independent criminal proceedings, in accordance with international law standards, in national, regional or international courts or tribunals that have or may in the future have jurisdiction over these crimes...”¹⁹⁹

Its scope covers the “... most serious international crimes and violations of international law, including those that may also amount to violations and abuses of international human rights law ...”²⁰⁰ committed anywhere in Afghanistan, without any temporal limitation.²⁰¹

The IIM-A should “have the capacity to document and verify relevant information and evidence, including through field engagement and by cooperating with other entities, as appropriate.”²⁰² Its procedures have to be “multidimensional, gender-responsive and victim-centred.”²⁰³ It should also “identify ... individuals and entities allegedly responsible for international crimes and the most serious violations and abuses of international law,”²⁰⁴ and “cooperate closely with ongoing and future investigations by national, regional or international courts or tribunals”²⁰⁵

Terms of Reference

As requested in Resolution 60/2, “the terms of reference [were] prepared by the United Nations High Commissioner for Human Rights.”²⁰⁶ According to Human Rights Officer Sergio Polifroni Benedetti, “the idea of this Terms of Reference is to provide the operational and strategic framework for the Mechanism’s work.”²⁰⁷ The drafting process followed a consultative approach led by the OHCHR, involving the Special Rapporteur on the situation of human rights in Afghanistan, comparable independent investigative mechanisms (the IIIM and the IIMM), UN Women, international and non-governmental organisations, as well as Afghanistan’s civil society actors.²⁰⁸ Key aspects of the Terms of Reference are elaborated below:

¹⁹⁸ A/HRC/RES/60/2, para. 25, 8.

¹⁹⁹ A/HRC/RES/60/2, para. 25, 8.

²⁰⁰ A/HRC/RES/60/2, para. 20, 8.

²⁰¹ Mazurana et al., *Legal Commitments, Systemic Violations*, 6.

²⁰² A/HRC/RES/60/2, para. 26 (c).

²⁰³ A/HRC/RES/60/2, para. 26 (d).

²⁰⁴ A/HRC/RES/60/2, para. 26 (e).

²⁰⁵ A/HRC/RES/60/2, para. 26 (i), 9.

²⁰⁶ A/HRC/RES/60/2, para. 29, 9.

²⁰⁷ ‘Strengthening Coordination, Survivor-Centred Accountability, and Prevention in Light of the IIM-A’s Operationalisation.’

²⁰⁸ United Nations, *11th Meeting - 61st Session of Human Rights Council*, UN Web TV, 2026, <https://webtv.un.org/en/asset/k1u/k1u3fi7whe>.

Collection, consolidation, verification, analysis, and preservation of information, documentation and evidence

A central component of the IIM-A's work lies in the collection, consolidation, verification, analysis and preservation of information, documentation and evidence "pertaining to international crimes and the most serious violations of international law committed in Afghanistan, including those that may also amount to violations and abuses of international human rights law, committed in Afghanistan, including against women and girls."²⁰⁹

The Mechanism is expected to "seek access to and make use of the information, documentation and evidence collected by the Special Rapporteur on the situation of human rights in Afghanistan ... as well as the Office of the United Nations High Commissioner for Human Rights and other relevant offices, departments and entities of the United Nations system...."²¹⁰ It should also "receiv[e], procur[e] or obtain" "further information, documentation and evidence" from "relevant national authorities, international, regional or national organizations or institutions, non-governmental organizations, other non-State, corporate or private sector entities or other groups or individuals...."²¹¹ It must further "collect, as appropriate, additional information, documentation and evidence, including by conducting interviews with or taking statements from victims, witnesses or other individuals likely to provide relevant information, documentation or evidence."²¹²

The Mechanism shall further "assess the information, documentation and evidence in its possession, on the basis of reliability and probative value, whether assessed alone or in conjunction with other material" and "seek to identify lacunae in the information, documentation and evidence in its possession, assess the need for and practicability of obtaining relevant additional information, documentation and evidence, and take such steps, to the extent possible and as appropriate, to fill such lacunae."²¹³

In addition, the Mechanism must "systematically record, organize, preserve and store all information, documentation and evidence in its possession, in accordance with international criminal law standards and the good practices of other comparable international accountability mechanisms," which must be "performed with a view to ensuring the broadest possible

²⁰⁹ A/HRC/61/CRP.6 (2026), <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session61/a-hrc-61-crp-6.pdf>, para. 7.

²¹⁰ A/HRC/61/CRP.6, para. 7 (a), 2.

²¹¹ A/HRC/61/CRP.6, para. 7 (b), 3.

²¹² A/HRC/61/CRP.6, para. 7 (c), 3.

²¹³ A/HRC/61/CRP.6, paras. 8, 9.

accessibility, utility and admissibility in fair and independent criminal proceedings, in accordance with international law standards, in national, regional or international courts or tribunals that have or may in the future have jurisdiction over the most serious international crimes and violations of international law committed in Afghanistan.”²¹⁴

Preparation of files in order to facilitate and expedite fair and independent criminal proceedings, in accordance with international law standards, in national, regional or international courts or tribunals that have or may in the future have jurisdiction over those crimes, in accordance with international law

Another key function is the “preparation of files in order to facilitate and expedite fair and independent criminal proceedings.”²¹⁵ The Mechanism “... shall seek to identify, where possible, those individuals and entities allegedly responsible for international crimes and/or the most serious violations of international law ...,”²¹⁶ with a “... focus on criminal conduct of persons deemed most responsible for the crimes, without any distinction based on their affiliation or official capacity.”²¹⁷

These files must contain “all relevant information, documentation and evidence in the possession of the Mechanism, both inculpatory and exculpatory, pertaining to the specific modes of criminal liability, including the principle of command or superior responsibility established under international law.”²¹⁸ The Mechanism must “seek to establish relevant connections between crimes and persons responsible, directly or indirectly, for such alleged crimes, focusing in particular on linkage evidence” and “focus on evidence pertaining to mens rea and to specific modes of criminal liability, including the principle of command or superior responsibility established under international criminal law.”²¹⁹

The Mechanism must also “share relevant information, documentation and evidence with competent investigative, prosecutorial or judicial authorities in order to facilitate and expedite fair and independent criminal proceedings, in accordance with international law standards, in national, regional or international courts or tribunals that have or may in the future have jurisdiction over those crimes,”²²⁰ including with the ICC, ICJ, and other relevant fora.²²¹

²¹⁴ A/HRC/61/CRP.6, para. 10.

²¹⁵ A/HRC/61/CRP.6, B, 4.

²¹⁶ A/HRC/61/CRP.6, para. 14, 4.

²¹⁷ A/HRC/61/CRP.6, para. 14, 4.

²¹⁸ A/HRC/61/CRP.6, para. 15, 4.

²¹⁹ A/HRC/61/CRP.6, para. 16, 4.

²²⁰ A/HRC/61/CRP.6, para. 17, 4.

²²¹ A/HRC/61/CRP.6, para. 17, 4.

Structure and Composition

The Secretary-General was requested by the UNHRC to “appoint the staff of the mechanism as expeditiously as possible”²²² According to Human Rights Officer Sergio Polifroni Benedetti, “[t]he objective still remains to fill all the positions for 2026 - the ten positions we got approved by the end of the year” and “onboarding of the new staff” is expected to start in July 2026.²²³

The Head of the Mechanism will be “appointed by the Secretary-General, upon consultation with the United Nations High Commissioner for Human Rights and the United Nations Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, for an initial period of two years, which shall be renewable, subject to the continuation of the mandate and funding.”²²⁴ The selected candidate must have “extensive experience in the conduct of investigations and prosecution of serious crimes and other violations under international law ...”²²⁵, with “due consideration given to expertise in the areas of sexual and gender-based crimes and justice for children.”²²⁶ The deadline for applications for this position was on 9 May 2026.²²⁷ Mr. Benedetti stated that “it is moving forward and we are optimistic that sometime in the third quarter of the year [2026], probably this will happen at the latest.”²²⁸

The Head of the Mechanism must “develop, adopt and periodically review and update a strategy for the implementation of the mandate of the Mechanism, determine a workplan for the Mechanism and put in place procedures relating to the conduct of its work, including development of a gender strategy, children and youth strategy and a consultative strategy for engagement with stakeholders.”²²⁹ According to Mr. Benedetti, “Key strategic decisions such as investigative priorities, modalities of engagement with civil society, Member States, and even that the *de facto* authority will be decided by the Mechanism itself and its future leadership.”²³⁰ He further clarified that the Terms of Reference “defined its mandate and guiding principles, while preserving the flexibility necessary for the Mechanism to independently determine its priorities and investigative lines of inquiry, methodologies and partnerships.”²³¹

The Head must “seek to secure the resources necessary to establish a secretariat, composed of

²²² A/HRC/RES/60/2, para. 29.

²²³ ‘Strengthening Coordination, Survivor-Centred Accountability, and Prevention in Light of the IIM-A’s Operationalisation.’

²²⁴ A/HRC/61/CRP.6, para. 21.

²²⁵ A/HRC/61/CRP.6, para. 21.

²²⁶ A/HRC/61/CRP.6, para. 21.

²²⁷ United Nations, ‘Head of the Independent Investigative Mechanism for Afghanistan, D2’, United Nations Careers, 26 March 2026,

<https://careers.un.org/jobSearchDescription/274475?language=en>.

²²⁸ ‘Strengthening Coordination, Survivor-Centred Accountability, and Prevention in Light of the IIM-A’s Operationalisation.’

²²⁹ A/HRC/61/CRP.6, para. 22.

²³⁰ ‘Strengthening Coordination, Survivor-Centred Accountability, and Prevention in Light of the IIM-A’s Operationalisation.’

²³¹ ‘Strengthening Coordination, Survivor-Centred Accountability, and Prevention in Light of the IIM-A’s Operationalisation.’

impartial and experienced professional and administrative staff”²³² They must possess expertise in various fields, “as required,” including, but not limited to: “international criminal law; international human rights law; international humanitarian law; criminal investigation and prosecution, sexual and gender-based crimes; information systems management and application development; the security, storage, record management and preservation of information, documentation and evidence; open-source investigations; military matters; forensics, including, as necessary, digital forensics, forensic pathology and forensic imagery; sexual and gender-based crimes and violence; women’s rights; children’s rights, including crimes against and affecting children; victim and witness support and protection; information technology and cybersecurity expertise; and physical security and safety of staff members.”²³³ Particular attention will be paid to diversity in terms of “legal traditions, geographic diversity, gender balance, regional expertise, in particular concerning Afghanistan, and relevant language skills.”²³⁴

The “initial recruitment will prioritize key leadership and administrative positions, including the Head of the Mechanism ... essential administrative staff, senior investigators, legal analysts, and information and evidence management specialists.”²³⁵ Human Rights Officer Sergio Polifroni Benedetti updated that “the idea is to have now most of the recruitment processes ready for when the Head arrives and he or she then will take those decisions.”²³⁶

Reporting

The Mechanism is also required to “... submit, on an annual basis, a report on its main activities to the Human Rights Council as of its sixty-fourth session, in an enhanced interactive dialogue, and to the General Assembly as of its eighty-second session.”²³⁷

Location

The Secretary-General is to “determine the seat of the Mechanism.”²³⁸ It is expected to be located in Vienna, Austria.²³⁹ The Mechanism’s Head “ may establish field presences, as appropriate and necessary.”²⁴⁰

²³² A/HRC/61/CRP.6, para. 23.

²³³ A/HRC/61/CRP.6, para. 23.

²³⁴ A/HRC/61/CRP.6, para. 24.

²³⁵ United Nations, *11th Meeting - 61st Session of Human Rights Council*.

²³⁶ ‘Strengthening Coordination, Survivor-Centred Accountability, and Prevention in Light of the IIM-A’s Operationalisation.’

²³⁷ A/HRC/61/CRP.6, para. 50.

²³⁸ A/HRC/61/CRP.6, para. 43.

²³⁹ United Nations, ‘Head of the Independent Investigative Mechanism for Afghanistan, D2.’

²⁴⁰ A/HRC/61/CRP.6, para. 44.

Funding

Through Resolution 60/2, the UNHRC “decided that the Mechanism shall incrementally advance its work based on funding made available.”²⁴¹ The Mechanism will “be funded through assessed contributions. In addition, a trust fund to receive complementary voluntary contributions.”²⁴²

During the 11th meeting of the 61st Session of the UNHRC, Ms. Ilze Brands Kehris, Assistant Secretary-General for Human Rights, announced that a 20 per cent allotment of 337’300 USD had been released (on 27 February 2026) to support its establishment.²⁴³ This limited initial funding requires significant prioritization and a phased implementation of the Mechanism.²⁴⁴

The estimated budget amounts to approximately 2.5 million USD for 2026, increasing to around 3.5 million USD for 2027 and 2028, and is expected to reach approximately 9 million USD annually from 2029 onwards.²⁴⁵

By comparison, similar mechanisms receive significantly higher funding: the IIIM received approximately 25 million USD in 2024, and the IIMM around 15 million USD.²⁴⁶ This difference may partly be explained by the possibility for the IIM-A to rely on existing systems developed by the IIIM, IIMM and OHCHR, as well as by a smaller projected workforce (approximately 42 staff members, compared to around 100 for the IIIM).²⁴⁷

According to Human Rights Officer Sergio Polifroni Benedetti, at a recent Side Event at the margins of the 62nd Regular session of the UNHRC, “the idea was to bring them in a phased manner. So the idea was to bring 14 initially, 14 posts in 2026, 15 in 2027, and 13 in 2028.”²⁴⁸ He further explained: “In December 2025, the General Assembly approved the Mechanism’s initial budget, but only for 2026, and that included 10 posts of the 14 that we requested.”²⁴⁹ He underlined that “[i]n spite of the liquidity crisis and the financial issues, at the end the Mechanism has already been allocated 60 % of its budget for 2026 ... We think that's enough

²⁴¹ A/HRC/61/CRP.6, para. 51.

²⁴² A/HRC/61/CRP.6, para. 52.

²⁴³ United Nations, *11th Meeting - 61st Session of Human Rights Council*.

²⁴⁴ United Nations, *11th Meeting - 61st Session of Human Rights Council*.

²⁴⁵ United Nations Human Rights Council, *Oral Statement of Programme Budget Implications Arising from Draft Resolution A/HRC/60/L.9 of the Human Rights Council*, A/HRC/60/L.9 (United Nations, 2025),

https://hrcmeetings.ohchr.org/HRCSessions/RegularSessions/60/DL_Resolution/OralStatement_AHRC60L.9_20251003_0856.pdf, 10; Ehsan, *A New*

Accountability Mechanism for Afghanistan.

²⁴⁶ Ehsan, *A New Accountability Mechanism for Afghanistan*.

²⁴⁷ Ehsan, *A New Accountability Mechanism for Afghanistan*; ‘Strengthening Coordination, Survivor-Centred Accountability, and Prevention in Light of the IIM-A’s Operationalisation.’

²⁴⁸ ‘Strengthening Coordination, Survivor-Centred Accountability, and Prevention in Light of the IIM-A’s Operationalisation.’

²⁴⁹ ‘Strengthening Coordination, Survivor-Centred Accountability, and Prevention in Light of the IIM-A’s Operationalisation.’

for the Mechanism to start working.”²⁵⁰

With respect to the trust fund, he revealed, “in early 2026, the last time, which as of now, there has been only one contribution of \$10,000, but several Member States have expressed their willingness and commitment to support the Mechanism through the Trust Fund.”²⁵¹

Commencement of Operations

The Secretary-General will “determine, in consultation with the Head of the Mechanism, the date on which the Mechanism is deemed to be operational.”²⁵²

ii. Treaty Bodies

Treaty bodies are “committees of independent experts that monitor implementation of the core international human rights treaties,” including those to which Afghanistan is a party.²⁵³ For Afghanistan, obligations under these conventions, including for example, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC), and the Convention on the Rights of Persons with Disabilities (CRPD) remain.²⁵⁴ This section outlines efforts by the CEDAW Committee, the CRC Committee, and the CRPD Committee, highlights challenges, and offers key opportunities for treaty body efforts on Afghanistan.

a. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) commonly referred to as the international bill of rights of women, is a legally binding tool through which the obligations for Afghanistan to promote and protect the rights of women and girls are established.²⁵⁵ In 2003, Afghanistan ratified CEDAW thus it was bound by the agreement to end all forms of discrimination against women.²⁵⁶

²⁵⁰ ‘Strengthening Coordination, Survivor-Centred Accountability, and Prevention in Light of the IIM-A’s Operationalisation.’

²⁵¹ ‘Strengthening Coordination, Survivor-Centred Accountability, and Prevention in Light of the IIM-A’s Operationalisation.’

²⁵² A/HRC/61/CRP.6, para. 53.

²⁵³ Treaty Bodies, OHCHR, <https://www.ohchr.org/en/treaty-bodies>; United Nations Human Rights Treaty Bodies Database, “View the ratification status by country or by treaty,” Ratification Status for Afghanistan, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=1&Lang=EN.

²⁵⁴ CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW): LEGAL REVIEW OF MEASURES INTRODUCED BY AFGHANISTAN’S DE FACTO AUTHORITIES THAT IMPACT WOMEN AND GIRLS, OHCHR & UN Women, 2026, <https://www.ohchr.org/sites/default/files/documents/hrbodies/cedaw/de-facto-authorities-cedaw-based-legal-review-all-forms-disc-agt-convention-elimination-w-m-measures-afghanistan-girls-1-en.pdf>.

²⁵⁵ Convention on the Elimination of All Forms of Discrimination against Women. Adopted December 18, 1979. 1249 U.N.T.S.

²⁵⁶ <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>.

²⁵⁶ ‘Ratification Status for Afghanistan,’ OHCHR, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=1&Lang=EN.

Although the Taliban *de facto* authorities have denounced the pledges of the previous administration, as the CEDAW Committee itself confirmed in its 2025 Concluding Observations, they have a duty to respect the international law obligations of Afghanistan, including those under the Convention, even though they are “not recognized at the international level.”²⁵⁷

Responses by the CEDAW Committee, 2021-2024

Engagement by the CEDAW Committee began almost immediately after the Taliban *de facto* authorities took over Kabul in August 2021.²⁵⁸ On 30 August 2021, the CEDAW Committee and the Committee on the Rights of the Child (CRC) made a joint statement, urging the Taliban *de facto* authorities to “respect, protect and fulfil” the rights under both Conventions.²⁵⁹ The Committees emphasised that “religious norms and traditions cannot be invoked to justify violations of women’s and girls’ human rights.”²⁶⁰

As conditions deteriorated, the CEDAW Committee continued to respond.²⁶¹ In December 2022, following the Taliban *de facto* authorities’ announcement suspending university education for women and girls, the Committee condemned the decision “in the strongest terms,” pointing out that the move to deny women access to universities and NGO employment only added to the “world’s largest gender gaps.”²⁶²

The 2025 CEDAW Review

The CEDAW Committee published its Concluding Observations of the fourth periodic report of Afghanistan (CEDAW/C/AFG/CO/4) on 10 July 2025, which follows the first review of Afghanistan by the Committee since the military takeover by the Taliban *de facto* authorities.²⁶³ The publication of the Concluding Observations was a landmark moment in the international human rights response to the situation of women and girls in Afghanistan: it is the first treaty body to issue such detailed recommendations since the military takeover, and it directly refers to *gender apartheid* as a system that must be acknowledged and codified in the international

²⁵⁷ UN Committee on the Elimination of Discrimination Against Women, *Concluding Observations on the Fourth Periodic Report of Afghanistan*, CEDAW/C/AFG/CO/4, 10 July 2025, paras. 5–6.

²⁵⁸ CEDAW Committee and CRC Committee, “Afghanistan: UN Committees Urge Taliban to Honour Their Promises.”

²⁵⁹ CEDAW Committee and CRC Committee, “Afghanistan: UN Committees Urge Taliban to Honour Their Promises.”

²⁶⁰ Committee on the Elimination of Discrimination Against Women and Committee on the Rights of the Child, “Afghanistan: UN Committees Urge Taliban *de facto* to Honour Their Promises to Protect Women and Girls,” Joint Press Release, 30 August 2021, <https://www.ohchr.org/en/press-releases/2021/08/afghanistan-un-committees-urge-Taliban-de-facto-honour-their-promises-protect-women>.

²⁶¹ Farid and de Silva de Alwis, “Afghanistan Under the Taliban *de facto*,” 6.

²⁶² ‘Afghanistan: Banning women and girls from schools and workplace jeopardises entire country, UN committee condemns,’ CEDAW, <https://www.ohchr.org/en/statements-and-speeches/2022/12/afghanistan-banning-women-and-girls-schools-and-workplace>.

²⁶³ CEDAW Committee, Concluding Observations, CEDAW/C/AFG/CO/4.

criminal law.²⁶⁴

The Committee situated its review in a context it characterised as “one of the most severe reversals of women’s human rights ever recorded,” noting that through more than eighty restrictive measures, the Taliban *de facto* authorities had “systematically curtailed the human rights of women and girls, culminating in the adoption on 21 August 2024 of the Law on the Propagation of Virtue and the Prevention of Vice, which codifies discriminatory practices.”²⁶⁵

The Anniversary of CEDAW’s Review

One year after its review of the fourth periodic report of Afghanistan, the CEDAW Committee published a statement, underlining that despite their recommendations, “women and girls in Afghanistan continue to be denied fundamental rights, including access to secondary and higher education, vocational and professional training, employment, public participation, freedom of movement, healthcare, and access to justice.”²⁶⁶ They stated that “the institutionalised and systematic oppression of women and girls by the *de facto* authorities continue[s] unabated and has further intensified”; while “additional alarming decrees have further entrenched discrimination and exclusion.”²⁶⁷ The CEDAW Committee nevertheless reiterated its recommendations.²⁶⁸

Challenges and Opportunities

The CEDAW framework’s response to the situation of women and girls in Afghanistan reveals both the possibilities and the inherent limitations of international treaty bodies. The Committee has been increasingly bold, between its statements, review, and Concluding Observations.²⁶⁹ However, there are still structural constraints. The recommendations made by the CEDAW Committee are not legally binding, and to which the Taliban *de facto* authorities have shown absolute disregard.²⁷⁰ Afghanistan has also not ratified the Optional Protocol to CEDAW, providing for individual communications and inquiry procedures, closing access to these avenues by Afghanistan’s women.²⁷¹

²⁶⁴ CEDAW Committee, Concluding Observations, CEDAW/C/AFG/CO/4.

²⁶⁵ CEDAW/C/AFG/CO/4, para. 6.

²⁶⁶ ‘Statement on the anniversary of CEDAW’s review of Afghanistan,’ CEDAW, <https://t.co/DljCyk5JhU>.

²⁶⁷ ‘Statement on the anniversary of CEDAW’s review of Afghanistan.’

²⁶⁸ ‘Statement on the anniversary of CEDAW’s review of Afghanistan.’

²⁶⁹ CEDAW/C/AFG/CO/4.

²⁷⁰ CEDAW/C/AFG/CO/4, paras. 9–11.

²⁷¹ Office of the United Nations High Commissioner for Human Rights, “Status of Ratification: Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women,” showing no ratification by Afghanistan, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Lang=en&Treaty=CEDAW-OP.

A further concern relates to the Committee's recommendations on conditionality.²⁷² While these may yield short-term compliance, they risk neglecting the construction of long-term sustainable, resilient institutions and structures capable of addressing the root causes of discrimination against women in Afghanistan. The Committee itself has recognised this tension. In General Recommendation No. 40, the Committee called for "a transformative approach addressing patriarchy,"²⁷³ and stressed that "[c]hanging these norms and stereotypes requires the structural transformation of gendered roles and responsibilities across the public and private spheres."²⁷⁴ Earlier, in General Recommendation No. 25, the Committee had made the point with particular force: "[t]he position of women will not be improved as long as the underlying causes of discrimination against women, and of their inequality, are not effectively addressed. The lives of women and men must be considered in a contextual way, and measures adopted towards a real transformation of opportunities, institutions and systems so that they are no longer grounded in historically determined male paradigms of power and life patterns."²⁷⁵ Conditionality without risks entrenching a reactive posture that fails to build the foundations for lasting change.

In addition, the Committee's General Recommendation No. 40 calls for women and girls to become "transformative agents of change for gender equality."²⁷⁶ That framing should guide all responses going forward. Rather than treating Afghanistan's women as awaiting compliance by the Taliban *de facto* authorities with norms they reject, the international community must centre, empower, and facilitate Afghanistan's women and civil society as the primary agents of transformation. The Committee's recommendations, the Concluding Observations, and statements all provide a foundation on which Afghanistan's women and partners can build; not by waiting for the Taliban *de facto* authorities to act, but by working together to realise these commitments under the Convention. The Committee itself should also continue to undertake a dynamic, evolving, and innovative approach, as the situation of women and girls across Afghanistan continues to worsen.

b. Convention on the Rights of the Child (CRC)

The Convention on the Rights of the Child (CRC) was adopted in 1989 by the United Nations General Assembly and ratified by Afghanistan, and imposes comprehensive obligations to

²⁷² See e.g., CEDAW/C/AFG/CO/4, para. 10.

²⁷³ Committee on the Elimination of Discrimination against Women, General Recommendation No. 40 on Equal and Inclusive Representation of Women in Decision-Making Systems, UN Doc CEDAW/C/GC/40 (25 October 2024), para. 12.

²⁷⁴ CEDAW Committee, General Recommendation No. 40, CEDAW/C/GC/40 (25 October 2024), para. 20.

²⁷⁵ Committee on the Elimination of Discrimination against Women, General Recommendation No. 25 on Article 4, Paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women on Temporary Special Measures, UN Doc A/59/38 annex I (2004), para. 10.

²⁷⁶ CEDAW Committee, General Recommendation No. 40, CEDAW/C/GC/40 (25 October 2024), para. 31(b).

safeguard children's rights, which have been systematically denied by the Taliban *de facto* authorities since August 2021.²⁷⁷

Violations and abuses of the Convention in Afghanistan have been extensively documented by UNICEF, civil society, and other mechanisms.²⁷⁸ The CEDAW Committee's 2025 Concluding Observations also catalogue relevant violations including the systematic rise in child marriage, the Taliban *de facto* authorities' reinforcement of patriarchal stereotypes through madrasa-based curricula, and the specific intersecting vulnerabilities of girls with disabilities, girls from ethnic and religious minorities, and internally displaced girls.²⁷⁹

Statements

The CRC Committee's engagement with Afghanistan began jointly with CEDAW through a statement on 30 August 2021.²⁸⁰ Most recently, following the issuance of Decree No.18 by the Taliban *de facto* authorities, the CRC "condemned Afghanistan's *de facto* authorities, deploring their adoption of a new decree that legitimises child marriage and treats a girl's silence as consent, calling it a grave and systematic violation of international human rights law."²⁸¹

Challenges and Opportunities

Afghanistan has unfortunately not accepted the individual complaints nor inquiry procedure, creating barriers to these pathways under the Convention.²⁸² Though accession is unlikely in the near term, advocacy for ratification remains an ongoing objective for international coalitions such as Child Rights Connect.²⁸³

The CRC Committee has not held a review nor drafted Concluding Observations since the military takeover by the Taliban *de facto* authorities.²⁸⁴ This is partly due to a function of the reporting cycle: the CRC Committee reviews States based on their submitted reports, and

²⁷⁷ Office of the United Nations High Commissioner for Human Rights, "Convention on the Rights of the Child," adopted November 20, 1989, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

²⁷⁸ See e.g., UNICEF, "Afghanistan Situation Reports", Humanitarian Action for Children, documenting ongoing violations affecting children, <https://www.unicef.org/appeals/afghanistan/situation-reports>; Amnesty International and International Commission of Jurists, *The Taliban's War on Women: The Crime against Humanity of Gender Persecution in Afghanistan*, Index No. ASA 11/6789/2023, 25th May 2023), <https://www.amnesty.org/en/documents/asa11/6789/2023/en/>.

²⁷⁹ CEDAW/C/AFG/CO/4, paras. 17–18, 40.

²⁸⁰ Committee on the Elimination of Discrimination Against Women and Committee on the Rights of the Child, "Afghanistan: UN Committees Urge Taliban to Honour Their Promises to Protect Women and Girls," Joint Press Release, 30 August 2021.

²⁸¹ 'Afghanistan: Silence is not consent to child marriage, UN committee condemns.'

²⁸² United Nations Human Rights Treaty Bodies Database, "View the ratification status by country or by treaty," Ratification Status for Afghanistan, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=1&Lang=EN.

²⁸³ 'Child Rights Connect In Action: Building political consensus and empowering civil society towards OPIC ratification,' Child Rights Connect, <https://childrightsconnect.org/child-rights-connect-in-action-laying-the-ground-for-wider-opic-ratification-building-political-consensus-and-empowering-civil-society/>.

²⁸⁴ United Nations Committee on the Rights of the Child, "Sessions and Concluding Observations," Office of the United Nations High Commissioner for Human Rights, confirming no Concluding Observations on Afghanistan issued post-2021, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=AFG&Lang=EN.

Taliban *de facto* authorities have not submitted a State report nor participated in the CRC process.²⁸⁵ Afghanistan is obliged to submit periodic reports to the CRC Committee detailing progress in implementing the rights the treaty protects; yet no such report has been submitted since 2018.²⁸⁶

However, the approach that the CEDAW Committee took could potentially be replicated.²⁸⁷ Through this approach, civil society organisations and other relevant stakeholders could submit relevant information.²⁸⁸

Finally, the CRC Committee can still provide support to other actors with mandates that include a dedication to children's rights in Afghanistan, including the Special Rapporteur on Afghanistan and the new IIM-A, as well as ongoing or future accountability avenues.

c. Convention on the Rights of Persons with Disabilities (CRPD)

The Convention on the Rights of Persons with Disabilities (CRPD) was adopted in 2006 by the United Nations General Assembly and ratified by Afghanistan.²⁸⁹ The Taliban *de facto* authorities have contravened the commitments of Afghanistan under the CRPD: the breaking down of the support systems of women with disabilities, the practical exclusion of girls with disabilities to any further provision of education, and the refusal of humanitarian aid to the disabled women unable to meet the conditions of travelling with a *mahram* are some of the most serious manifestations of it.²⁹⁰

Opportunities

The CRPD has an Optional Protocol, which can "receive and consider communications from or on behalf of individuals or groups of individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of the provisions of the Convention."²⁹¹ Afghanistan

²⁸⁵ United Nations Committee on the Rights of the Child, "Reporting guidelines," Office of the United Nations High Commissioner for Human Rights, explaining that reviews are based on State reports, <https://www.ohchr.org/en/treaty-bodies/crc/reporting-guidelines>.

²⁸⁶ United Nations Human Rights Treaty Bodies Database, "View the ratification status by country or by treaty," Ratification Status for Afghanistan, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=1&Lang=EN.

²⁸⁷ United Nations CEDAW committee breaks new ground with first treaty body review of Afghanistan since Taliban takeover in 2021, 26 June 2025, OHCHR, <https://www.ohchr.org/en/press-releases/2025/06/united-nations-cedaw-committee-breaks-new-ground-first-treaty-body-review>.

²⁸⁸ See e.g., UN Treaty Body Database, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en.

²⁸⁹ Convention on the Rights of Persons with Disabilities. Optional Protocol. Adopted December 13, 2006. 2518 U.N.T.S. 283.

²⁹⁰ Rights of women and girls with disabilities in Afghanistan Submission to the UN CEDAW Committee 91st session (16 June – 4 July 2025), Submission made on 19 May 2025, WILPF, https://www.wilpf.org/wp-content/uploads/2025/06/WILPF-Submission-to-the-CEDAW-Committee_Afghanistan_19-May-2025.pdf; A/HRC/61/63.

²⁹¹ United Nations, *Optional Protocol to the Convention on the Rights of Persons with Disabilities*, adopted December 13, 2006, 2518 U.N.T.S. 283, art. 1 (establishing an individual communications procedure) <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-rights-persons-disabilities>.

has not only accepted this individual complaints procedure, Afghanistan has also accepted the inquiry procedure under the Convention on the Rights of Persons with Disabilities.²⁹² These procedures can not only serve to address the violations and abuses of the rights of Afghanistan's women and girls with disabilities, but also open doors for coordinated action of the CRPD Committee, and other relevant treaty bodies, including the CRC Committee and the CEDAW Committee, which lack similar options. The CEDAW Committee's 2025 Concluding Observations explicitly address the compounded discrimination experienced by women with disabilities, who need comprehensive support systems and "lack access to justice."²⁹³

B. Office of the United Nations High Commissioner for Human Rights (OHCHR)

OHCHR

The Office of the High Commissioner for Human Rights (OHCHR) is the "leading UN entity on Human Rights."²⁹⁴ The General Assembly established the OHCHR in December 1993 through its Resolution 48/141, which provides its mandate.²⁹⁵

Key tools employed by the OHCHR include: "Legal advice"; "Learning and knowledge transfer"; "Awareness raising"; "Human rights education"; "Communication"; "Monitoring and publicly reporting"; "Advocacy"; "Direct protection"; "Facilitating dialogue between stakeholders"; "Building networks and alliances" and "Enabling the functioning of the international human rights mechanisms."²⁹⁶

OHCHR Reports

The OHCHR's stocktaking report, as well as its report presented during the 61st session of the UNHRC, had dedicated sections on the rights of women and girls.²⁹⁷ When addressing the UNHRC in February 2026, he expressed his support for "efforts to codify gender apartheid" in the Crimes Against Humanity Convention; he said "[d]efining gender apartheid is essential to

²⁹² United Nations Human Rights Treaty Bodies Database, "View the ratification status by country or by treaty," Ratification Status for Afghanistan, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=1&Lang=EN.

²⁹³ CEDAW/C/AFG/CO/4, para. 40(b).

²⁹⁴ OHCHR, 'About UN Human Rights', OHCHR, <https://www.ohchr.org/en/about-us>.

²⁹⁵ A/RES/48/141, <https://undocs.org/A/RES/48/141>.

²⁹⁶ Management Plan 2024-2027, OHCHR, <https://www.ohchr.org/sites/default/files/documents/aboutus/OHCHR-OMP-2024-2027.pdf>, P. 15.

²⁹⁷ A/HRC/57/22; A/HRC/61/54.

ending it.”²⁹⁸

Support to International Human Rights Mechanisms

The OHCHR also supports the Special Rapporteur on the situation of human rights in Afghanistan, notably by providing expertise in specific areas relevant to its mandate.²⁹⁹ This support includes specialised expertise in among other areas, “the rights of women and girls.”³⁰⁰

Furthermore, the OHCHR plays a key role in the initial work of paving the way towards the operationalization of the IIM-A. For example, it was the High Commissioner who was tasked with drafting the Mechanism’s Terms of Reference.³⁰¹ In addition, the OHCHR currently acts as “the interim service provider,” receiving voluntary contributions on behalf of the IIM-A until it is operational.³⁰²

C. United Nations Assistance Mission in Afghanistan (UNAMA)

UNAMA’s Mandate and Renewal

The United Nations Security Council established the United Nations Assistance Mission in Afghanistan through Resolution 1401 in 2002 to facilitate the political process in Afghanistan after the Taliban *de facto* authorities fell.³⁰³ Following the military takeover by the Taliban *de facto* authorities in August 2021, UNAMA has been working under a radically different environment.³⁰⁴

The most recent renewal of UNAMA’s mandate through Security Council Resolution 2822 (2026), extends the mission until 17 June 2027.³⁰⁵ The Security Council expressed “serious concern about the increasing and widespread erosion of respect for human rights and fundamental freedoms, in particular for women and girls, underscoring that the absence of such rights and freedoms makes peace, stability, and prosperity in the country unattainable.”³⁰⁶

²⁹⁸ ‘UN High Commissioner for Human Rights Volker Türk addresses Human Rights Council on Afghanistan,’ UNAMA, <https://unama.unmissions.org/en/news/un-high-commissioner-human-rights-volker-turk-addresses-human-rights-council-afghanistan>.

²⁹⁹ A/HRC/RES/60/2, 9.

³⁰⁰ A/HRC/RES/48/1, para. 13, 4.

³⁰¹ A/HRC/RES/60/2, 9.

³⁰² United Nations, *11th Meeting - 61st Session of Human Rights Council*.

³⁰³ United Nations Security Council, *Resolution 1401 (2002)*, UN Doc. S/RES/1401 (March 28, 2002), para. 1, <https://digitallibrary.un.org/record/461244?v=pdf>.

³⁰⁴ United Nations Security Council, *Resolution 2626 (2022)*, UN Doc. S/RES/2626 (March 17, 2022); *See Also, Resolution 2679 (2023)*, UN Doc. S/RES/2679 (March 16, 2023).

³⁰⁵ S/RES/2822 (2026), [https://docs.un.org/en/S/RES/2822\(2026\)](https://docs.un.org/en/S/RES/2822(2026)).

³⁰⁶ S/RES/2822 (2026), [https://docs.un.org/en/S/RES/2822\(2026\)](https://docs.un.org/en/S/RES/2822(2026)), Preamble.

OHCHR's Relationship with UNAMA

The Human Rights Service (HRS) “was established by United Nations Security Council Resolution 1401 (2002) as an entity integrated within the United Nations Assistance Mission in Afghanistan (UNAMA)”; “serves as the OHCHR presence in Afghanistan, reporting to the High Commissioner”; and “operates with its headquarters in Kabul, with eight regional and three provincial offices throughout Afghanistan.”³⁰⁷ The HRS “engages in various types of human rights monitoring, documentation, analysis and reporting, as well as protection, advocacy and technical cooperation activities.”³⁰⁸

According to the OHCHR, the “Human Rights component of UNAMA, pursuant to its specific mandate and the mandate of the High Commissioner for Human Rights, also continues information-gathering, analysis and documentation of reports of serious human rights violations, including through its public reporting on human rights issues of concern.”³⁰⁹

UNAMA's Outreach, Good Offices, and Engagement

UNAMA is mandated to “provide outreach and good offices ... to facilitate dialogue between the relevant authorities in Afghanistan and other relevant stakeholders, including regional countries and the wider international community as well as civil society, with a view to promoting Afghanistan’s compliance with all international obligations and commitments as a basis for its full reintegration into the international community; promote inclusive, representative, participatory and responsive governance, at the national and subnational levels, without any discrimination based on sex, religion or ethnicity, with the full, equal, meaningful and safe participation of women and the meaningful participation of minorities, youth and persons with disabilities.”³¹⁰

UNAMA is further mandated to “engage with all stakeholders, including at the national and subnational levels and with civil society, including Afghan women’s organizations, to advance the protection and promotion of the human rights of all Afghans; support and promote Afghanistan’s implementation of the provisions of international instruments concerning human rights and fundamental freedoms to which it is a State party and by which it is bound, including

³⁰⁷ ‘OHCHR in Afghanistan,’ OHCHR, <https://www.ohchr.org/en/countries/afghanistan/our-presence>.

³⁰⁸ ‘OHCHR in Afghanistan.’

³⁰⁹ A/HRC/57/22, para. 56; See e.g., <https://unama.unmissions.org/en/unama-human-rights-monitoring-and-reporting>; S/RES/2822 (2026), [https://docs.un.org/en/S/RES/2822\(2026\)](https://docs.un.org/en/S/RES/2822(2026)), para. 2(e).

³¹⁰ S/RES/2822 (2026), [https://docs.un.org/en/S/RES/2822\(2026\)](https://docs.un.org/en/S/RES/2822(2026)), para. 2(e).

the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); support equality for all women and girls, their empowerment and equal access to education, employment, health-care, justice and other basic services, their freedom of movement and their full, equal, meaningful and safe participation in public life and decision-making processes, in line with resolution 1325 (2000) and related resolutions; promote the prevention and elimination of all forms of violence including sexual and gender based violence, and the protection of detainees' rights; support efforts to strengthen the protection of children and to prevent human rights violations and abuses against them."³¹¹

UNAMA also held quarterly consultations with Afghanistan's women in various provinces in collaboration with UN Women and the International Organization of Migration.³¹²

Challenges and Opportunities

The role of UNAMA in the current international response to the situation of women and girls in Afghanistan remains significant, but it has structural constraints that should be evaluated honestly.

The Ban on Women Working for the United Nations

Among the most operationally significant developments documented by UNAMA was the April 2023 ban on Afghanistan's women working for the United Nations, a measure that directly constrained UNAMA's own capacity to deliver on its mandate.³¹³ This ban was later cited in UNSC Resolution 2818 (2026), which was apprehensive that "the ban on Afghan women working for the United Nations and non-governmental organizations in Afghanistan and accessing UN premises across the country since early September 2025, while reaffirming the indispensable role of women in Afghan society and the need to increase their roles and participation in decision-making."³¹⁴

Restrictions on Women at UN Premises

UN experts warned that preventing Afghanistan's women, including UN staff, contractors, and

³¹¹ S/RES/2822 (2026), [https://docs.un.org/en/S/RES/2822\(2026\)](https://docs.un.org/en/S/RES/2822(2026)), para. 2(c).

³¹² A/78/361-S/2023/678, para. 40.

³¹³ United Nations Assistance Mission in Afghanistan (UNAMA), *Human Rights Situation in Afghanistan: February–April 2023 Update*, May 2023, 11, https://unama.unmissions.org/sites/default/files/feb-april_2023_update_on_the_human_rights_situation_in_afghanistan_english_0.pdf; United Nations Assistance Mission in Afghanistan (UNAMA), "Statement and Update from the United Nations in Afghanistan," April 11, 2023, <https://unama.unmissions.org/en/statement-and-update-united-nations-afghanistan>

³¹⁴ UN Security Council, Resolution 2818 (2026), Preamble.

visitors, from entering UN offices since September 2025 was in violation of international law.³¹⁵ They “underscored the need for a unified and principled international response” and “called on all United Nations agencies, funds, and programmes operating in Afghanistan to adopt a common, strong and principled position.”³¹⁶

Risks of Normalisation and Legitimation

Some might argue that engagement by the Taliban *de facto* authorities with UNAMA, even when it consists largely of rejecting UNAMA’s findings, is itself a form of acknowledgment that international scrutiny exists and that the costs of complete non-engagement are not zero. However, others argue that the engagement by UNAMA with the Taliban *de facto* authorities carries a normalisation risk, which the PPT Judgment found as one of the highest structural dangers to the longer-term accountability project.³¹⁷ When UNAMA facilitates meetings and coordinates activities with the *de facto* authorities who are simultaneously imposing a system of *gender apartheid*, it risks contributing to the legitimisation of Taliban *de facto* authorities.³¹⁸

Request for Strategic Review

The Security Council created a key opportunity by requesting the Secretary-General “to conduct a strategic review of UNAMA and issue a written report on the results to the Council by 31 March 2027, with a view to supporting effective implementation of its mandate, improving structural coherence, eliminating duplication, and strengthening coordination across United Nations activities in Afghanistan, and addressing any challenges that may directly impede UNAMA’s capacity to deliver on elements of its mandate.”³¹⁹

D. UN Women

UN Women is the “lead United Nations entity on gender equality and secretariat of the UN Commission on the Status of Women,” which “exists to advance women’s rights, gender equality, and the empowerment of all women and girls.”³²⁰

³¹⁵ Office of the United Nations High Commissioner for Human Rights, “Afghanistan: UN Experts Demand Immediate End to Taliban Restrictions on Women at UN Premises,” March 31, 2026 <https://www.ohchr.org/en/press-releases/2026/03/afghanistan-un-experts-demand-immediate-end-taliban-restrictions-women-un>.

³¹⁶ “Afghanistan: UN Experts Demand Immediate End to Taliban Restrictions on Women at UN Premises.”

³¹⁷ People’s Tribunal for Women of Afghanistan, Judgment (Permanent Peoples’ Tribunal, Madrid, 22 December 2025), 67–68.

³¹⁸ Abdul Wasi Popalzay and Bawa Singh, “A Critical Analysis of United Nations Engagements with the Afghan Taliban (2021–2025): Between Humanitarian Imperatives and Political Legitimacy,” *Revista UNISCI / UNISCI Journal* no. 69 (2025): 57–64, <https://www.unisci.es/wp-content/uploads/2025/10/UNISCIDP69-3ABDUL.pdf>.

³¹⁹ S/RES/2822 (2026), [https://docs.un.org/en/S/RES/2822\(2026\)](https://docs.un.org/en/S/RES/2822(2026)), para. 6.

³²⁰ “About UN Women,” UN Women, <https://www.unwomen.org/en/about-us/about-un-women>.

UN Women continues its work on the ground in Afghanistan, and its support specifically includes:

- “By women, for women programming, working with more than 200 women’s organizations – including with women leaders, human rights defenders, journalists and more;
- Engaging with the DFA to find ways to safeguard, support and empower those women’s organizations;
- Expanding support for women entrepreneurs through capital, training and access to markets;
- Delivering integrated services including psychosocial support, humanitarian services and livelihood activities to reach the most marginalised and vulnerable women and girls;
- Amplifying the voices of Afghan women in international decision-making platforms; and
- Documenting the impact of the women’s rights crisis on the ground.”³²¹

UN Women “captures the voices and concerns of women across Afghanistan” through its “Countrywide Consultations with Afghan Women.”³²² It also publishes statements on key developments and publications with concrete recommendations, such as its Gender Alerts.³²³

E. Courts

i. International Courts

International courts represent a critical avenue for pursuing accountability - whether through the criminal liability of individual perpetrators before the ICC or through the responsibility of States before the ICJ.

a. International Criminal Court (ICC)

The ICC investigates individuals responsible for the “gravest crimes of concerns to the international community: genocide, war crimes, crimes against humanity and the crime of

³²¹ ‘FAQs: What it’s like to be a woman in Afghanistan today,’ UN Women, <https://www.unwomen.org/en/articles/faqs/faqs-afghanistan>.

³²² ‘UN Women Afghanistan,’ UN Women, <https://asiapacific.unwomen.org/en/countries/afghanistan>.

³²³ ‘UN Women Afghanistan.’

aggression.”³²⁴

Jurisdiction of the ICC

The Court has jurisdiction over crimes committed after 1 July 2002, when they are committed by a national of a State Party, on the territory of a State Party, in a State that has accepted the Court’s jurisdiction, or when a situation is referred to the Prosecutor by the UN Security Council.³²⁵

Afghanistan acceded to the Rome Statute on 1 May 2003.³²⁶ As a result, crimes listed under the Rome Statute and committed on Afghanistan’s territory or by its nationals since that date fall within the jurisdiction of the Court.³²⁷

Investigations into the Situation in Afghanistan

In November 2017, the Prosecutor requested authorization from the Pre-Trial Judges to investigate “alleged war crimes and crimes against humanity in relation to the armed conflict in ... Afghanistan since 1 May 2003,”³²⁸ as well as similar crimes “committed on the territory of other States Parties to the Rome Statute since 1 July 2002.”³²⁹ This authorization was granted in March 2020 by the Appeals Chamber.³³⁰

In 2022, the Islamic Republic of Afghanistan requested a deferral of the investigation based on the principle of complementarity, claiming that national proceedings were ongoing.³³¹ This request was rejected by Pre-Trial Chamber II on 31 October 2022, allowing the Prosecutor to proceed.³³²

In November 2024, a group of six States (Chile, Costa Rica, Spain, France, Luxembourg and Mexico) referred the situation in Afghanistan to the Office of the Prosecutor, underlining the urgency of advancing the investigation.³³³

Arrest Warrants Issued

³²⁴ International Criminal Court, ‘About the Court’, International Criminal Court, <https://www.icc-cpi.int/about/the-court>.

³²⁵ International Criminal Court, ‘How the Court Works’, International Criminal Court, <https://www.icc-cpi.int/about/how-the-court-works>.

³²⁶ International Criminal Court, ‘Afghanistan’, International Criminal Court, <https://www.icc-cpi.int/afghanistan>.

³²⁷ International Criminal Court, ‘Afghanistan.’

³²⁸ International Criminal Court, ‘Afghanistan.’

³²⁹ International Criminal Court, ‘Afghanistan.’

³³⁰ International Criminal Court, ‘Afghanistan.’

³³¹ International Criminal Court, ‘Afghanistan.’

³³² International Criminal Court, ‘Afghanistan.’

³³³ International Criminal Court, ‘Afghanistan.’

On 23 January 2025, the Office of the Prosecutor announced that it had filed applications for arrest warrants against two senior Taliban *de facto* authorities' leaders for the crime against humanity of persecution on gender grounds under article 7(1)(h) of the Rome Statute.³³⁴

On 8 July 2025, Pre-Trial Chamber II issued arrest warrants against the Taliban *de facto* authorities' Supreme Leader, Haibatullah Akhundzada, and the Chief Justice of the "Islamic Emirate of Afghanistan," Abdul Hakim Haqqani.³³⁵ Pre-Trial Chamber II found reasonable grounds to believe that they were responsible for "ordering, inducing or soliciting the crime against humanity of persecution on gender grounds against girls, women and other persons non-conforming with the Taliban *de facto* authorities' policy on gender, gender identity or expression; and on political grounds against persons perceived as 'allies of girls and women.'"³³⁶

Current Status

Investigations into the situation in Afghanistan remain ongoing.³³⁷ In January 2025, the Office has stated that it would "file further applications for other senior members of the Taliban soon."³³⁸ Further progress did not yet materialize regarding the original arrest warrants.³³⁹

Challenges and Opportunities

The ICC faces difficult constraints that must be overcome to meaningfully advance accountability. First, the legal framework itself presents limitations. The concept of "gender persecution," while important, does not fully capture the systemic nature of gender-based oppression in Afghanistan. This limits the Court's ability to fully address the scale and nature of violations and abuses.

The implementation of its decisions depend entirely on State cooperation, "particularly for making arrests, transferring arrested persons to the ICC detention centre in The Hague, freezing suspects' assets, and enforcing sentences."³⁴⁰ This poses a major challenge, especially

³³⁴ International Criminal Court, 'Afghanistan.'

³³⁵ International Criminal Court, 'Afghanistan.'

³³⁶ International Criminal Court, 'Afghanistan.'

³³⁷ 'Statement of ICC Prosecutor Karim A.A. Khan KC: Applications for arrest warrants in the situation in Afghanistan, ICC, 23 January 2025,'

<https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-kc-applications-arrest-warrants-situation-afghanistan>.

³³⁸ 'Statement of ICC Prosecutor Karim A.A. Khan KC: Applications for arrest warrants in the situation in Afghanistan, ICC, 23 January 2025.'

³³⁹ "ICC President urges global cooperation to enforce arrest warrants," Middle East Monitor, 13 November 2025, <https://www.middleeastmonitor.com>.

³⁴⁰ International Criminal Court, 'How the Court Works'; International Criminal Court, 'Information for Victims. Situation in the Islamic Republic of Afghanistan', International Criminal Court, <https://www.icc-cpi.int/victims/situation-islamic-republic-afghanistan>.

in contexts such as Afghanistan, where the Taliban *de facto* authorities are unlikely to cooperate.³⁴¹ As a result, arrest warrants are likely to remain unenforced. States must nevertheless fully cooperate with the ICC, in the execution of arrest warrants and facilitation of investigations concerning the Afghanistan situation.

Despite these limitations, the ICC remains a key avenue for ensuring individual criminal accountability. Should *gender apartheid* be codified as a crime against humanity under the Rome Statute, the Court could play a central role in prosecuting it.

b. International Court of Justice (ICJ)

In addition to the avenue provided by the ICC to hold individuals criminally accountable, international law also offers mechanisms to engage the responsibility of States for international wrongful acts committed in Afghanistan notably through proceedings before the ICJ.³⁴²

Jurisdiction

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations.³⁴³ It serves as a forum for resolving legal disputes between States (contentious cases) and for issuing advisory opinions at the request of UN organs and specialized agencies.³⁴⁴ Contentious cases may only be brought by States (either UN Members, parties to the Statute of the Court, or States that have otherwise accepted its jurisdiction).³⁴⁵

The ICJ constitutes a legal avenue for accountability, as it enables other States to invoke Afghanistan's responsibility for violations of international law, provided that the Court has a valid basis for jurisdiction.³⁴⁶ The ratification of CEDAW by Afghanistan "included acceptance of Article 29, thereby granting the ICJ jurisdiction over such disputes."³⁴⁷

The Inter-State Mechanism Under Article 29: A Historic Invocation

One of the most consequential legal developments came in September 2024, when Australia,

³⁴¹ International Criminal Court, 'How the Court Works.'

³⁴² United Nations, 'Statute of the International Court of Justice', United Nations, United Nations, <https://www.un.org/en/about-us/un-charter/statute-of-the-international-court-of-justice>.

³⁴³ International Court of Justice, 'The Court', <https://www.icj-cij.org/court>.

³⁴⁴ International Court of Justice, 'How the Court Works', International Court of Justice, <https://www.icj-cij.org/index.php/how-the-court-works>.

³⁴⁵ International Court of Justice, 'How the Court Works.'

³⁴⁶ Statute of the International Court of Justice, art. 36; International Law Commission, *Draft Articles on Responsibility of States for Internationally Wrongful Acts, with Commentaries*, Vol. II, Part Two (United Nations, 2001), https://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf, art. 1, 32.

³⁴⁷ 'Bringing a Case Before the International Court of Justice for the Rights of Afghan Women and Girls,' Open Society Justice Initiative, November 2024, <https://www.iusticeinitiative.org/uploads/56046440-580b-4c0f-ac14-7f503331427c/afghan-women-cedaw-ici-briefing-20241118.pdf>.

Canada, Germany, and the Netherlands, supported by twenty-two other States Parties, formally announced the initiation of proceedings against Afghanistan under Article 29 of the Convention.³⁴⁸ Article 29 provides that disputes between States Parties concerning the interpretation or application of the Convention that are “not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.”³⁴⁹

In a Joint Statement, the States condemned the “gross and systematic human rights violations and abuses in Afghanistan, particularly the gender-based discrimination against women and girls” and stated that “Afghanistan is responsible under international law for its ongoing gross and systematic violation of numerous obligations under the Convention on the Elimination of All Forms of Discrimination Against Women [CEDAW], to which Afghanistan is a State Party.”³⁵⁰

This dispute is currently in the “negotiation” phase, which could enable a case to ultimately move forward before the ICJ if negotiations fail.³⁵¹

Challenges and Opportunities

This initiative was historic. It was the first occasion in which a group of States Parties had formally invoked the Article 29 dispute settlement mechanism against another State due to the breach of women’s rights, a process available since the Convention was in force in 1981.³⁵² Should a case be referred to the ICJ, it would be the first time the Court has been requested to determine state responsibility on gender discrimination under CEDAW.³⁵³

Nevertheless, there are still considerable practical challenges: the Taliban *de facto* authorities are delaying the initial stages of the negotiation process and arbitration, which means that the process is still dependent on the political will of the applicant States and moves slowly while violations escalate in real time.³⁵⁴ Proceedings are also often lengthy, and even where a

³⁴⁸ Security Council Report, “Afghanistan: December 2024 Monthly Forecast,” December 1, 2024, <https://www.securitycouncilreport.org/monthly-forecast/2024-12/afghanistan-27.php>.

³⁴⁹ Convention on the Elimination of All Forms of Discrimination against Women, art. 29.

³⁵⁰ Global Affairs Canada, “Joint Statement Regarding the Convention on the Elimination of All Forms of Discrimination Against Women,” 26 September 2024, https://www.international.gc.ca/world-monde/international_relations-relations_internationales/un-onu/statements-declarations/2024-09-26-women-femme.aspx.

³⁵¹ “Bringing a Case Before the International Court of Justice for the Rights of Afghan Women and Girls.”

³⁵² Fereshta Abbasi, Natasha Arnpriester, and Duru Yavan, “An Avenue to Justice for Afghan Women,” Human Rights Watch, 13 May 2024, <https://www.hrw.org/news/2024/05/13/avenue-justice-afghan-women>.

³⁵³ Kyra Wigard, “A Groundbreaking Move: Challenging Gender Persecution in Afghanistan at the ICJ,” EJIL: Talk!, 30 September 2024, <https://www.ejiltalk.org/a-groundbreaking-move-challenging-gender-persecution-in-afghanistan-at-the-icj/>.

³⁵⁴ Max Planck Foundation for International Peace and the Rule of Law, “Foundation Holds Afghanistan Legal Research Network Symposium on Negotiation and Arbitration under CEDAW,” June 16, 2025, <https://www.mpfpr.de/2025/06/16/foundation-holds-afghanistan-legal-research-network-symposium-on-negotiation-and-arbitration-under-cedaw/>.

judgement is issued, its enforcement depends largely on State cooperation, which remains uncertain in practice.³⁵⁵ States must therefore continue to join the initiative and move steps forward.

Still, if the CEDAW initiative were to successfully proceed further, it could lead to a binding judgement recognizing systemic violations of the rights of women and girls in Afghanistan and can result in order for Afghanistan to “take measures to stop violating women’s and girls’ rights and/or to remedy past violations.”³⁵⁶

A two-track approach, combining individual criminal responsibility before the ICC with state responsibility under the ICJ, may represent a more integrated development in international legal responses to gender-based violations than previously existed.³⁵⁷

Moreover, if the Court addresses the systemic nature of these violations and abuses, such proceedings could support arguments for the recognition and codification of *gender apartheid* as an international crime, capable of capturing institutionalised gender-based discrimination and oppression.³⁵⁸ Some experts and legal scholars argue that a judgement could also reduce the likelihood of international recognition of the Taliban *de facto* authorities as a legitimate authority and discourage economic engagement with them.³⁵⁹

ii. National Courts

Universal jurisdiction is an international law principle which allows a State to have criminal jurisdiction over certain serious crimes, regardless of the nationality of the offender, the victim and the place where the crime was committed.³⁶⁰ But it is one of a number of forms of extraterritorial jurisdiction of national courts over international crimes.³⁶¹ Multiple bases may be available to States with Afghanistan’s diaspora populations or whose nationals served in Afghanistan.³⁶²

A report by the Special Rapporteur on Afghanistan recommends that States “support

³⁵⁵ Jaber, ‘Gender Apartheid and the Limits of Criminalisation.’

³⁵⁶ ‘Bringing a Case Before the International Court of Justice for the Rights of Afghan Women and Girls’; *EJIL: Talk!* “A Groundbreaking Move: Challenging Gender Persecution in Afghanistan at the ICJ.”

³⁵⁷ Hannah Sweeney, “Gender Equality and State Responsibility: Enforcing CEDAW through the ICJ,” *Harvard Human Rights Journal* 38 (2025): 288–324 https://journals.law.harvard.edu/hri/wp-content/uploads/sites/83/2025/05/06_HLH_38_1_Sweeney287-324.pdf.

³⁵⁸ Alice Johnson, ‘Afghanistan: Potential ICJ Case a Step towards Justice for Afghan Women’, International Bar Association, 24 October 2024, <https://www.ibanet.org/afghanistan-icj>.

³⁵⁹ Alice Johnson, ‘Afghanistan: Potential ICJ Case a Step towards Justice for Afghan Women.’

³⁶⁰ Princeton Project on Universal Jurisdiction, *The Princeton Principles on Universal Jurisdiction* (Princeton: Princeton University/International Commission of Jurists, 2001), 28–29.

³⁶¹ What is Universal Jurisdiction?, OHCHR,

https://seoul.ohchr.org/sites/default/files/2022-10/09_What%20is%20Universal%20Jurisdiction_formatting_FIN_ENG.pdf.

³⁶² TRIAL International et al., *UJAR* 2024, 8; See *Also, A/HRC/59/25*, para. 109.

international and Afghanistan civil society justice-seeking efforts for Afghanistan women and girls for violations of their human rights, including through ... universal jurisdiction and all applicable human rights mechanisms.”³⁶³ The report also called on States to “[t]ake measures to ensure that gender persecution against women and girls in Afghanistan is fully investigated so that perpetrators and complicit actors can be held accountable.”³⁶⁴

The Special Rapporteur urged “national prosecution units in different jurisdictions to open gender-competent investigations into crimes committed by members of all parties throughout the conflict and since the Taliban regained power.”³⁶⁵ In his June 2025 report, he recommended that States “identify and strengthen survivor-centred pathways for accountability,” and listed “universal jurisdiction” alongside other “complementary mechanisms.”³⁶⁶ Upon the Mechanism’s establishment, the Special Rapporteur called for “exploration of other pathways to justice, including under the principle of universal jurisdiction.”³⁶⁷

Challenges and Opportunities

The principle of universal jurisdiction is both promising and limited. It sends a message that the international community is addressing gender persecution as a universal crime and it is not a bilateral or regional issue.³⁶⁸ It also gives Afghanistan women survivors an opportunity for involvement in legal processes.³⁶⁹

National court proceedings can generate contributions that advance international understanding of gender-based crimes in Afghanistan, even where such proceedings do not result in convictions. Cases brought under universal or extraterritorial jurisdiction require prosecutors and judges to assess factual patterns of systematic discrimination, examine evidence of policies targeting women and girls, and apply legal requirements for persecution and other crimes against humanity. National court proceedings can build an evidentiary and analytical foundation for moving the recognition and codification of *gender apartheid* forward, even where the term does not appear in the judgment.³⁷⁰ The UJAR 2025 observed that

³⁶³ UN Special Rapporteur on the Situation of Human Rights in Afghanistan and Working Group on Discrimination Against Women and Girls, *Situation of Women and Girls in Afghanistan*, UN Doc. A/HRC/53/21, 15 June 2023, para. 100(j).

³⁶⁴ A/HRC/53/21, para. 97.

³⁶⁵ A/HRC/56/25, para. 106.

³⁶⁶ UN Doc. A/HRC/59/25 (16 June 2025), para. 109.

³⁶⁷ Establishment of Independent Investigative Mechanism for Afghanistan Answers the Call of Afghan Victims, Says UN Expert, OHCHR Press Release, 7 October 2025.

³⁶⁸ Karin M. Frod , “Universal Jurisdiction as International Solidarity with Survivors of Atrocity Crimes: Lessons from Afghanistan’s Diaspora,” *Journal of International Criminal Justice* Volume 22, Issue nos. 3–4 (July–September 2024): Pages 468–474, <https://doi.org/10.1093/ijci/mgae048>.

³⁶⁹ Silke Studzinsky and Alexandra Lily Kather, “Will Universal Jurisdiction Advance Accountability for Sexualized and Gender-based Crimes? A View from Within on Progress and Challenges in Germany,” *German Law Journal* 22, no. 5 (6th August 2021): 901–903, <https://doi.org/10.1017/glj.2021.44>.

³⁷⁰ A/HRC/56/25, paras. 104–106 (discussing intersecting grounds of persecution and the role of national courts in accountability); A/HRC/59/25, para. 108 (on the relationship between existing legal frameworks and codification).

“obstacles to accountability can be eroded through legal precedents,” a dynamic that applies with equal force to the progressive development of legal vocabulary for institutionalised gender-based oppression.³⁷¹

At the same time, universal jurisdiction’s realistic near-term impact is limited. The majority of Taliban *de facto* authorities’ leaders do not visit States where universal jurisdiction systems are active. The burden of evidence and procedure of criminal prosecution is substantial; it needs a long-term commitment to documenting and protecting witnesses.³⁷²

Nevertheless, these constraints do not in any way diminish the significance of universal jurisdiction as an element of a multi-track accountability approach; they do however, emphasize the necessity of that approach being comprehensive, coordinated and explicitly focused on a larger response to the situation of women and girls.³⁷³

As one Afghanistan’s woman told the Special Rapporteur: “We are not victims, we are fighters, but even fighters need support.”³⁷⁴ Realizing the potential of national court avenues will require Afghanistan’s women, civil society organizations, legal practitioners, national prosecutorial authorities, and international partners to come together in a sustained collaborative effort.³⁷⁵ Afghanistan’s women human rights defenders and lawyers, both inside the country and in exile, are already laying this groundwork through documentation, informal legal support, and advocacy.³⁷⁶

States should build on these efforts by investing in long-term evidence-gathering, witness protection, and gender-competent prosecutorial capacity.³⁷⁷ The goal is not that a handful of cases proceed in isolation, but that a coordinated movement of Afghanistan’s and international actors advances accountability as a collective project, rooted in the agency and demands of Afghanistan’s women and girls.³⁷⁸

F. People’s Tribunal

³⁷¹ TRIAL International et al., *UJAR* 2025, 10.

³⁷² International Bar Association and International Center for Transitional Justice, *Witnesses before the International Criminal Court: An International Bar Association International Criminal Court Programme and ICTJ Report on the ICC Witnesses Programme* (The Hague/London, 2013), 11–18, <https://www.ibanet.org/document?id=July-2013-Witnesses-before-ICC>.

³⁷³ Louise Chappell, Rosemary Grey, and Emily Waller, “The Gender Justice Shadow of Complementarity: Lessons from the International Criminal Court’s Preliminary Examinations in Guinea and Colombia,” *International Journal of Transitional Justice* 7, no. 3 (November 2013): 474–475, <https://doi.org/10.1093/ijtj/ijt018>; René Uruña, “The ICC Prosecutor’s Policy on Complementarity and Cooperation: A Dynamic Tool for Accountability,” *Just Security*, August 26, 2024. <https://www.iustsecurity.org/98888/icc-complementarity-cooperation-dynamic-tool-accountability/>.

³⁷⁴ A/HRC/59/25, para. 93.

³⁷⁵ A/HRC/59/25, paras. 109–110; A/HRC/56/25, para. 106.

³⁷⁶ A/HRC/59/25, paras. 40, 55.

³⁷⁷ A/HRC/56/25, para. 106; A/HRC/59/25, para. 109.

³⁷⁸ A/HRC/59/25, paras. 93–95.

People's tribunals occupy a distinctive and often misunderstood place in the architecture of accountability.³⁷⁹ They are not formal courts.³⁸⁰ Instead, "People's Tribunals derive their credibility and legitimacy from public support, victim participation, transparency, independence, and the expertise of their members."³⁸¹ The Peoples' Tribunal for Women of Afghanistan (PTWA) is a valuable addition to the landscape of efforts to address the situation of women and girls in Afghanistan.

Process

The PTWA was initiated by four civil society organisations: Rawadari, Afghanistan Human Rights and Democracy Organisation (AHRDO), Organisation for Policy Research and Development Studies (DROPS) and Human Rights Defenders Plus (HRD+).³⁸² These organisations have submitted a formal request to the Permanent Peoples' Tribunal (PPT) to "launch a People's Tribunal to hear and address international crimes, crimes against humanity, and gross human rights violations against women and girls in Afghanistan."³⁸³

The public hearings took place in Madrid, from 8 to 10 October 2025 with an independent Panel of Judges.³⁸⁴ 24 survivors and witnesses were heard, covering an extensive range of issues, including the denial of the right to education, denial of the right to health, denial of the right to work, denial of freedom of movement, exclusion and discrimination in the media, denial of the right to assembly, denial of the right to access justice, and the particular vulnerabilities of women with disabilities.³⁸⁵

Four prosecutors submitted an Indictment, which named ten individual leaders of the Taliban *de facto* authorities, including "Hibatullah Akhundzada (Supreme Leader), Sirajuddin Haqqani (Minister of Interior), Mullah Mohammad Yaqoob (Minister of Defence), Abdul Ghani Baradar (Deputy Prime Minister), Noor Mohammad Saqib (Minister of Hajj and Religious Affairs), Sheikh Mohammad Khalid Hanafi (Minister for Promotion of Virtue and Prevention of Vice), Shaikh Abdul Hakim Haqqani (Chief Justice of the Supreme Court), Neda Mohammad Nadeem

³⁷⁹ On the role and structure of people's tribunals as a distinct accountability format, see Permanent Peoples' Tribunal, "Statute," Lelio Basso International Foundation, 1979, <https://permanentpeoplestribunal.org/wp-content/uploads/2016/06/statute.pdf>.

³⁸⁰ Permanent Peoples' Tribunal, "Statute," art. 1, <https://permanentpeoplestribunal.org/wp-content/uploads/2016/06/statute.pdf>.

³⁸¹ 'Frequently Asked Questions about the People's Tribunal for Women of Afghanistan,'

https://afghanistantribunal.com/wp-content/uploads/2025/09/PTWA_FAQ_ENG.pdf.

³⁸² People's Tribunal for Women of Afghanistan, Judgment, Permanent Peoples' Tribunal, 55th Session for the Women of Afghanistan, hearings held Madrid, ICAM, 8–10 October 2025; judgment publicly read at International Institute of Social Studies, The Hague, 11 December 2025; final PDF version dated 22 December 2025, 3–4,

https://permanentpeoplestribunal.org/wp-content/uploads/2025/11/PPT_JUDG_WOMEN_AFGANISTAN_22-DECEMBER-2025_FINAL-VERSION.pdf.

³⁸³ 'About Us,' <https://afghanistantribunal.com/about/>.

³⁸⁴ 'Judges Announced for Historic People's Tribunal for Women of Afghanistan,' 22 September 2025,

<https://afghanistantribunal.com/documents/judges-announced-for-historic-peoples-tribunal-for-women-of-afghanistan/>.

³⁸⁵ People's Tribunal for Women of Afghanistan, Judgment, 5–7, 32–38.

(Minister of Higher Education), Habibullah Agha (Minister of Education), Abdul Haq Wasiq (Director of the General Directorate of Intelligence, GDI),” as well as “the Taliban as a group and the State of Afghanistan.”³⁸⁶

The judgment was publicly read on 11 December 2025 at the International Institute of Social Studies in The Hague; the final PDF version is dated 22 December 2025.³⁸⁷ The Tribunal found “that the Taliban’s policies and actions constitute crimes against humanity, particularly the crime of gender persecution as defined under Article 7 of the International Criminal Court’s (ICC) Rome Statute.”³⁸⁸ The Court further “found that Afghanistan, under de facto control by the Taliban, has deprived women and girls of their fundamental rights.”³⁸⁹ In addition to its findings, the Panel of Judges made several critical recommendations.³⁹⁰

Significance

The Tribunal’s indictment made clear that it was “to restore visibility and dignity to Afghan women and girls, those whose rights have been erased, and whose voices have been silenced; to pursue accountability through people’s justice, where formal remedies remain absent, slow, inaccessible, or ineffective; and to contribute to the development of jurisprudence on gender persecution and gender apartheid, thereby addressing urgent legal and normative gaps in the global accountability framework.”³⁹¹

The requesting organisations issued a joint public statement on the day of judgment that captures the Tribunal’s fundamental significance: “This Tribunal was created because Afghan women have been denied justice at every level. Today’s judgment makes clear that their suffering is not invisible, not forgotten, and not beyond the reach of international law. The world now has a formal legal record of what is happening in Afghanistan. There can now be no claim of uncertainty, ambiguity, or lack of evidence. What remains is the political will to act.”³⁹²

Afghanistan’s women, “including lawyers, activists and survivors, led this tribunal: they designed the process, gathered evidence and framed the legal questions at its core.”³⁹³ The

³⁸⁶ People’s Tribunal for Women of Afghanistan, Judgment, 4–5.

³⁸⁷ People’s Tribunal for Women of Afghanistan, Judgment, 1, 63; International Institute of Social Studies, Erasmus University Rotterdam, “People’s Tribunal on Women of Afghanistan Issues Landmark Judgement at ISS,” 15 December 2025, <https://www.iss.nl/en/news/peoples-tribunal-women-afghanistan-issues-landmark-judgement-iss>.

³⁸⁸ People’s Tribunal for Women of Afghanistan, Summary of Judgment, 11 December 2025, <https://afghanistantribunal.com/wp-content/uploads/2026/02/PTWA-Summary-of-Judgment-ENG.pdf>.

³⁸⁹ People’s Tribunal for Women of Afghanistan, Summary of Judgment.

³⁹⁰ People’s Tribunal for Women of Afghanistan, Judgment, PP. 69–71.

³⁹¹ People’s Tribunal for Women of Afghanistan, Judgment, 4 (quoting the Indictment, para. 3).

³⁹² Rawadari Organisation et al. (Requesting Organisations), Joint Public Statement, People’s Tribunal for Women of Afghanistan, 11 December 2025, 1, <https://rawadari.org/wp-content/uploads/2025/12/PTWA-Judgment-Session-Joint-Statement-English.pdf>.

³⁹³ “Gender Apartheid Brief - Issue 1,” MALALA FUND, <https://malala.org/news-and-voices/gender-apartheid-brief-issue-1>.

PPT's structure which treats people as "real subjects of the process"³⁹⁴ rather than as passive objects of international concern offers a model for how future processes can be designed to meaningfully centre Afghanistan women's agency rather than merely invoke it rhetorically.

G. Civil Society

According to a 2025 report by the Special Rapporteur on Afghanistan, "[c]ivil society activists, human rights defenders, and NGOs play a crucial role in advancing women and girls' rights, including access to justice and protection."³⁹⁵ Yet, in Afghanistan, the civic space continues to shrink. The Taliban *de facto* authorities "have clamped down on civic space through widespread censorship, threats and intimidation, violence, arbitrary arrests and the closure of institutions."³⁹⁶ Still, a brave and resilient civil society inside and outside Afghanistan, as well as international human rights organisations and coalitions, continue to operate in the face of these challenges.

Efforts Inside Afghanistan

The people of Afghanistan "continue to courageously push back against repression by defending civic space, documenting human rights violations, advocating for accountability, seeking education and amplifying marginalised voices."³⁹⁷ Many organisations inside Afghanistan, however, are not in a position to disclose their names, due to the security risks they face.³⁹⁸

Diaspora-Led Efforts

One organisation, Rawadari, was publicly launched in December 2022 by former members of the Afghanistan Independent Human Rights Commission (AIHRC), led by former Chair Shaharзад Akbar.³⁹⁹ It aims to provide "reliable and timely information on human rights violations in Afghanistan with a focus of violations of the rights of women and girls and marginalised groups" and monitors and documents the "human rights situation in Afghanistan through a network of data providers on the ground."⁴⁰⁰

³⁹⁴ 'JUDGEMENT: People's Tribunal for Women of Afghanistan,'

<https://afghanistantribunal.com/documents/judgement-peoples-tribunal-for-women-of-afghanistan/>.

³⁹⁵ A/HRC/59/25, para. 79.

³⁹⁶ A/HRC/58/80, para. 24.

³⁹⁷ A/80/432, para. 4.

³⁹⁸ HRD+, Open Letter. August 28, 2025. https://hrd-plus.net/wp-content/uploads/2025/08/Open_Letter_Final.pdf.

³⁹⁹ Rawadari, "About Us," <https://rawadari.org/about/>; CIVICUS Lens, "We Continue Working to Make Sure Afghan Girls and Women Are Heard and Not Forgotten," 10 October 2024, <https://lens.civicus.org/interview/we-continue-working-to-make-sure-afghan-girls-and-women-are-heard-and-not-forgotten/>.

⁴⁰⁰ Rawadari, "About Us," <https://rawadari.org/about/>.

On 20 January 2023, in Geneva, HRD+ (Human Rights Defenders Plus) was officially launched, gathering twelve of Afghanistan's human rights defenders from various organisations in different countries of exile.⁴⁰¹ The network grew from meetings beginning in October 2022, with technical and financial support from the World Organisation Against Torture (OMCT).⁴⁰² It is now "an independent human rights network that is Afghan-led, advocating for justice, accountability, and the protection of human rights defenders, journalists, women, minorities, and civil society activists in Afghanistan."⁴⁰³

DROPS (Organization for Policy Research and Development Studies), founded in Kabul in 2014 and with a Canadian branch established in 2021, has continued generating evidence-based research and amplifying the voices of Afghanistan's women.⁴⁰⁴ It does so primarily via its BISHNAW-WAWRA digital platform launched in 2020, which uses tele-surveys, face-to-face interviews and focus group discussions in nineteen provinces to document women's lived experiences of peace, security and development.⁴⁰⁵

Shahmama is "a Geneva-based, women-led, non-profit, and non-governmental organization dedicated to advancing the rights, leadership, and dignity of Afghan women and girls. Grounded in the principles of gender equality and social justice, Shahmama amplifies women's voices through international advocacy, leadership empowerment, and capacity-building initiatives, fostering their meaningful participation in decision-making processes at national and global levels."⁴⁰⁶

The Mission of FARAGEER is: "To empower Afghan women to build alliances with different segments of Afghan society, with the regional and global state and non-state allies for advancing women's rights, resilience and leadership and working towards building a future Afghanistan shaped by collective aspiration of Afghanistan's women and men with all our diversities."⁴⁰⁷

The Women and Children Research and Advocacy Network is a non-profit organization founded in 2023, in Canada, "committed to making a positive impact on the lives of women and children through research and advocacy," it works across three areas: "research, advocacy,

⁴⁰¹ Human Rights Defenders Plus (HRD+), "About Us," <https://hrd-plus.net/about-us/>.

⁴⁰² Human Rights Defenders Plus (HRD+), "About Us,"

⁴⁰³ Human Rights Defenders Plus (HRD+), <https://hrd-plus.net/>.

⁴⁰⁴ DROPS, "About," <https://dropsafghanistan.org/about/>.

⁴⁰⁵ BISHNAW-WAWRA, "Home," <https://bishnaw.com/>.

⁴⁰⁶ Shahmama Organization, <https://shahmama.org/>.

⁴⁰⁷ FARAGEER, <https://farageer.org/>.

and direct support.”⁴⁰⁸ Among its many critical outputs, it has produced a key “research report titled ‘The Impact of Taliban’s Edicts on Women and Girls in Afghanistan.’”⁴⁰⁹

Afghans for a Better Tomorrow (AFBT), U.S.-based organization, has an Emerging Leaders Fellowship and an Afghan Feminist Fellowship that teach young Afghan women policy advocacy and grassroots organizing, and has actively campaigned for *gender apartheid* to be recognized.⁴¹⁰

The HAMRAH Initiative, launched in early 2024 with support from Global Dialogue and the Open Society Foundations, provides small grants, mentorship, and joint advocacy support to a cohort of Afghan civil society organisations in exile, with a particular focus on women-led groups providing education, legal aid, and protection services for women and girls inside Afghanistan.⁴¹¹

Women For Afghanistan (WFA) is a nonprofit organization based in Geneva, which aims to “promote spaces of dialogue and collaboration to make possible a society where Afghan women are empowered to lead, with equal opportunities, justice, and representation in all aspects of life, fostering peace, sustainable development, and a prosperous future for all.”⁴¹²

International Organisations

Activities of the Afghanistan diaspora have been complemented by continued support from international organisations, such as Human Rights Watch, Amnesty International, International Service for Human Rights (ISHR), the International Commission of Jurists (ICJ) and the International Bar Association’s Human Rights Institute (IBAHRI).⁴¹³

Afghanistan Human Rights and Democracy Organization (AHRDO) was established in 2009 and is now operating in exile.⁴¹⁴ It is “an independent, non-governmental, and non-profit organization dedicated to promoting human rights, democracy, and justice in Afghanistan.”⁴¹⁵ It has conducted a Gender Persecution Inquiry, and through its “research and documentation

⁴⁰⁸ WCRAN, <https://wcran.org/>; <https://wcran.org/what-we-do/>.

⁴⁰⁹ Research report: THE IMPACT OF Taliban’s Edicts on Women and Girls in Afghanistan, WCRAN, 24 October 2025, <https://wcran.org/blog/research-report-the-impact-of-talibans-edicts-on-women-and-girls-in-afghanistan/>.

⁴¹⁰ Afghans for a Better Tomorrow, “Our Demands” and “Programs,” <https://www.weareafghans.org>.

⁴¹¹ HAMRAH Initiative, “About Us,” <https://hamrahnetwork.org/about-us/>.

⁴¹² Women For Afghanistan, <https://womenforafghanistan.ch/>.

⁴¹³ See e.g., DETAILED BRIEFING NOTE FOR UN MEMBER STATES ON THE ESTABLISHMENT BY THE UN HUMAN RIGHTS COUNCIL OF AN INDEPENDENT, INVESTIGATIVE MECHANISM FOR AFGHANISTAN, 20 August 2025, <https://www.ibanet.org/document?id=IBAHRI-joint-briefing-note-for-UN-States-on-the-establishment-of-an-Independent-Investigative-Mechanism-for-Afghanistan-Aug25>.

⁴¹⁴ Afghanistan Human Rights and Democracy Organization (AHRDO), “About,” <https://ahrdo.org/about/>.

⁴¹⁵ Afghanistan Human Rights and Democracy Organization (AHRDO), “About.”

work," it "interviewed Afghan women and girls who had experienced Taliban detention and torture in Kabul."⁴¹⁶

MADRE is an international women's human rights organization, which has been collaborating with Afghan women organizations since before the 2021 takeover.⁴¹⁷ It has "been researching and reporting on gender persecution crimes in Afghanistan since 2021, supporting local documentation work, helping amplify Afghan advocates' voices in the UN and elsewhere, and supporting survivors to be able to share their stories."⁴¹⁸

The Center for Human Rights Advocacy (CHRA) links victims and civil society organisations with UN Special Procedures, treaty bodies and international courts.⁴¹⁹ Its April 2026 brief on the forthcoming Crimes Against Humanity Convention calls on States and civil society to ensure that Afghanistan's victims and survivors are active co-creators of any future treaty.⁴²⁰

Civil Society Coalitions

Strong coalitions will continue to play a key role in advancing efforts for Afghanistan's women and girls. For example, a coalition campaign that continued to grow over the years ultimately led the UN Human Rights Council to establish an independent investigative mechanism for Afghanistan.⁴²¹ The End Gender Apartheid Campaign has coordinated extensive global advocacy for the recognition and codification of *gender apartheid* as an international crime.⁴²² Another major milestone in coalition-based accountability advocacy was the previously mentioned People's Tribunal for Women in Afghanistan, initiated by Rawadari, AHRDO, DROPS, and HRD+, with hearings held in Madrid in October 2025.⁴²³

The Expert Working Group on the Potential Case(s) for Afghanistan at the International Court of Justice (ICJ) is "an Afghan-led forum that brings civil society actors, legal experts, survivor advocates, and organizational leaders together."⁴²⁴ It "aims to amplify the voices of affected

⁴¹⁶ AHRDO Briefing on Gender Persecution in Afghanistan, February 21, 2025, <https://ahrdo.org/ahrdo-briefing-on-gender-persecution-in-afghanistan/>.

⁴¹⁷ "Our Work in Afghanistan," MADRE, <https://www.madre.org/afghanistan/>.

⁴¹⁸ "Our Work in Afghanistan," MADRE.

⁴¹⁹ Center for Human Rights Advocacy (CHRA), "Activities," <https://www.cfhra.org/activities>.

⁴²⁰ Center for Human Rights Advocacy (CHRA), *Centering Victims & Survivors: Realising Victim and Survivor Proposals for an Effective Victim- and Survivor-Centred Approach to a Future Crimes Against Humanity Convention* (April 2026), https://www.cfhra.org/files/ugd/011859_ce483785ee7f415a94d6d8d1485d7a0b.pdf.

⁴²¹ World Organisation Against Torture (OMCT), "Afghanistan: Civil Society welcomes the UN decision to establish an independent investigative mechanism," 7 October 2025, <https://www.omct.org/en/resources/statements/afghanistan-civil-society-welcomes-the-un-human-rights-councils-decision-to-establish-the-long-requested-investigative-mechanism-for-afghanistan>.

⁴²² End Gender Apartheid Campaign, <https://endgenderapartheid.today/>.

⁴²³ 'Joint Civil Society Statement Marking the One Year Anniversary of the Announcement of a Legal Initiative to Hold Afghanistan Accountable Under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),' September 25, 2025, <https://www.hrw.org/news/2025/09/25/joint-civil-society-statement-marking-the-one-year-anniversary-of-the-announcement>.

⁴²⁴ 'Joint Civil Society Statement Marking the One Year Anniversary of the Announcement of a Legal Initiative to Hold Afghanistan Accountable Under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).'

communities, build sustained support for justice and accountability, especially for women, girls, and other marginalised groups, and ensure coordination with wider international accountability efforts on Afghanistan.”⁴²⁵ The Afghanistan Human Rights Coordination Mechanism (AHRM), co-founded in January 2022 by Freedom House, the Afghan Civil Society Forum, MADRE, and the International Federation for Human Rights (FidH), provides protection training, digital security support, and fellowship opportunities for human rights defenders at risk inside and outside Afghanistan.⁴²⁶

Education and Scholarship Initiatives

The Taliban’s ban on girls’ secondary and higher education has led to the emergence of a parallel system of organisations trying to maintain Afghan women’s access to learning. There are a number of HAMRAH cohort members that are operating clandestine and online educational programmes within Afghanistan, including a past member the Support for Afghan Girls’ Education (SAGE).⁴²⁷ These activities complement the community-based education, vocational and literacy programmes, which the Special Rapporteur noted in his report of 10 June 2025 play “an essential role in both immediate protection and long-term transformation.”⁴²⁸

Civil Society Engagement with International Human Rights Mechanisms

Civil society organisations have meaningfully engaged with international human rights mechanisms on the situation of women and girls in Afghanistan. The 4th cycle Universal Periodic Review for Afghanistan was conducted by the Working Group of the UPR during its 46th session from 29 April to 10 May 2024, and 243 recommendations were made.⁴²⁹ The review took account of the information provided by Afghanistan’s and international civil society organisations.⁴³⁰

The CEDAW Committee carried out its first review of Afghanistan since the military takeover in June 2025.⁴³¹ There were a number of shadow reports submitted for that review.⁴³² Based on

⁴²⁵ ‘Joint Civil Society Statement Marking the One Year Anniversary of the Announcement of a Legal Initiative to Hold Afghanistan Accountable Under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).’

⁴²⁶ Freedom House, “The Afghanistan Human Rights Coordination Mechanism,” <https://freedomhouse.org/afghanistan-human-rights-coordination-mechanism>.

⁴²⁷ HAMRAH Network, “Our Members,” <https://hamrahnetwork.org/cohorts/>.

⁴²⁸ A/HRC/59/25, para. 103-104.

⁴²⁹ UPR Info, “46th UPR Working Group: Key Highlights,” 15 May 2024, <https://upr-info.org/en/news/46th-upr-working-group-key-highlights>; UPR Info, “The UPR Adoptions at the 57th Session of the HRC: Key Highlights,” <https://upr-info.org/en/news/upr-adoptions-57th-session-hrc-key-highlights>, 15 October 2024.

⁴³⁰ See, e.g., Non c’è pace senza giustizia (NPWJ), “Universal Periodic Review: Afghanistan — The Dismal State of Human Rights and Rule of Law,” submission to the 46th UPR Working Group Session, October 2023.

⁴³¹ IWRAW Asia Pacific, “91st CEDAW Session,” <https://cedaw.iwraw-ap.org/cedaw-91/>. Afghanistan’s review took place on 16th June - 4th July 2025.

⁴³² Musawah and Strategic Advocacy for Human Rights (SAHR), “Thematic Report on Muslim Family Law and Muslim Women’s Rights in Afghanistan,” submission to the CEDAW Committee, 91st Session, Geneva, June 2025, dated 20 May 2025; Amnesty International, “Afghanistan: Submission to the UN Committee on Elimination of Discrimination against Women, 91st session, 16 June-July 2025,” 21 May 2025.

this civil society input, the Committee made strong recommendations in its Concluding Observations.⁴³³ The breadth of organisations engaging with these mechanisms reflects the growing institutionalisation of Afghanistan’s civil society’s relationship with international human rights bodies; their capacity to translate documentation into formal recommendations carries substantial weight.⁴³⁴

Challenges and Opportunities

Despite significant achievements, several limits constrain civil society’s impact, and will require sustained efforts to be overcome. For example, the Taliban *de facto* authorities have explicitly banned independent monitoring of prison and detention facilities, making it difficult for Rawadari and affiliated organisations to verify on the ground remote interviews with people.⁴³⁵ Additionally, BISHNAW’s platform, while methodologically innovative, is constrained by Afghanistan’s low internet penetration, which was estimated at around 18 percent before the 2021 takeover and has since declined further.⁴³⁶

Many NGOs inside the country “have been forced to close or suspend operations.”⁴³⁷ More specifically, “NGOs offering legal assistance, community-level peacebuilding, women’s empowerment programs, support to human rights defenders at risk, and services for survivors of gender-based violence – including shelters and safe houses – have been disproportionately affected.”⁴³⁸ Moreover, organizations “featuring terms such as “women”, “justice” and “peace” in their titles have been ordered to reregister under new names.”⁴³⁹

In addition, not only is “the work of NGOs ... and civil society more broadly ... further undermined by the continuing ban on women’s employment,” women are “barred from holding management and leadership positions in NGOs”; and as a result, the ability to provide support to women and girls has been significantly impacted.⁴⁴⁰

The exiled nature of many organisations is increasingly likely to result in a disconnect between their efforts and the situation on the ground, especially from the most marginalised rural communities.⁴⁴¹

⁴³³ “Joint Civil Society Statement Marking the One Year Anniversary of the Announcement of a Legal Initiative to Hold Afghanistan Accountable Under CEDAW.”

⁴³⁴ See the signatories listed, “Joint Civil Society Statement on the Legal Initiative to Hold Afghanistan Accountable for Violations of CEDAW,” 4 March 2025.

⁴³⁵ Rawadari, *Afghanistan Human Rights Situation Report 2024*.

⁴³⁶ BISHNAW-WAWRA, “Home”; Wazhmah Osman and Narges Bajoghli, “Decolonizing Transnational Feminism: Lessons from the Afghan and Iranian Feminist Uprisings of the Twenty-First Century,” *Journal of Middle East Women’s Studies* 20, no. 1 (1st March 2024): 6, <https://doi.org/10.1215/15525864-10961742>.

⁴³⁷ A/HRC/59/25, para. 82.

⁴³⁸ A/HRC/59/25, para. 83.

⁴³⁹ A/HRC/59/25, para. 83.

⁴⁴⁰ A/HRC/59/25, paras. 84, 86.

⁴⁴¹ Solidarity Committee for Afghanistan, “Supporting Afghanistan’s Civil Society: Lessons Learned and Policy Pathways,” Policy Brief, 7th May 2025, <https://solidaritycommittee.org/supporting-afghanistan-civil-society-policy-brief/>.

Funding fragility compounds these difficulties: many organisations depend on short international grant cycles that are increasingly uncertain as donor fatigue grows and aid to Afghanistan declines sharply.⁴⁴²

Finally, the proliferation of new organisations, which is an indicator of strength, also creates coordination problems; the duplication of efforts and competition for limited resources can be detrimental to the cumulative effect that these organisations can have when working together.⁴⁴³

Addressing these challenges will require deliberate action on the part of civil society itself. Civil society should act as a bridge between those inside Afghanistan and forums outside of it, expand coalitions, systematise referral pathways for support, share best practices to overcome challenges, and coordinate efforts. Donors, for their part, should shift toward multi-year core funding models that enable strategic planning rather than project-by-project survival.⁴⁴⁴

⁴⁴² Solidarity Committee for Afghanistan, "Supporting Afghanistan's Civil Society."

⁴⁴³ Solidarity Committee for Afghanistan, "Supporting Afghanistan's Civil Society."

⁴⁴⁴ A/HRC/59/25, para. 91 (noting NGOs' call for "donors to commit to longer-term projects to ensure that civil society, especially women-led organisations, can continue to operate").

IV. THE WAY FORWARD



This section presents a practical roadmap for advancing accountability, prevention, and transformation efforts in Afghanistan. Instead of emphasizing a single intervention, it delineates four interconnected stages designed to guide both immediate actions and long-term transformation.

The first stage establishes the foundation: Afghanistan's women and girls must be central to all efforts, actively shaping priorities, strategies, and outcomes. The second stage focuses on expanding efforts to advance the recognition and codification of *gender apartheid* as a crime under international law. The third stage emphasizes ensuring readiness of all actors to prepare for a comprehensive approach to justice, emphasizing the role of the IIM-A. Although *gender apartheid* is not yet established as an international crime, efforts to address the system of discrimination and oppression in Afghanistan cannot wait. The fourth and final stage puts forth a vision of transformative justice that is capable of addressing the underlying structures that enable systematic discrimination and oppression and creates opportunities for lasting change in Afghanistan.

A. Ensuring Afghanistan's Women Remain at the Centre of All Future Efforts

This section sets out the foundation of our recommendations: that Afghanistan's women and girls must be placed at the centre of all efforts. Historically, international law-making and institutions have been predominantly male-oriented, often diminishing the transformative potential for women's rights.⁴⁴⁵ A women-centred approach to Afghanistan means placing Afghanistan's women and girls at the heart of all efforts, recognizing them as active agents of change instead of passive victims.⁴⁴⁶ This approach matches broader understandings of women's empowerment as a transformative process through which women gain "power and control over their lives,"⁴⁴⁷ including the ability to exercise agency, access resources, and reshape the social, economic, and institutional systems which structure their lives.⁴⁴⁸

Therefore, this section proceeds in three parts: first, it outlines the conceptual frameworks to ground future efforts in Afghanistan women's lived experiences and forms of agency; second, it

⁴⁴⁵ Fionnuala Ní Aoláin, 'Transformative Gender Justice?', in *From Transitional to Transformative Justice*, 1st edn, ed. Paul Gready and Simon Robins (Cambridge University Press, 2019), 151 <https://doi.org/10.1017/9781316676028.007>.

⁴⁴⁶ Ní Aoláin, "Transformative Gender Justice?" 151; Sulaiman Haqpana and Maria Tsouroufli, "'Powerless, Poor and Needy?': Reproducing Colonial Discourses of Gender and Muslim Women through Educational Interventions by I-NGOs in Afghanistan," *Women's Studies International Forum* 99 (2023): 102714, 3-4, <https://doi.org/10.1016/j.wsif.2023.102714>.

⁴⁴⁷ Alexandra Lockyer and Laura Diaz Zea, *Advancing Gender Equality and Women's Empowerment: Target-Setting Guidance for Banks*, ed. Andy Quan (New York: UN Women, 2024), 6, <https://www.unwomen.org/en/digital-library/publications/2024/12/advancing-gender-equality-and-womens-empowerment-target-setting-guidance-for-banks>.

⁴⁴⁸ Lockyer and Diaz Zea, *Advancing Gender Equality*, 6.

examines women-led resistance, both within Afghanistan and across the diaspora; and third, it offers concrete, practical recommendations to ensure they remain at the centre of all efforts ahead.

i. Decolonial Feminist and Islamic Feminist Perspectives

Centring Afghanistan women must also move beyond externally imposed frameworks. A decolonial feminist perspective insists that international engagement should be grounded in Afghanistan women's own experiences, demands, and forms of knowledge, instead of reproducing rescue narratives.⁴⁴⁹ As Françoise Vergès argues, decolonial feminism requires more than simply adding marginalised women within existing frameworks; it requires a fundamental rethinking of the systems of power that produce inequality.⁴⁵⁰ This is particularly important in the Afghanistan context, where dominant global discourses have long constructed Muslim women as oppressed subjects in need of saving.⁴⁵¹ Such representations obscure both history and agency.

As decolonial feminist scholarship reminds us, "the idea that women do not have a past ... means ... it has been buried, hidden, and masked,"⁴⁵² requiring active recovery and recognition.⁴⁵³ In the case of Afghanistan, this erasure has contributed to a persistent framing of women as victims; indeed, "the Afghanistan woman [in a *burqa*] has become the international symbol for victimhood,"⁴⁵⁴ while women in Afghanistan are frequently portrayed as "passive victims, waiting to be liberated."⁴⁵⁵ These accounts oversimplify complex realities and serve to justify external intervention,⁴⁵⁶ reinforcing what Professor Gayatri Chakravorty Spivak famously described as the logic of "white men saving brown women from brown men."⁴⁵⁷

Critically, a significant dimension of identities of the people of Afghanistan is formed through Afghanistan's colonial history and its diasporic experiences.⁴⁵⁸ Postcolonial theory emphasizes that colonialism has been experienced unevenly across different countries.⁴⁵⁹ This makes it

⁴⁴⁹ Françoise Vergès, *A Decolonial Feminism*, trans. Ashley J. Bohrer (London: Pluto Press, 2021), 13, 14, 24 <https://doi.org/10.2307/j.ctv1k531j6>.

⁴⁵⁰ Vergès, *A Decolonial Feminism*, 14, 21.

⁴⁵¹ Vergès, *A Decolonial Feminism*, 17-18; P. Azimi, *Decolonizing the Western Perception of Afghan Women: A Feminist Critique* (Undergraduate honors thesis, University of Nebraska-Lincoln, 2024), 23 <https://digitalcommons.unl.edu/honorstheses/674/>; Ruhi Khan, "Afghanistan and the Colonial Project of Feminism: Dismantling the Binary Lens," *Media@LSE Blogs*, September 2, 2021,

<https://blogs.lse.ac.uk/media/2021/09/02/afghanistan-and-the-colonial-project-of-feminism-dismantling-the-binary-lens/>

⁴⁵² Vergès, *A Decolonial Feminism* 82.

⁴⁵³ Vergès, *A Decolonial Feminism* 82-83.

⁴⁵⁴ Julia Paul, "Giving Afghan Women a Voice: Women's Writing in Afghanistan," *Women's History Review* 23, no. 4 (2014), 642, <https://doi.org/10.1080/09612025.2014.919781>.

⁴⁵⁵ Elaheh Rostami-Povey, "Gender, Agency and identity: The Case of Afghan Women in Afghanistan, Pakistan and Iran," *The Journal of Development Studies* 43, no. 2 (2007): 295, <https://doi.org/10.1080/00220380601125149>.

⁴⁵⁶ Ruhi Khan, "Afghanistan and the Colonial Project of Feminism: Dismantling the Binary Lens."

⁴⁵⁷ Spivak, Gayatri Chakravorty. "Can the Subaltern Speak?" In *Colonial Discourse and Post-Colonial Theory: A Reader*, edited by Patrick Williams and Laura Chrisman, 66-111. Hemel Hempstead: Harvester Wheatsheaf, 1993. <https://voidnetwork.gr/wp-content/uploads/2016/09/Can-the-subaltern-speak-by-Gayatri-Spivak.pdf>, 93.

⁴⁵⁸ P. Azimi, *Decolonizing the Western Perception of Afghan Women: A Feminist Critique*, 32.

⁴⁵⁹ P. Azimi, *Decolonizing the Western Perception of Afghan Women: A Feminist Critique*, 32.

necessary to adopt an intersectional framework, which means that gender cannot be understood in isolation but is always mediated through intersecting axes of identity such as ethnicity, class, religion, language, generation, and migration status.⁴⁶⁰ In the Afghanistan context, these intersecting structures shape vastly different experiences of vulnerability, resistance, and access to power, both within Afghanistan and across its diaspora.⁴⁶¹ This also highlights the need to centre women's perspectives, particularly given the dominance of male voices in much postcolonial scholarship,⁴⁶² and to account for the uneven and differentiated effects of conflict, displacement, and governance.⁴⁶³

Alongside decolonial feminist critiques of 'Western universalism' - the assumption that Western feminist frameworks are universally applicable and can simply be imposed on non-Western societies,⁴⁶⁴ Islamic feminism offers an important complementary framework for understanding Muslim women's agency.⁴⁶⁵ Rooted in the reinterpretation of Islamic texts, it is a transnational movement through which Muslim women seek to reclaim rights they argue have long been obscured by patriarchal and fundamentalist readings.⁴⁶⁶ In doing so, it contests the assumption that women's liberation and resistance must be grounded in secular models, insisting instead that gender justice can be articulated through Islamic ethical tradition and cultural contexts.⁴⁶⁷

Within this framework, agency is understood more expansively. It is not limited to overt acts of resistance, but includes the capacity to navigate, negotiate, and endure within oppressive systems.⁴⁶⁸ In this sense, agency reflects the ability to "devise ways of coping with life, even under the most extreme forms of coercion,"⁴⁶⁹ reframing survival itself as a meaningful form of action.⁴⁷⁰ In the Afghanistan context, this is apparent in the ways women create spaces of autonomy, exercise creativity and resourcefulness, and shape their own identities and futures despite systemic limitations.⁴⁷¹ Prominent women's rights advocate, Soraya Parlika, who had served as the head of the All-Afghanistan Women's Union (note translations may also refer to it as the National Union of Women of Afghanistan or AAWA), testifies to this resilience during the Taliban's first Rule: "We witnessed twenty-two years of war, terror, and bombing ... Under the

⁴⁶⁰ A/HRC/59/25, 3, para. 12.

⁴⁶¹ Farida Akbari and Kobra Moradi, "Hazara Women: How Gender and Ethnicity Intersect in the Taliban's Repression," Just Security, March 7, 2024, <https://www.justsecurity.org/93123/hazara-women-how-gender-and-ethnicity-intersect-in-the-talibans-repression/>; Rostami-Povey, "Gender, Agency and Identity," 294.

⁴⁶² P. Azimi, Decolonizing the Western Perception of Afghan Women: A Feminist Critique, 32.

⁴⁶³ Elaheh Rostami-Povey, "Gender, Agency and identity, 305-309; Vergès, A Decolonial Feminism, 18-20.

⁴⁶⁴ Grami, Amal, "Islamic Feminism: A New Feminist Movement or a Strategy by Women for Acquiring Rights?" Contemporary Arab Affairs 6, no. 1 (2013): 103-104, <https://www.ijstor.org/stable/48600673>.

⁴⁶⁵ Grami, Amal, "Islamic Feminism," 103.

⁴⁶⁶ Grami, Amal, "Islamic Feminism," 103, 106.

⁴⁶⁷ Grami, Amal, "Islamic Feminism," 105-106.

⁴⁶⁸ P. Azimi, Decolonizing the Western Perception of Afghan Women: A Feminist Critique, 41-42.

⁴⁶⁹ Elaheh Rostami-Povey, Afghan Women's Resistance and Struggle in Afghanistan and Diasporic Communities, End of Award Report, ESRC Reference No. RES-000-22-0762 (London: School of Oriental and African Studies, University of London, 2008), 7, <https://sp.ukdataservice.ac.uk/doc/6065/mrdoc/pdf/6065uiguide.pdf>.

⁴⁷⁰ Rostami-Povey, Afghan Women's Resistance and Struggle, 9.

⁴⁷¹ Rostami-Povey, "Gender, Agency and identity", 297-299; Rostami-Povey, Afghan Women's Resistance and Struggle, 7-11; P. Azimi, Decolonizing the Western Perception of Afghan Women, 34-42.

Mujaheddin, the weapon of one community against another was to attack, to jail, to rape, to hit in public the female members of the other community. Under the Taliban, women were denied their basic right to education. Throughout we continued our activities openly and secretly and this allowed us to hold hands with each other and survive."⁴⁷²

ii. Women-Led and Locally-led Resistance

Faced with poverty and the ban on education, women converted their homes into clandestine schools, teaching literacy, math, science, as well as sewing and cooking, funded entirely by their communities.⁴⁷³ These secret organisations, grounded on trust and reciprocity, allowed women to maintain social relationships and develop vital skills, proving that "some women's experiences of conflict resulted in their learning skills and obtaining social, economic, and political exposure and strength."⁴⁷⁴ These practices demonstrate that empowerment is often rooted in relationships and community networks, particularly in rural areas, instead of individual action.⁴⁷⁵ Afghanistan's women commonly rely on traditional and locally-grounded methods to support one another and therefore, they require concrete support that enables them to organize and lead community action according to their own priorities and terms.⁴⁷⁶

Additionally, in recent years, diasporic activism has become an increasingly important site of resistance.⁴⁷⁷ However, it is important to mention that Afghanistan's women's diasporic realities are deeply stratified.⁴⁷⁸ While some of Afghanistan's women in the diaspora may benefit from residency or dual citizenship, enabling greater mobility and access to education, employment, and political participation⁴⁷⁹; the majority (particularly those in neighbouring countries such as Iran and Pakistan), often live without citizenship rights, documentation, or secure access to basic services.⁴⁸⁰ These structural inequalities produce fundamentally different conditions of everyday life, belonging, and agency.⁴⁸¹ Despite these differences, Afghanistan's women across all contexts continue to resist exclusion and reshape their roles in both traditional and changing social environments.⁴⁸²

⁴⁷² Elaheh Rostami-Povey, "Women in Afghanistan: Passive Victims of the Borge or Active Social Participants?" *Development in Practice* 13, no. 2/3 (2003): 269. <http://www.istor.org/stable/4029597>.

⁴⁷³ P. Azimi, *Decolonizing the Western Perception of Afghan Women*, 40; Rostami-Povey, *Afghan Women's Resistance and Struggle*, 7; Rostami-Povey, "Women in Afghanistan: Passive Victims of the Borge or Active Social Participants?" 274-275.

⁴⁷⁴ Rostami-Povey, *Afghan Women's Resistance and Struggle*, 302.

⁴⁷⁵ P. Azimi, *Decolonizing the Western Perception of Afghan Women*, 38.

⁴⁷⁶ P. Azimi, *Decolonizing the Western Perception of Afghan Women*, 38.

⁴⁷⁷ Farooq, Saadia, Newsom, Victoria A. and Lengel, Lara Martin. "Diasporic social media activism as discursive resistance: Afghan women contest the Taliban's strategic narratives" *Online Media and Global Communication*, 46 <https://doi.org/10.1515/omgc-2025-0073>.

⁴⁷⁸ Rostami-Povey, *Afghan Women's Resistance and Struggle*, 9-10.

⁴⁷⁹ Rostami-Povey, *Afghan Women's Resistance and Struggle*, 10.

⁴⁸⁰ Rostami-Povey, *Afghan Women's Resistance and Struggle*, 10.

⁴⁸¹ Rostami-Povey, *Afghan Women's Resistance and Struggle*, 1.

⁴⁸² Rostami-Povey, *Afghan Women's Resistance and Struggle*, 11.

iii. Recommendations

As a woman of Afghanistan we interviewed said: “Only by centering Afghanistan’s women can justice, repair, and prevention become real.”⁴⁸³ Accordingly, this section sets out recommendations for relevant actors to help ensure that Afghanistan’s women remain at the centre of all future efforts, including States, the IIM-A, UN entities and international human rights mechanisms, courts, and civil society.

a. To States

- *Ensure Afghanistan’s women, representing intersecting identities (including, but not limited to, ethnicity, disability, and migration status), serve as substantive decision-makers, capable of influencing outcomes, in all forums on Afghanistan.*

The Georgetown Institute for Women, Peace and Security’s 2025 consultations with Afghanistan’s women leaders produced a clear message: Afghanistan’s women must be included not as observers or external voices but as principals in all processes that determine Afghanistan’s political future.⁴⁸⁴ In her Statement at the UN Security Council Briefing on Afghanistan, Ms. Azadah Raz Mohammad emphasised: “Meetings to decide the fate of Afghanistan without Afghan women at the table are simply not legitimate.”⁴⁸⁵

There is a difference between providing women with pre-negotiation consultation and active participation in formal negotiations, which is the difference between women being consulted on decisions that have already been made and women having the power to make agenda-setting decisions.⁴⁸⁶ For example, the UN-convened third Doha meeting in June 2024 represented a critical institutional failure: Afghanistan’s women were excluded, and human rights issues were deliberately removed from the agenda.⁴⁸⁷ The CEDAW Committee underlined that the absence of Afghanistan’s women in such processes would mean that the rights of women and girls would not be adequately considered, casting doubt on the legitimacy and effectiveness of the Doha meeting.⁴⁸⁸ This exclusion is in contradiction to not only the CEDAW Convention, but also UN Security Council Resolution 1325, which calls for

⁴⁸³ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

⁴⁸⁴ Georgetown Institute for Women, Peace and Security. “Recommendations from Afghan Women Leaders.” May 29, 2025. <https://giwps.georgetown.edu/2025/05/29/recommendations-from-afghan-women-leaders/>.

⁴⁸⁵ Statement by Ms. Azadah Raz Mohammad UN Security Council Briefing on Afghanistan 10 March 2025, https://www.womenpeacesecurity.org/wp-content/uploads/UNSC_Briefing_Afghanistan_RazMohammad_03-2025_EN.pdf.

⁴⁸⁶ Georgetown Institute for Women, Peace and Security, “Recommendations from Afghan Women Leaders.”

⁴⁸⁷ Heather Barr, “Gender Apartheid as an International Crime,” Georgetown Journal of International Affairs, 2 September 2025, <https://gija.georgetown.edu/2025/09/02/gender-apartheid-as-an-international-crime-taliban-oppression-in-afghanistan-triggers-campaign/>.

⁴⁸⁸ UN Committee on the Elimination of Discrimination Against Women, “Afghan Women and Girls Must Be Included in Upcoming Doha Meeting,” Press Release, 28 June 2024, <https://www.ohchr.org/en/press-releases/2024/06/afghan-women-and-girls-must-be-included-upcoming-doha-meeting-un-womens>.

women's full participation and involvement in all efforts for the maintenance and promotion of peace and security, which States and the UN itself have committed to uphold.⁴⁸⁹

Women must also be represented across their intersecting identities because experiences vary enormously; for instance, a Hazara woman's experience of the impacts of compounding discrimination on the basis of their ethnicity, gender, and any other applicable factor, while another women from Afghanistan in Iran or Pakistan might face an entirely different configuration of precarity and restricted agency than those with citizenship in other countries.⁴⁹⁰ Afghanistan women's identities and forms of agency are shaped by overlapping and shifting axes of identity, including ethnicity, religion, language, socio-economic status, age, disability, and geographic location, rendering any delegation that does not reflect this diversity fundamentally inadequate as a representative body.⁴⁹¹

- *Provide long-term, flexible, and direct funding to Afghanistan's women-led civil society organisations both inside Afghanistan and in the diaspora, ensuring a minimum target of 15 per cent of gender-related funding to grassroots organisations.*

In recent years, the funding landscape for Afghanistan has gone from bad to worse, with the stringent limitations by the Taliban *de facto* authorities on women's public presence putting at risk the very organisational structures through which Afghanistan's women have found ways to resist and to build networks of solidarity.⁴⁹²

Multi-year direct grants to local and diaspora groups, with flexibility, will be necessary in the long-term to ensure that the organisational capacity of women in Afghanistan is maintained to document violations and abuses, assist victims and survivors and continue to build the advocacy infrastructure that can lead to accountability achievements.⁴⁹³ The Special Rapporteur on the situation of human rights in Afghanistan has specifically urged donors to invest in longer-term projects so that civil society, especially women-led organisations, can sustain their activities instead of being pushed from one crisis to the next and cannot plan for the longer term or institutional development.⁴⁹⁴

- *Women's full and meaningful participation and the protection of women's rights must*

⁴⁸⁹ Barr, "Gender Apartheid as an International Crime."

⁴⁹⁰ Elaheh Rostami-Povey, "Gender, Agency and identity, the Case of Afghan Women in Afghanistan, Pakistan and Iran," *The Journal of Development Studies* 43, no. 2 (2007): 294–311, <https://doi.org/10.1080/00220380601125149>.

⁴⁹¹ Rostami-Povey, "Gender, Agency and identity," 295–296.

⁴⁹² OCHA, *Afghanistan Humanitarian Update, May 2025*, August 2025, <https://www.unocha.org/publications/report/afghanistan/afghanistan-humanitarian-update-may-2025>.

⁴⁹³ A/HRC/59/25, para. 89.

⁴⁹⁴ A/HRC/59/25, para. 91.

be a non-negotiable baseline for any engagement.

Afghanistan women's rights advocates have consistently warned since 2001 that trading women's rights for political concessions produces neither stability nor durable peace, and the international community's repeated failure to heed this warning has contributed directly to the conditions that it now faces.⁴⁹⁵

Any engagement must require respect for human rights, implementation timelines, and monitoring tools.⁴⁹⁶ Women's rights must not be a by-product of political, economic or counterterrorism cooperation, but a precondition for it.⁴⁹⁷

Most recently, the European Commission met with members of the Taliban *de facto* authorities on 23 June 2026 in Brussels; in response, Human Rights Watch's Afghanistan researcher Fereshta Abbasi emphasised: "Any engagement with the Taliban needs to prioritize protecting human rights and accountability."⁴⁹⁸

- *Regarding the initiative to hold Afghanistan accountable for violations of CEDAW, ensure continuous engagement, collaboration, and transparency with Afghanistan's women and civil society.*

Following a series of consultations with women's rights defenders organised by Germany in the context of the initiative to hold Afghanistan accountable for violations of women's and girls' rights under CEDAW, "the message from ... [Afghanistan's] human rights community following the second consultation was clear and consistent. It called on the leading states to: continue engaging in safe and meaningful consultations with diverse ... communities, while ensuring inclusive participation of [Afghanistan's] women in the process."⁴⁹⁹

Germany's practice of convening civil society consultations, including an in-person consultation in Berlin, offers a model for how initiating States can maintain meaningful engagement with Afghanistan's women throughout the process, although CSOs have urged for more inclusive, more frequent, and more direct connections to strategies being developed.⁵⁰⁰

⁴⁹⁵ Georgetown Institute for Women, Peace and Security, "Recommendations from Afghan Women Leaders."

⁴⁹⁶ UN Special Rapporteur on the Situation of Human Rights in Afghanistan, *Situation of Human Rights in Afghanistan*, UN Doc. A/HRC/59/25, 11 June 2025, <https://www.ohchr.org/sites/default/files/2025-06/a-hrc-59-25-auv-1-en.pdf>.

⁴⁹⁷ A/HRC/59/25.

⁴⁹⁸ Raha Malik and Khadija Haidary, The EU hosts the Taliban while refugees promised protection are left behind, *Zan Times*, June 24, 2026, <https://zantimes.com/2026/06/24/the-eu-hosts-the-taliban-while-refugees-promised-protection-are-left-behind/>.

⁴⁹⁹ "Joint Civil Society Statement Marking the One Year Anniversary of the Announcement of a Legal Initiative to Hold Afghanistan Accountable Under CEDAW."

⁵⁰⁰ "Joint Civil Society Statement Marking the One Year Anniversary of the Announcement of a Legal Initiative to Hold Afghanistan Accountable Under CEDAW."

The risk of the perpetuation of States speaking for, rather than with marginalised communities is real and structural. Women's involvement in the proceedings, in turn, should not only be limited to providing information, but also to direct involvement in the legal strategy, framing of and building the case, developing arguments, defining remedies sought, gathering evidence, preparing documentation, overall decision-making, testifying, outreach, and advocacy to ensure compliance in the event of orders and decisions by the ICJ.⁵⁰¹

For example, regarding the case "filed by Canada and The Netherlands against Syria for violations of the Convention Against Torture, the filing countries extensively relied on evidence provided by Syrian torture victims."⁵⁰² In another example, in a recent side event at the margins of the 62nd Regular session of the Human Rights Council, *Strengthening Coordination, Survivor-Centred Accountability, and Prevention in Light of the IIM-A's Operationalisation*, Founder and Executive Director of Legal Action Worldwide (LAW), Mrs. Antonia Mulvey underlined the importance of victims and witnesses who gave in-person evidence in the case of *The Gambia v. Myanmar*.⁵⁰³

Enabling such participation helps ensure that legal processes are informed by local realities, strengthens their legitimacy, and brings greater visibility to the experiences of Afghanistan's women.⁵⁰⁴

b. To the IIM-A

- *Ensure that the experiences, perspectives, and priorities of the women of Afghanistan are meaningfully integrated across all areas of the IIM-A's work, including through ongoing dialogue.*

Ensuring that the experiences, perspectives, and priorities of the women of Afghanistan's women and girls are integrated across all the operations of the IIM-A, empowers them to become agents of transformation who can help build foundations for comprehensive justice and lasting change.⁵⁰⁵

c. To UN Entities and International Human Rights Mechanisms

⁵⁰¹ 'Bringing a Case Before the International Court of Justice for the Rights of Afghan Women and Girls,' P. 16.

⁵⁰² 'Bringing a Case Before the International Court of Justice for the Rights of Afghan Women and Girls.'

⁵⁰³ 'Strengthening Coordination, Survivor-Centred Accountability, and Prevention in Light of the IIM-A's Operationalisation.'

⁵⁰⁴ 'Bringing a Case Before the International Court of Justice for the Rights of Afghan Women and Girls,' 9.

⁵⁰⁵ See e.g., Victim/Survivor Centred Approach, IIM, <https://iiim.un.org/what-we-do/victim-survivor-centred-approach/>.

- *Guarantee the safe, full, and meaningful participation of Afghanistan's women, including those inside Afghanistan, that allow women to contribute information, expertise, and advocacy.*

The exclusion of Afghanistan women from the third Doha meeting in June 2024 was a signal to the Taliban *de facto* authorities that international engagement could proceed on their terms.⁵⁰⁶ UN entities and international human rights mechanisms must ensure this is not repeated in any forum on Afghanistan. Safe participation options and protection strategies are not optional additions, but essential infrastructure for meaningful inclusion.

- *Centre Afghanistan's women as agents of change, not beneficiaries, in all programming.*

The work of UN entities has transformative potential for women, but this is routinely undermined when gender is not at the core of institutional programming.⁵⁰⁷ This requires a women-centred perspective to view Afghanistan's women as agents, and not as passive victims in need of rescue or relief, who have found creative and brave ways to work towards lasting change in the face of risk and uncertainty.⁵⁰⁸

The approach of simply adding women to programming frameworks without a deeper shift in institutional culture and in the ways in which decisions are made only serves to reproduce the inequalities it seeks to overcome and is limited to achieve an "add and stir," rather than transformational effect.⁵⁰⁹ UN entities must therefore undertake structural audits of their Afghanistan programming to ensure that Afghanistan's women's agency is integrated at the design, implementation and evaluation levels.⁵¹⁰

- *Refuse to institutionalise restrictions imposed by the Taliban de facto authorities.*

In 2024, the Taliban *de facto* authorities issued directives impacting humanitarian operations, which have necessitated negotiations and adaptation to restrictions by humanitarian organisations, a key consideration for the integrity of programming.⁵¹¹ Women in Afghanistan are not only banned from working at the UN; in March 2026, international human rights experts

⁵⁰⁶ Heather Barr, "Gender Apartheid as an International Crime: Taliban Oppression in Afghanistan Triggers Campaign."

⁵⁰⁷ Fionnuala Ní Aoláin, "Transformative Gender Justice?" in *From Transitional to Transformative Justice*, ed. Paul Gready and Simon Robins (Cambridge: Cambridge University Press, 8th February 2019), 150–151, <https://doi.org/10.1017/9781316676028.007>.

⁵⁰⁸ Rostami-Povey, "Gender, Agency and identity," 309.

⁵⁰⁹ Ní Aoláin, "Transformative Gender Justice?" 153.

⁵¹⁰ Ní Aoláin, "Transformative Gender Justice?" 153–154.

⁵¹¹ OCHA, *Afghanistan: Humanitarian Update, October 2024*, 20 November 2024, <https://www.unocha.org/publications/report/afghanistan/afghanistan-humanitarian-update-october-2024>.

“expressed alarm over the continuing ban preventing” Afghanistan’s women “from accessing UN premises, including UN national staff, contractors, and visitors.”⁵¹² They have specifically underscored that, “The UN cannot operate effectively – or in accordance with its values and Charter – when women are deliberately and systematically excluded.”⁵¹³

The NGO Working Group on Women, Peace and Security has emphasised that not only is the ban on Afghanistan’s women working for the United Nations and NGOs in violation of the UN Charter and CEDAW, measures must be taken to support the “participation and leadership of women ... , ensuring that women ... workers are not replaced by men, and covering costs or taking any additional measures to ensure their full and equal participation.”⁵¹⁴

UN Women’s quarterly consultations with women across all 34 of Afghanistan’s provinces demonstrate that sustained, direct engagement with Afghanistan’s women is operationally feasible even in the context of restrictions, and produces key information about community needs, protection risks, and informal coping strategies that cannot be obtained through male intermediaries alone.⁵¹⁵

- *The CEDAW Committee should continue to engage with Afghanistan’s women, and explicitly position Afghanistan’s women as agents of change, empowering their leadership towards realising the recommendations from its 2025 Concluding Observations.*

The CEDAW Committee’s June 2025 review of Afghanistan outlined the systemic and widespread violations and abuses of women’s rights under Afghanistan’s binding treaty obligations.⁵¹⁶ It was the first treaty body review since the military takeover by the Taliban *de facto* authorities in August 2021.⁵¹⁷ The Committee called upon United Nations agencies and international organizations to “provide platforms to amplify the voices of Afghan women and promote their participation in decision-making at all levels.”⁵¹⁸ In June 2026, the Committee, in its *Statement on the anniversary of CEDAW’s review of Afghanistan*, emphasised: “Women have hardly any chance to shape decision-making about their lives and about the future of their

⁵¹² ‘Afghanistan: UN experts demand immediate end to Taliban restrictions on women at UN premises,’ OHCHR, 31 March 2026, <https://www.ohchr.org/en/press-releases/2026/03/afghanistan-un-experts-demand-immediate-end-taliban-restrictions-women-un>.

⁵¹³ ‘Afghanistan: UN experts demand immediate end to Taliban restrictions on women at UN premises.’

⁵¹⁴ NGO Working Group on Women, Peace and Security, “Afghanistan,” <https://www.womenpeacesecurity.org/region/asia/southern-asia/afghanistan/>.

⁵¹⁵ UN Women, *Afghanistan Country Results, Strategic Note 2023–2025*, <https://open.unwomen.org/en/country-results/AF>.

⁵¹⁶ United Nations Office of the High Commissioner for Human Rights, “United Nations CEDAW Committee Breaks New Ground with First Treaty Body Review of Afghanistan Since Taliban Takeover in 2021,” press release, June 26, 2025,

<https://www.ohchr.org/en/press-releases/2025/06/united-nations-cedaw-committee-breaks-new-ground-first-treaty-body-review>.

⁵¹⁷ Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Fourth Periodic Report of Afghanistan*, UN Doc. CEDAW/C/AFG/CO/4 (July 10, 2025).

⁵¹⁸ Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Fourth Periodic Report of Afghanistan*, UN Doc. CEDAW/C/AFG/CO/4 (July 10, 2025), para. 4, 20.

country.”⁵¹⁹

Regarding follow-up to the Concluding Observations, the Committee has asked for “written information on the steps taken to implement all the recommendations,” including from “any interested stakeholder,” in effect creating a formal way for Afghanistan’s women to continue to engage and be heard.⁵²⁰

The Committee, in its *Statement on the anniversary of CEDAW’s review of Afghanistan*, “reiterates the recommendations contained in its 2025 concluding observations and calls on the *de facto* authorities to immediately repeal all discriminatory measures and restore the full enjoyment by women and girls of their rights, in accordance with Afghanistan’s obligations under the CEDAW Convention”; “calls upon States parties, United Nations entities, international organizations, civil society organizations, donors, and all relevant stakeholders to exercise leverage on the *de facto* authorities and explicitly link any support to restoring women’s rights under the CEDAW Convention”; and “underscores that meaningful consultation with Afghan women and girls must at all times guide and inform all such efforts.”⁵²¹

The international community must pivot from broad State-level pressure to context-sensitive strategies that prioritize Afghanistan women’s agency.⁵²² Thus, the Committee should go beyond emphasising ‘meaningful consultation’; and reframe its recommendations, explicitly placing Afghanistan’s women as agents of change, as experts, leaders and participants in realising the recommendations in the Concluding Observations. This reframing also resonates with the demands of Afghanistan’s women.

- *The Special Rapporteur on the situation of human rights in Afghanistan should continue to emphasise that Afghanistan’s women must remain at the centre of all efforts ahead.*

The Special Rapporteur on Afghanistan must continue to ensure that Afghanistan’s women are at the heart of all future efforts to address the human rights situation of women and girls in Afghanistan. The Special Rapporteur has already laid the groundwork for this approach, across multiple consultations, events, engagement with Afghanistan’s women, reports, and more. His June 2025 report further proposes centering Afghanistan’s “women’s rights, voices, and agency” as the first pillar of his proposed “all tools” strategy; and he further calls on States to

⁵¹⁹ ‘Statement on the anniversary of CEDAW’s review of Afghanistan,’ CEDAW, <https://t.co/DliCyK5JhU>.

⁵²⁰ CEDAW, *Concluding Observations on Afghanistan*, para. 52.

⁵²¹ ‘Statement on the anniversary of CEDAW’s review of Afghanistan,’ CEDAW, <https://t.co/DliCyK5JhU>.

⁵²² Expert interview, expert in transformative justice and peacebuilding efforts, conducted by the authors, 18th March 2026, confidential.

ensure their “representative, equal, meaningful and safe participation” in all discussions concerning the country’s future.⁵²³

d. To Courts

- *The Office of the Prosecutor must continue to apply a gender-competent, intersectional, and survivor-centred approach, in accordance with its 2023 Policy on Gender-Based Crimes, across all investigations and subsequent phases concerning the situation of Afghanistan.*

In January 2025, the ICC Prosecutor had confirmed that further warrant applications against additional senior members of the Taliban *de facto* authorities were forthcoming.⁵²⁴ In July 2025, the Office of the Prosecutor reaffirmed “its commitment to continue to effectively investigate and prosecute gender-based crimes, including gender persecution.”⁵²⁵ The ICC’s Office of the Prosecutor’s commitment to gender competence, a survivor-centred approach, the adoption of an intersectional perspective through its 2023 Policy on Gender-Based Crimes must continue to be demonstrated across all investigations and subsequent phases concerning the situation of Afghanistan.⁵²⁶

- *Expand avenues for participation of Afghanistan’s women and civil society organisations in any future proceedings.*

Courts, including the ICC, should create and strengthen avenues for the meaningful participation of Afghanistan’s civil society actors, particularly women’s organisations.⁵²⁷

- *All courts should ensure that all stages are accessible and comprehensible to Afghanistan’s women and communities, including through translation, safe and remote participation options, and clear public communication of updates and outcomes, recognising that the legitimacy of accountability processes depends on their ability to reach those in whose name justice is being pursued.*

⁵²³ 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*, UN Doc. A/HRC/59/25 (June 16, 2025), para. 95, 117(a).

⁵²⁴ ‘Statement of ICC Prosecutor Karim A.A. Khan KC: Applications for arrest warrants in the situation in Afghanistan,’ ICC, 23 January 2025, <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-kc-applications-arrest-warrants-situation-afghanistan>.

⁵²⁵ ‘Statement of the ICC Office of the Prosecutor on the issuance of arrest warrants in the Situation in Afghanistan,’ ICC< 8 July 2025, <https://www.icc-cpi.int/news/statement-icc-office-prosecutor-issuance-arrest-warrants-situation-afghanistan>.

⁵²⁶ International Criminal Court Office of the Prosecutor, *Policy on Gender-Based Crimes*, December 2023, <https://www.icc-cpi.int/sites/default/files/2023-12/2023-policy-gender-en-web.pdf>, paras. 70, 75, and 76.

⁵²⁷ ‘Civil society and the ICC,’ ICC, <https://www.icc-cpi.int/get-involved/ngos>; Civil Society and the International Criminal Court Pathways to Collaborative and Genuine Engagement, https://www.fidh.org/IMG/pdf/civil_society_and_the_international_criminal_court.pdf, PP. 36-37.

Courts must develop outreach strategies that make each stage, proceeding, update, and outcome accessible inside Afghanistan and in diaspora communities through secure and linguistically accessible channels, treating outreach as a substantive obligation.⁵²⁸

e. To Civil Society

- *Civil society should actively centre Afghanistan women's own epistemologies, forms of resistance, expertise, analyses, strategies, agency, and leadership.*

There is a need for scholars and advocates to be critically aware of the potential for women's rights discourse to be appropriated to suit agendas that end up working against the women to whom they refer. The Afghanistan women's movement's persistent focus on its own epistemologies and modes of resistance is a profoundly critical move, and it is not for international advocates to filter through their own analytical frameworks.⁵²⁹ Perhaps the most significant scholarly work at this juncture is that which does not attempt to process women's accounts of Afghanistan, but instead sees them as intellectual and political interlocutors whose analysis of their situation has significant epistemic value.⁵³⁰ Diverse lived realities must not be flattened into a single narrative of victimhood that casts women as passive objects in need of rescue from an inherently oppressive culture, rather than as political subjects with their own analyses, strategies, and claims to agency.⁵³¹

B. Ensuring Progress Towards the Recognition and Codification of 'Gender Apartheid' as an International Crime

This section begins by (1) identifying the limits of existing laws in capturing the intent, context, nature, structure, and harms of the systematic discrimination and oppression against Afghanistan's women and girls; then proceeds to (2) reviewing current proposals to codify *gender apartheid* as an international crime; next it (3) outlines advocacy efforts towards ensuring the recognition and codification of *gender apartheid* as an international crime; then it (4) highlights progress towards codifying it in a future Crimes Against Humanity Convention; and (5) discusses opportunities and challenges; finally, it (6) offers recommendations for all

⁵²⁸ See generally, Coalition for the International Criminal Court and Parliamentarians for Global Action, Victims' Rights at the International Criminal Court (December 2024),

<https://reliefweb.int/report/world/victims-rights-international-criminal-court-icc-making-victims-rights-enshrined-rome-statute-reality-december-2024> 1-2; FIDH and No Peace Without Justice, Outreach to Victims, Affected Communities, and Civil Society: An Analysis of Prosecutor Bensouda's Legacy at the ICC, <https://www.fidh.org/en/issues/international-justice/international-criminal-court-icc/outreach-to-victims-affected-communities-and-civil-society-an>.

⁵²⁹ Haqqal, "The Afghan Women's Movement and Gender Apartheid," 15.

⁵³⁰ Rostami-Povey, "Gender, Agency and Identity," 295.

⁵³¹ Jaber, "Beyond International Human Rights."

relevant actors in the international community.

i. Limitations of Existing Laws

Existing laws on the “human rights of women and girls and gender-specific crimes, such as gender persecution,” which are currently recognized, “lack provisions explicitly recognizing the *institutional* and *mass character* of violations amounting to apartheid.”⁵³² The crime of gender persecution fails to fully capture the “institutionalised, widespread nature of rights deprivation involved in systems of gender apartheid.”⁵³³ According to Former UN Special Rapporteur in the field of cultural rights, Professor Karima Bennouna, “the persecution approach fails to adequately implicate the institutionalised and ideological nature of the abuses in question.”⁵³⁴

The “distinctive intent and additional contextual requirement” for the crime of apartheid, “beyond the chapeau elements intrinsic to all crimes against humanity, distinguish [it] from all other international crimes, including the crime of persecution.”⁵³⁵ The intent required is “to maintain an institutionalised regime of systematic oppression and domination” and “[i]t is this institutionalised regime that forms the necessary animating context of the crime.”⁵³⁶ However, while the crime of apartheid on the basis of race has been criminalized and recognised,⁵³⁷ the crime of *gender apartheid* has not yet been. Proposals to address these legal gaps will be discussed in the next section.

ii. Current Proposals to Codify *Gender Apartheid* As An International Crime

What would a legal definition of gender apartheid look like and which law would be most appropriate for its codification? Several approaches have been advanced, with varying degrees of support from governments, legal experts, civil society organisations, and Afghanistan’s women advocates themselves.

Some have proposed an amendment to the definition of the crime of apartheid contained in Article 2(2)(h) of the Draft Crimes Against Humanity Convention: “the crime of apartheid” means inhumane acts of a character similar to those referred to in paragraph 1, committed in

⁵³² Draft articles on prevention and punishment of crimes against humanity: Recommendations from the Working Group on discrimination against women and girls (A/ HRC/WG.11/40/1), 22 February 2024, <https://reliefweb.int/report/afghanistan/draft-articles-prevention-and-punishment-crimes-against-humanity-recommendations-working-group-discrimination-against-women-and-girls-hrcwg11401-advance-edited-version>, para. 13.

⁵³³ Draft articles on prevention and punishment of crimes against humanity: Recommendations from the Working Group on discrimination against women and girls (A/ HRC/WG.11/40/1), 22 February 2024, para. 14.

⁵³⁴ Bennouna, “The International Obligation to Counter Gender Apartheid,” 55.

⁵³⁵ ‘Amending the Crime Against Humanity of Apartheid to Recognize and Encompass Gender Apartheid*,’ <https://endgenderapartheid.today/download/2025/EGA%20Legal%20Brief.pdf>, para. 28.

⁵³⁶ ‘Amending the Crime Against Humanity of Apartheid to Recognize and Encompass Gender Apartheid*,’ para. 28.

⁵³⁷ ‘Amending the Crime Against Humanity of Apartheid to Recognize and Encompass Gender Apartheid*,’ para. 12-16.

the context of an institutionalised regime of systematic oppression and domination by one racial group over any other racial group or groups or by one gender group over another gender group or groups and committed with the intention of maintaining that regime.”⁵³⁸ For others, the ongoing negotiations around the Crimes Against Humanity Convention present an opportunity to modernize the definition of apartheid and better reflect the lived realities of victims.⁵³⁹

Others argue that *gender apartheid* could be integrated through an amendment to the Rome Statute of the ICC.⁵⁴⁰ However, this pathway would likely be lengthy and would require substantial political will.⁵⁴¹ States are often reluctant to open foundational legal instruments for renegotiation or to create entirely new categories of international crimes, fearing unpredictable legal consequences, expanded obligations, or potential future liability for their own conduct.⁵⁴²

Other options could be to include it in an “optional protocol to the Apartheid Convention” or a new dedicated treaty on gender apartheid.⁵⁴³

iii. Advocacy Efforts to Ensure the Recognition and Codification of *Gender Apartheid* as an International Crime

While the international effort led by Afghanistan’s women to recognize and codify *gender apartheid* is not new, having first emerged during the Taliban rule of the 1990s and initially receiving limited international support, it has gained increasing traction.⁵⁴⁴ This growing momentum has been driven by expanding support from States, international organisations, NGOs, experts, and the sustained advocacy of Afghanistan’s women both in the diaspora and within Afghanistan, who continue to call for the recognition of *gender apartheid* and its codification as an international crime.⁵⁴⁵ These calls have become more urgent as conditions inside Afghanistan continue to worsen, with successive decrees, edicts and so-called ‘laws’ reshaping discrimination into a continuously expanding structured system that strives to

⁵³⁸ ‘Amending the Crime Against Humanity of Apartheid to Recognize and Encompass Gender Apartheid’, para. 42.

⁵³⁹ Lisa Davis et al., ‘April 30th Deadline: States Should Start CAH Treaty Negotiations with this Modernized Apartheid Definition,’ *Opinio Juris*, 2026, <https://opiniojuris.org/2026/04/02/april-30th-deadline-states-should-start-cah-treaty-negotiations-with-this-modernized-apartheid-definition/> (“The crime of apartheid means inhumane acts ... committed in the context of an institutionalised regime of systematic oppression and domination by one group over any other group or groups, on race, gender, or other grounds of colonial discrimination, and committed with the intention of maintaining that regime.”).

⁵⁴⁰ Parliamentarians for Global Action, *Apartheid de género: Informe de políticas* (Nueva York: Parliamentarians for Global Action, septiembre de 2025), 3.

⁵⁴¹ <https://www.pgaction.org/pdf/2025/gender-apartheid-es.pdf>

⁵⁴² Parliamentarians for Global Action, *Apartheid de género*, 3.

⁵⁴³ Expert interview, expert in racial apartheid’s codification journey and justice efforts in previous ad hoc tribunals, conducted by the authors, 17th March 2026, confidential.

⁵⁴⁴ People’s Tribunal for Women of Afghanistan. Judgment.

⁵⁴⁵ Bennoune, ‘The International Obligation To Counter Gender Apartheid,’ PP. 31-33.

⁵⁴⁶ See, UN Experts Urge States to Recognize Gender Apartheid as Crime against Humanity,” *JURIST*, 21

January 2026, <https://www.iurist.org/news/2026/01/un-experts-urge-states-to-recognize-gender-apartheid-as-crime-against-humanity/>; Amnesty International,

“Gender Apartheid Must Be Recognized as a Crime under International Law,” 17 June 2024,

<https://www.amnesty.org/en/latest/news/2024/06/gender-apartheid-must-be-recognized-international-law/>; Azadah Raz Mohammed, Statement to the UN

Security Council, March 2025, cited in Human Rights Watch, “Gender Apartheid as an International Crime,” 2 September 2025,

<https://www.hrw.org/news/2025/09/02/gender-apartheid-as-an-international-crime>.

eliminate them from social, economic, cultural and political life.

iv. The Crimes Against Humanity Convention: A Key Opportunity for Codification

Momentum toward a Crimes Against Humanity Convention has already begun to take shape. In November 2024, the United Nations General Assembly's Sixth Committee adopted a resolution, through which States committed to advance the Draft Articles to negotiations.⁵⁴⁶ In December 2024, the General Assembly adopted Resolution 79/122, deciding "to convene the United Nations Conference of Plenipotentiaries on Prevention and Punishment of Crimes against Humanity, to meet at United Nations Headquarters in New York for three consecutive weeks in early 2028, and for three consecutive weeks in 2029, unless otherwise agreed by the Preparatory Committee, to elaborate and conclude a legally binding instrument on prevention and punishment of crimes against humanity."⁵⁴⁷

The Special Rapporteur on the situation of human rights in Afghanistan, the Working Group on Discrimination Against Women and Girls, and the UN High Commissioner for Human Rights have all called for the inclusion of *gender apartheid* in a future Crimes Against Humanity Convention.⁵⁴⁸

With respect to progress towards the inclusion of *gender apartheid* in the Convention, in a written comment submitted in December 2023, Malta proposed a targeted amendment to the existing definition of apartheid, to include gender.⁵⁴⁹

A "Preparatory Committee for the United Nations Diplomatic Conference of Plenipotentiaries on Prevention and Punishment of Crimes against Humanity met from 19 to 30 January 2026."⁵⁵⁰ During the Preparatory Committee meeting, seven States, including Afghanistan, Australia, Austria, Mexico, the Philippines, Portugal, and Spain, "expressed openness to the inclusion of gender apartheid—or at least the proposed elements of the crime."⁵⁵¹

⁵⁴⁶ United Nations, "United Nations Diplomatic Conference of Plenipotentiaries on Prevention and Punishment of Crimes against Humanity," United Nations Office of Legal Affairs, <https://legal.un.org/diplomaticconferences/cah/>.

⁵⁴⁷ G.A. Res. 79/122, U.N. Doc. A/RES/79/122, 12 December 2024, <https://docs.un.org/en/A/RES/79/122>.

⁵⁴⁸ Mehran et al., "Taking Stock," *Opinio Juris*; Draft articles on prevention and punishment of crimes against humanity: Recommendations from the Working Group on discrimination against women and girls (A/ HRC/WG.11/40/1), 22 February 2024, <https://reliefweb.int/report/afghanistan/draft-articles-prevention-and-punishment-crimes-against-humanity-recommendations-working-group-discrimination-against-women-and-girls-hrcwg11401-advance-edited-version>.

⁵⁴⁹ United Nations General Assembly, "Draft Comprehensive and Integral International Convention on Crimes against Humanity," Sixth Committee, 78th Session, A/78/707 (Malta proposal), January 8, 2024, https://www.un.org/en/ga/sixth/78/cah/malta_e.pdf, (Malta's proposal: "'the crime of apartheid' means inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalised regime of systematic oppression and domination by one racial group over any other racial group or groups, or by one gender group over another gender group or groups, and committed with the intention of maintaining that regime.").

⁵⁵⁰ United Nations Diplomatic Conference of Plenipotentiaries on Prevention and Punishment of Crimes against Humanity, 'Preparatory Committee,' <https://legal.un.org/diplomaticconferences/cah/prepcom.shtml>.

⁵⁵¹ Mehran et al., "Taking Stock," *Opinio Juris*.

The General Assembly also “invited Governments to submit to the Secretary-General, no later than 30 April 2026, proposals for amendments to the draft articles for inclusion in the compiled text which will serve as the basis for negotiations at the conference.”⁵⁵² Following this deadline, seven States, including Afghanistan, Australia, Iceland, Mexico, Spain, Timor-Leste, and Uruguay, “have formally proposed the inclusion of gender apartheid in the crimes against humanity treaty.”⁵⁵³

States will continue to have more opportunities to “submit drafting proposals,” creating an important window for advocates and States to continue to build momentum and push for the inclusion of *gender apartheid* within the Convention.⁵⁵⁴ Sustained political support is essential for effective progress towards recognising and codifying *gender apartheid* as an international crime and the Crimes Against Humanity Convention remains a critical opportunity.

v. Opportunities and Challenges

Recognizing *gender apartheid* would both establish legal consequences and reshape how States and societies interpret the systematic oppression of women and girls in Afghanistan and beyond.⁵⁵⁵ This interpretation would highlight the severity, scale, and urgency of the situation, while also acknowledging the dehumanisation of women, their exclusion from public life, and the entrenched system of gendered subordination.⁵⁵⁶ Considering the possible implications of recognizing and codifying *gender apartheid* helps us anticipate both opportunities and challenges.

First and most importantly, the recognition and codification of *gender apartheid* would hold significant meaning for Afghanistan’s women and girls and beyond, as one woman from Afghanistan we interviewed emphasised: “Advocacy to recognize gender apartheid as an international crime is essential, because it gives legal weight to our suffering and ensures accountability” and “globally, it will help ensure that no regime can ever erase women from society again.”⁵⁵⁷

Second, it would mobilize States to act immediately. Apartheid in the South Africa context was

⁵⁵² United Nations Diplomatic Conference of Plenipotentiaries on Prevention and Punishment of Crimes against Humanity, Preparatory Committee, (Codification Division, Office of Legal Affairs, United Nations), <https://legal.un.org/diplomaticconferences/cah/prepcom.shtml>.

⁵⁵³ @endgenderapartheid.today, Instagram, https://www.instagram.com/p/DZKsChdFBQg/?utm_source=ig_web_copy_link&igsh=MzRlODBiNWFlZA== ; <https://legal.un.org/diplomaticconferences/cah/proposals.shtml> ; See Also, United Nations Diplomatic Conference of Plenipotentiaries on Prevention and Punishment of Crimes against Humanity, Proposals for amendments, <https://legal.un.org/diplomaticconferences/cah/proposals.shtml>; Member State Comments on Gender Apartheid, End Gender Apartheid, <https://endgenderapartheid.today/download/2026/Member%20State%20Comments%20on%20Gender%20Apartheid.pdf?v=2026>.

⁵⁵⁴ Mehran et al., “Taking Stock,” *Opinio Juris*.

⁵⁵⁵ Expert interview, expert in racial apartheid’s codification journey and justice efforts in previous ad hoc tribunals, conducted by the authors, 17th March 2026, confidential.

⁵⁵⁶ PeaceRep Afghanistan Research Network, “Recognition of Gender Apartheid,” 2.

⁵⁵⁷ ABILA, “Webinar: Towards an Effective and Universal Convention on Crimes Against Humanity.”

addressed not only because of individual rights violations, but because its systematic nature became undeniable through sustained global exposure.⁵⁵⁸ Using the term “apartheid” carries significant historical weight and can mobilize international action by highlighting the severity of systematic oppression.⁵⁵⁹ It would place greater pressure on governments, transnational corporations, and international organisations to reconsider engagement with the Taliban *de facto* authorities.⁵⁶⁰ It could further enable the greater use of sanctions, diplomatic isolation, and coordinated advocacy strategies grounded in the moral and legal authority historically associated with the international condemnation of apartheid.⁵⁶¹ Additionally, the recognition and codification of *gender apartheid* would send a strong message of international condemnation of the institutionalised system of discrimination and oppression by the Taliban *de facto* authorities, discourage States from normalizing relations without restoring basic rights for women and girls, and encourage efforts to hold those responsible accountable.⁵⁶²

Third, it would provide a clearer and more robust basis for accountability, enabling the identification and prosecution of those responsible and strengthening avenues for redress for victims.⁵⁶³ Over time, if codification is successful, then legal precedents can shape how future cases of systematic gender-based oppression and exclusion are understood and addressed.

Fourth, the codification of *gender apartheid* would elevate the prohibition of gender discrimination to the status of a *jus cogens (peremptory) norm*, establishing an absolute and non-derogable obligation under international law.⁵⁶⁴

Fifth, if *gender apartheid* is codified in the future Crimes Against Humanity Convention, it would not only address the aforementioned legal gaps, the treaty would provide the obligations of States to prevent it, punish it, not to engage in it, and cooperate to bring an end to it.⁵⁶⁵

Sixth, recognition of *gender apartheid* would advance progress towards “respecting and

⁵⁵⁸ Expert interview, expert in racial apartheid’s codification journey and justice efforts in previous ad hoc tribunals, conducted by the authors, 17th March 2026, confidential.

⁵⁵⁹ Expert interview, expert in racial apartheid’s codification journey and justice efforts in previous ad hoc tribunals, conducted by the authors, 17th March 2026, confidential.

⁵⁶⁰ Bennoune, ‘The International Obligation To Counter Gender Apartheid,’ 77.

⁵⁶¹ Expert interview, expert in racial apartheid’s codification journey and justice efforts in previous ad hoc tribunals, conducted by the authors, 17th March 2026, confidential.

⁵⁶² Khavari, Zahra. “Gender Apartheid in Afghanistan: Reviving the Relic of Anti-Apartheid International Laws to Address Systematic Gender Discrimination Under the Taliban *de facto*.” Master’s thesis, University of Gothenburg, 2024, 81. <https://gupea.ub.gu.se/items/5734eb5a-d38a-46d6-8be9-d172514c5b36>.

⁵⁶³ PeaceRep Afghanistan Research Network, “Recognition of Gender Apartheid in Afghanistan Justified,” Reflection 06 (University of Edinburgh: Peace and Conflict Resolution Evidence Platform, June 2023), 20.

https://peacerep.org/wp-content/uploads/2023/06/PeaceRep-Afghanistan-Research-Network-Reflection_06.pdf

⁵⁶⁴ Meena Sadr, “International Law and Feasibility of Recognizing Gender Apartheid,” *Opinio Juris*, August 1, 2025, <https://opiniojuris.org/2025/08/01/international-law-and-feasibility-of-recognizing-gender-apartheid/>.

⁵⁶⁵ Amending the Crime Against Humanity of Apartheid to Recognize and Encompass Gender Apartheid*, <https://endgenderapartheid.today/download/2025/EGA%20Legal%20Brief.pdf>, P. 45, 47.

enacting the centrality of gender equality.”⁵⁶⁶

Finally, one of the main obstacles to acknowledging *gender apartheid* is the tendency to frame the system of discrimination and oppression in Afghanistan as internal social regulation, not what could amount to an international crime.⁵⁶⁷ However, if *gender apartheid* is codified in a future Crimes Against Humanity Convention, under Article 3(3) of the current Draft Articles, “no exceptional circumstances whatsoever, such as armed conflict, internal political instability or other public emergency, may be invoked as a justification of crimes against humanity.”⁵⁶⁸ Moreover, culture, religion, tradition, or customary practices may also not be used as a justification; “international law completely rejects such cultural excuses.”⁵⁶⁹ In the case of Afghanistan, recognizing *gender apartheid* depends on establishing an international consensus that discrimination is structural and not cultural or temporary.⁵⁷⁰

A key challenge to recognition and codification is that these outcomes will ultimately depend on political will within the international community.⁵⁷¹ Political considerations have long shaped international justice processes.⁵⁷² Delays in international justice often stem not from insufficient evidence but from political calculation and negotiation.⁵⁷³ Some regional actors have chosen to engage pragmatically with the Taliban *de facto* authorities, prioritising stability and strategic interests over concerns related to women’s rights.⁵⁷⁴ Russia has also been the first country to formally recognise the Taliban.⁵⁷⁵ Consequently, this move could encourage other countries to expand their engagement with Kabul, risking normalisation of the Taliban *de facto* authorities, and by extension, of the system of *gender apartheid*.⁵⁷⁶ Furthermore, States may be reluctant to endorse a legal category that could create obligations or precedents affecting their own conduct or that of their allies.⁵⁷⁷

Another risk is the potential unintended consequences of further isolating the Taliban *de facto* authorities. There is a significant risk that harsher sanctions, for instance, could worsen

⁵⁶⁶ Draft articles on prevention and punishment of crimes against humanity: Recommendations from the Working Group on discrimination against women and girls (A/ HRC/WG.11/40/1), 15 February 2024, <https://reliefweb.int/report/afghanistan/draft-articles-prevention-and-punishment-crimes-against-humanity-recommendations-working-group-discrimination-against-women-and-girls-hrcwg11401-advance-edited-version>, para. 20.

⁵⁶⁷ Ann Elizabeth Mayer, “A ‘Benign’ ‘Apartheid’”, 290.

⁵⁶⁸ International Law Commission, Draft articles on Prevention and Punishment of Crimes Against Humanity, A/74/10 (2019), art. 3.

⁵⁶⁹ Bennoune, ‘The International Obligation To Counter Gender Apartheid’, P. 77.

⁵⁷⁰ Expert interview, expert in racial apartheid’s codification journey and justice efforts in previous ad hoc tribunals, conducted by the authors, 17th March 2026, confidential.

⁵⁷¹ Expert interview, expert in racial apartheid’s codification journey and justice efforts in previous ad hoc tribunals, conducted by the authors, 17th March 2026, confidential.

⁵⁷² See more generally, Frédéric Mégret, The Politics of International Criminal Justice, European Journal of International Law, Volume 13, Issue 5, December 2002, Pages 1261–1284, <https://doi.org/10.1093/ejil/13.5.1261>.

⁵⁷³ Expert interview, expert in racial apartheid’s codification journey and justice efforts in previous ad hoc tribunals, conducted by the authors, 17th March 2026, confidential.

⁵⁷⁴ Khavari, “Gender Apartheid in Afghanistan,” University of Gothenburg, 82.

⁵⁷⁵ Hussain, Dr Ejaz. (2025). Russia Becomes First To Recognise Taliban, Defying Western Consensus, 1

https://www.researchgate.net/publication/393966357_Russia_Becomes_First_To_Recognise_Taliban_Defying_Western_Consensus.

⁵⁷⁶ Hussain, Dr Ejaz. (2025). Russia Becomes First To Recognise Taliban , 3.

⁵⁷⁷ Mégret, “Politics of International Criminal Justice”, 1277–1278, 1283.

conditions for the very population they aim to protect and sanctions may inadvertently reinforce the Taliban *de facto* authorities domestically.⁵⁷⁸ Current international engagement is already limited, consisting mainly of minimal commercial trade, tentative investment discussions, and the cautious acceptance of Taliban *de facto* authorities' envoys by some regional States.⁵⁷⁹ If interaction is already restricted, further sanctions may offer little additional leverage while still imposing significant humanitarian costs.⁵⁸⁰ Another major concern is that increased economic pressure and diplomatic exclusion may push the Taliban *de facto* authorities to strengthen political and economic ties further with countries such as Russia and China, rather than addressing their behavior.⁵⁸¹

Finally, unlike in the South Africa context, where a free press and domestic anti-apartheid movements allowed local voices to reach the international community, Afghanistan's women today are largely silenced.⁵⁸² There is no independent media and no space for internal opposition, making it extremely difficult for their experiences to be heard.⁵⁸³ Civil society, including NGOs, by representing those whose voices are shut out, can help address this reality and make international law more effective and meaningful in responding to *gender apartheid*.⁵⁸⁴

Expanding support for the recognition and codification of *gender apartheid* remains essential, yet difficult realities must be taken into account. Therefore, in light of these limitations, we offer the following recommendations to ensure that recognition and codification of *gender apartheid* translates into meaningful change for Afghanistan's women and girls.

vi. Recommendations

The recognition and codification of *gender apartheid* will depend not only on legal developments, but also on sustained commitment and cooperation between States, international institutions, and civil society.⁵⁸⁵ This research demonstrates that progress requires concrete action informed by the lived realities of Afghanistan's women. The following recommendations outline how different relevant actors can support meaningful progress towards the recognition and codification of *gender apartheid*, while avoiding approaches that

⁵⁷⁸ Khavari, "Gender Apartheid in Afghanistan," University of Gothenburg, 80.

⁵⁷⁹ Khavari, "Gender Apartheid in Afghanistan," University of Gothenburg, 80.

⁵⁸⁰ Khavari, "Gender Apartheid in Afghanistan," University of Gothenburg, 80.

⁵⁸¹ Khavari, "Gender Apartheid in Afghanistan," University of Gothenburg, 80.

⁵⁸² Expert interview, expert in racial apartheid's codification journey and justice efforts in previous ad hoc tribunals, conducted by the authors, 17th March 2026, confidential.

⁵⁸³ Expert interview, expert in racial apartheid's codification journey and justice efforts in previous ad hoc tribunals, conducted by the authors, 17th March 2026, confidential.

⁵⁸⁴ Expert interview, expert in transformative justice and peacebuilding efforts, conducted by the authors, 18th March 2026, confidential.

⁵⁸⁵ ABILA, "Webinar: Towards an Effective and Universal Convention on Crimes Against Humanity."

may unintentionally cause exclusion or harm.

a. To States

- *Actively support the inclusion of gender apartheid as a distinct crime in the Convention on the Prevention and Punishment of Crimes against Humanity, and resist any attempt to sideline or dilute gender provisions during treaty negotiations.*

States play a decisive role in determining whether *gender apartheid* becomes recognized under international law.⁵⁸⁶ As negotiations toward the Crimes Against Humanity Convention continue, States should actively support the inclusion of *gender apartheid* in the treaty and avoid treating gender provisions as secondary or negotiable issues.⁵⁸⁷

Several States had already expressed openness to exploring codification as of January 2026⁵⁸⁸; and seven States, including Afghanistan, Australia, Iceland, Mexico, Spain, Timor-Leste, and Uruguay have formally put forth the inclusion of *gender apartheid* in the Crimes against Humanity Convention in their proposals for amendments to the Draft Articles in April 2026⁵⁸⁹; this momentum must be consolidated and expanded. Experience from other treaty processes shows that gender provisions are frequently the first to be sacrificed in negotiated compromises: States committed to meaningful codification must actively prevent this from happening.⁵⁹⁰

Presenting *gender apartheid* as an extension of existing concepts of apartheid may also help ease political resistance and make agreement more attainable.⁵⁹¹ Additionally, oppression often overlaps; race, gender, and other forms of discrimination can compound harms.⁵⁹² Legal language should capture these combined realities.⁵⁹³

- *Ensure that national delegations participating in treaty negotiations on the Crimes against Humanity Convention include gender expertise and the representation of women, and facilitate the participation and leadership of Afghanistan's women as substantive contributors.*

⁵⁸⁶ ABILA, "Webinar: Towards an Effective and Universal Convention on Crimes Against Humanity."

⁵⁸⁷ Mehran et al., "Taking Stock," *Opinio Juris*.

⁵⁸⁸ Mehran et al., "Taking Stock," *Opinio Juris*.

⁵⁸⁹ @endgenderapartheid.today, Instagram, [https://www.instagram.com/p/DZKsChdFBQg/?utm_source=ig_web_copy_link&igsh=MzRlODBiNWFlZA== ; https://legal.un.org/diplomaticconferences/cah/proposals.shtml](https://www.instagram.com/p/DZKsChdFBQg/?utm_source=ig_web_copy_link&igsh=MzRlODBiNWFlZA==;https://legal.un.org/diplomaticconferences/cah/proposals.shtml).

⁵⁹⁰ Ní Aoláin, "Transformative Gender Justice?" 151.

⁵⁹¹ Expert interview, expert in racial apartheid's codification journey and justice efforts in previous ad hoc tribunals, conducted by the authors, 17th March 2026, confidential.

⁵⁹² Meena Sadr, "International Law and Feasibility of Recognizing Gender Apartheid," *Opinio Juris*, August 1, 2025, <https://opiniojuris.org/2025/08/01/international-law-and-feasibility-of-recognizing-gender-apartheid/>.

⁵⁹³ Meena Sadr, "International Law and Feasibility of Recognizing Gender Apartheid."

The structure of negotiations - who participates, whose expertise is recognised, and how decisions are made - is as significant as the final legal text itself.⁵⁹⁴ State delegations need to include gender expertise as a core component of their work and not view it as an added extra.⁵⁹⁵ According to the CEDAW Committee, women must also “must be fully and equally involved in decision-making at all levels, both nationally and internationally.”⁵⁹⁶ Ensuring gender expertise and representation within delegations can therefore help create more informed and inclusive negotiations.⁵⁹⁷

Delegations often lack time and smaller delegations often lack access to resources; therefore, sharing expertise across States is crucial. Expertise must be understood as complementary and interdisciplinary. Different forms of knowledge - legal, regional, gender-based, and lived experience - each offer unique insights, and all are needed to create effective and meaningful treaties.⁵⁹⁸

Diplomatic negotiations often become detached from the realities of affected communities.⁵⁹⁹ Thus, States should support the participation of actors such as Afghanistan’s organisations, civil society networks, and diaspora communities worldwide, who can also fill knowledge gaps.⁶⁰⁰ Including the voices and perspectives of Afghanistan’s women is essential to ensuring that efforts to codify *gender apartheid* are grounded in lived experiences of structural exclusion and can provide indispensable insight into how the institutionalised system of oppression and discrimination on the basis of gender operates in practice, while paving the way to meaningfully address it.⁶⁰¹

- *Refrain from any action that legitimizes or normalizes the institutionalised system of discrimination and oppression on the basis of gender in Afghanistan.*

States that maintain normalised diplomatic relations with the Taliban *de facto* authorities while women’s rights are still systematically violated and abused, risk being complicit in the ongoing

⁵⁹⁴ ABILA, “Webinar: Towards an Effective and Universal Convention on Crimes Against Humanity.”

⁵⁹⁵ ABILA, “Webinar: Towards an Effective and Universal Convention on Crimes Against Humanity.”

⁵⁹⁶ CEDAW Committee. (1997). General recommendation No. 23: Women in political and public life. UN Doc. A/52/38/Rev.1. <https://www.refworld.org/legal/general/cedaw/1997/39377>; See Also, CEDAW Committee, General recommendation No 40. on the equal and inclusive representation of women in decision-making systems, October 25, 2024, <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-recommendation-no-40-equal-and-inclusive>.

⁵⁹⁷ ABILA, “Webinar: Towards an Effective and Universal Convention on Crimes Against Humanity.”

⁵⁹⁸ ABILA, “Webinar: Towards an Effective and Universal Convention on Crimes Against Humanity.”

⁵⁹⁹ Expert interview, expert in racial apartheid’s codification journey and justice efforts in previous ad hoc tribunals, conducted by the authors, 17th March 2026, confidential.

⁶⁰⁰ ABILA, “Webinar: Towards an Effective and Universal Convention on Crimes Against Humanity.”

⁶⁰¹ Rostami-Povey, “Women in Afghanistan: Passive Victims of the Borge or Active Social Participants?” 269- 271; Rostami-Povey, Afghan Women’s Resistance and Struggle, 6-8. ; Expert interview, expert in transformative justice and peacebuilding efforts, conducted by the authors, 18th March 2026, confidential.

institutionalised system of gender oppression.⁶⁰² Yet, the “international community is increasingly changing its policies in ways that risk legitimizing” the Taliban *de facto* authorities.⁶⁰³ For example, in July 2025, Russia was the first State to recognise the Taliban, while China and Pakistan have been making long strides toward normalisations.⁶⁰⁴ Members of the Taliban *de facto* authorities have further been appointed at diplomatic missions abroad.⁶⁰⁵ Uzbekistan also maintained regular diplomatic communication with the Taliban *de facto* authorities, while India hosted their so-called Foreign Minister.⁶⁰⁶

Moreover, the European Commission met with members of the Taliban *de facto* authorities on 23 June 2026 in Brussels, asserting that the meeting in no way constitutes recognition of the Taliban *de facto* authorities.⁶⁰⁷ Yet, Shagofah Ghafori of the Centre for European Policy Studies wrote, in line with the consistent message of Afghanistan’s human rights activists and defenders: “What Brussels is offering instead is something more insidious: normalisation ... It happens incrementally, through granting visas, meeting rooms and the quiet replacement of principle with transaction.”⁶⁰⁸

b. To the IIM-A

- *Prioritise strategies for the collection, consolidation, preservation and analysis of evidence, as well as documentation and verification of information and evidence, capable of demonstrating the systematic and widespread nature of the institutionalised system of oppression on the basis of gender, to ensure use by multiple justice actors to support a future case of ‘gender apartheid’ if it is codified as an international crime, including a structural investigation approach capable of examining discriminatory structural drivers of violations and abuses, so that justice processes are able to address these structural drivers, so as to maximize the contribution that justice processes can make to building sustainable foundations for lasting change; while also expanding discussions in applicable fora with relevant justice actors on the topic of ‘gender apartheid.’*

An expert interviewed for this project, emphasised the importance of building a focus on

⁶⁰² UN Security Council, “Taliban Must Uphold International Obligations, Restore Women’s ‘Non-Negotiable’ Rights, Security Council Told,” SC/16015, 10 March 2025, <https://press.un.org/en/2025/sc16015.doc.htm>.

⁶⁰³ PERMANENT PEOPLES’ TRIBUNAL, 55th SESSION FOR THE WOMEN OF AFGHANISTAN, JUDGEMENT, https://afghanistantribunal.com/wp-content/uploads/2025/12/PPT_JUDG_WOMEN_AFGANISTAN_15-dec-2025_FINAL-VERSION.pdf, P. 67.

⁶⁰⁴ Heather Barr, “Gender Apartheid as an International Crime.”

⁶⁰⁵ Official Statement of the Consulate General of the Islamic Republic of Afghanistan in Bonn Regarding the Acceptance of Taliban’s envoy by the Federal Republic of Germany and the Handover of the Consulate General to a Representative of this Group, 29 September 2025, https://www.afghanconsulatebonn.de/public_docs/Press-Release-English.pdf.

⁶⁰⁶ Joe Luc Barnes, “Rail, Water, and Helicopters - Uzbekistan’s ‘Limited Recognition’ of the Taliban,” The Times Of Central Asia, 17 September 2025, <https://timesca.com/rail-water-and-helicopters-uzbekistans-limitedrecognition-of-the-taliban/>; <https://www.bbc.com/news/articles/c8exzzz5dp5q>.

⁶⁰⁷ Ashifa Kassam, ‘EU faces fierce criticism over plans to host Taliban in Brussels,’ The Guardian, June 23, 2026, <https://www.theguardian.com/world/2026/jun/23/eu-faces-fierce-criticism-plans-host-taliban-brussels>.

⁶⁰⁸ ‘EU faces fierce criticism over plans to host Taliban in Brussels.’

gender apartheid into evidence-gathering and analytical work; more specifically, building evidence and analysis that could be used in multiple competent jurisdictions to advance a future case of *gender apartheid*.⁶⁰⁹ The mechanism “can serve both as a catalyst and repository for gender apartheid documentation.”⁶¹⁰

A major methodological innovation of the IIIM was the development of structural investigations.⁶¹¹ Instead of focusing only on individual incidents, the mechanism analysed systemic patterns of abuse, including detention networks, institutional hierarchies, and interactions among actors.⁶¹² The IIIM followed a similar logic, stressing the importance of identifying patterns over time and not treating incidents as separate events.⁶¹³ Structural investigations made it possible to reconstruct the larger architecture of violence and identify patterns of responsibility over time.⁶¹⁴ This approach created the ability to examine and address discriminatory structures operating inside institutions.⁶¹⁵ According to an expert we interviewed: “it is important for justice processes to address these structural drivers, if we are to maximise the contribution that justice processes can make to building sustainable foundations for peace.”⁶¹⁶

The Terms of Reference for the IIM-A state that the files it will prepare “may also take the form of contextual and structural analyses.”⁶¹⁷ Looking ahead, a structural approach could be particularly well-suited to supporting future accountability efforts if *gender apartheid* is formally codified as a crime, given that proposals for its definition are focused on precisely the kind of systemic, institutionalised discrimination that structural investigations are designed to expose.⁶¹⁸ By helping “build structural investigations and prepare criminal cases for prosecution when jurisdictions are able and willing to take up such cases in the future,” the IIM-A could “create a vital resource and build momentum for the growing movement to criminalize gender apartheid in international law and ensure that its architects are held to account.”⁶¹⁹

Furthermore, in the context of Syria, the IIIM has also “successfully initiated topics for discussion in relevant fora,” which “has been an important and strategic way of focusing more

⁶⁰⁹ Expert interview, practitioner involved in international investigative mechanisms, conducted by the authors, 23rd February 2026, confidential.

⁶¹⁰ Saidy, Wesna, and Iavor Rangelov. “How the Taliban Is Using Law for Gender Apartheid, and How to Push Back.” Atlantic Council, May 29, 2025.

<https://www.atlanticcouncil.org/content-series/inside-the-talibans-gender-apartheid/how-the-taliban-is-using-law-for-gender-apartheid-and-how-to-push-back/>.

⁶¹¹ Expert interview, practitioner involved in international investigative mechanisms, conducted by the authors, 23rd February 2026, confidential.

⁶¹² United Nations International, Impartial and Independent Mechanism (IIIM), “Glossary,” <https://iiim.un.org/resources/glossary/>.

⁶¹³ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 9th March 2026, confidential.

⁶¹⁴ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 23rd February 2026, confidential.

⁶¹⁵ “HR61 Side Event: ‘Building a Victim and Survivor-Centered Investigative Mechanism for Afghanistan’”; Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 23rd February 2026, confidential.

⁶¹⁶ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 23rd February 2026, confidential.

⁶¹⁷ A/HRC/61/CRP.6, para. 14.

⁶¹⁸ IIIM (International, Impartial and Independent Mechanism for Syria), *Strategic Plan 2023–2025* (Geneva: IIIM, 2023), 1, 3.

<https://iiim.un.org/wp-content/uploads/2023/02/IIIM-Strategic-Plan-2023-2025.pdf>.

⁶¹⁹ “How the Taliban Is Using Law for Gender Apartheid, and How to Push Back.”

attention on under-explored topics among justice actors”⁶²⁰; similarly, the IIM-A could initiate exchanges with relevant justice actors on the subject of *gender apartheid*.

c. To UN Entities and International Human Rights Mechanisms

- *Maintain consistent attention on the ongoing system of discrimination and oppression on the basis of gender through all available avenues, including, but not limited to, reports, statements, briefings, press releases, and official communications, explicitly characterising the situation as ‘gender apartheid,’ while also supporting and calling for its recognition and codification.*

Maintaining visibility remains important.⁶²¹ Reports, thematic debates, and public statements that clearly describe the structural nature of oppression on the basis of gender in Afghanistan help counter narratives portraying these policies as purely domestic issues.⁶²² It can contribute to building the international consensus necessary to support the recognition, codification and responses to gender apartheid.⁶²³

d. To Judges, Lawyers, and the International Criminal Court’s Office of the Prosecutor

- *Judges and lawyers should use the concept of gender apartheid credibly and repeatedly to help pave the way for its recognition and codification within international law.*

Credible and repeated use of the concept of *gender apartheid* by judges and lawyers, both in legal filings and court decisions, can help normalize and eventually pave the way for its recognition and codification within international law.⁶²⁴

Though not making reference to *gender apartheid* explicitly, language used by the Court of Justice of the European Union may offer an example: “given that those measures have a cumulative effect and are applied deliberately and systematically, they blatantly and relentlessly deny Afghan women fundamental rights related to human dignity on account of their gender. Those measures reflect the establishment of a social structure based on a regime of segregation and oppression in which women are excluded from civil society and deprived of

⁶²⁰ Expert interview, practitioner involved in international investigative mechanisms, conducted by the authors, 23rd February 2026, confidential.

⁶²¹ Quhramaana Kakar, “How Centering Afghan Women and Youth Now Can Help Challenge Oppressive Regimes in the Future.”

⁶²² Center for Dialogue and Progress – Geneva (CDP-G), Permanent Mission of Afghanistan in Geneva, Center for Human Rights Advocacy, and Global Centre for the Responsibility to Protect, “HR61 Side Event: ‘Building a Victim and Survivor-Centered Investigative Mechanism for Afghanistan: Lessons from Syria and Myanmar’,” YouTube, 5 March 2026, https://www.youtube.com/watch?v=2_KHgav2l50.

⁶²³ #EndGenderApartheid in Afghanistan. “Why this Campaign?” Blog, <https://endgenderapartheidinafghanistan.wordpress.com/why-this-campaign/>.

⁶²⁴ PeaceRep Afghanistan Research Network, “Recognition of Gender Apartheid,” 20.

the right to lead a dignified daily life in their country of origin.”⁶²⁵

The ICJ’s July 2024 Advisory Opinion, in affirming that the situation in the Occupied Palestinian Territories constituted a form of apartheid under CERD, may also spark a broader trend toward using ‘apartheid’ as a legal category beyond its South African origins, potentially providing a useful basis for advocates in their arguments for the recognition and codification of *gender apartheid*.⁶²⁶

- *The ICC’s Office of the Prosecutor should build on its Policy on Gender-Based Crimes, reflecting developments in the concept of gender apartheid in its approach to concepts, principles, and practical considerations that ground the Office’s work on gender-based crimes.*

According to the ICC’s Office of the Prosecutor: the “[Policy on Gender-Based Crimes]— and the operational guidance that underpins it—remain living documents. They will continue to be informed by relevant expertise and developments and will evolve as necessary.”⁶²⁷ As such, even if the Rome Statute is not amended to include *gender apartheid*, developments in the concept of *gender apartheid* may inform “concepts, principles, and practical considerations that ground [the] Office’s work on gender-based crimes.”⁶²⁸

e. To Civil Society

- *Continue using the term ‘gender apartheid’ consistently and strategically in all advocacy efforts, maintaining sustained attention on the structured and institutionalised nature of the oppression and discrimination and building the momentum necessary for its recognition and codification as an international crime.*

The language of *gender apartheid* can be particularly powerful in highlighting the structural and systematic nature of oppression on the basis of gender and in mobilizing international attention.⁶²⁹ Advocacy efforts should continue to portray Afghanistan women as key actors instead of passive victims.⁶³⁰ At the same time, advocacy must avoid reproducing paternalistic

⁶²⁵ Judgment of the Court (Third Chamber) of 4 October 2024, Document 62022CJ0608, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A62022CJ0608>.

⁶²⁶ ICJ, *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion of 19 July 2024, para 224-225, <https://www.icj-cij.org/node/204160>. See Nayla Matri, *supra* n. 2; and Oxford Human Rights Hub, *The Codification of Gender Apartheid under International Law and the Evolutive Significance of ‘Apartheid’* (December 2025), <https://ohrh.law.ox.ac.uk/the-codification-of-gender-apartheid-under-international-law-and-the-evolutive-significance-of-apartheid/>.

⁶²⁷ ICC Office of the Prosecutor, Policy on Gender-Based Crimes.

⁶²⁸ ICC Office of the Prosecutor, Policy on Gender-Based Crimes.

⁶²⁹ Bennoune, ‘The International Obligation To Counter Gender Apartheid,’ 57.

⁶³⁰ Bennoune, ‘The International Obligation To Counter Gender Apartheid,’ 67-68.

narratives that cast external actors as saviours while sidelining local agency.⁶³¹

- *Pursue strategic litigation to further build support towards recognition and codification of gender apartheid as an international crime.*

In practice, strategic litigation of this kind is most often carried forward by legal organisations or law firms working in partnership with civil society organisations to support victims, survivors, and the family members of those affected.⁶³² Cases brought through such partnerships should prioritise patterns of discrimination and exclusion rather than isolated incidents, so that not only is the institutional and cumulative character of gender-based oppression in Afghanistan properly placed before courts, but also resulting judgments can meaningfully advance efforts towards the recognition codification of *gender apartheid*.⁶³³

Civil society organisations should also engage actively with international courts and tribunals, including the ICC and the ICJ, through amicus curiae submissions, expert testimony, documentation initiatives, and contributions to advisory opinion processes where these are available.⁶³⁴

There is established precedent for this engagement in the Afghanistan situation. In 2019, nine Afghan and international organisations, among them Armanshahr/OPEN ASIA, the Afghanistan-Transitional Justice Coordination Group, the European Center for Constitutional and Human Rights, and the Women's Initiatives for Gender Justice, filed a joint amicus curiae brief before the ICC Appeals Chamber.⁶³⁵ The Office of the Prosecutor itself credited Afghanistan's victims and witnesses together with Afghanistan's and international civil society for the cooperation that enabled the issuance of the July 2025 arrest warrants.⁶³⁶ The Afghan-led Expert Working Group on the Potential Case(s) for Afghanistan at the ICJ, which brings together civil society actors, legal experts, and survivor advocates, offers a further model for embedding affected communities within ongoing accountability processes.⁶³⁷ Expanding the participation of Afghanistan women's organisations and affected communities in legal

⁶³¹ Khavari, "Gender Apartheid in Afghanistan," University of Gothenburg, 50.

⁶³² Shiva Amiri, "Strategic Litigation and Gender Apartheid in Iran and Afghanistan: Remarks from the IBA Human Rights Law Committee Panel (Mexico City, 2024)," International Bar Association, December 18, 2025, <https://www.ibanet.org/strategic-litigation-gender-apartheid-iran-afghanistan>.

⁶³³ Civic Engagement Project and Atlantic Council South Asia Center, *Inside Afghanistan's Gender Apartheid: Listen as Women Reveal the Impact of the Taliban's Oppressive Decrees*, <https://www.atlanticcouncil.org/in-depth-research-reports/report/inside-afghanistans-gender-apartheid-listen-as-women-reveal-the-impact-of-the-talibans-oppressive-decrees/>.

⁶³⁴ Human Rights Watch et al., "Joint Civil Society Statement Marking the One Year Anniversary of the Announcement of a Legal Initiative to Hold Afghanistan Accountable Under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)," Human Rights Watch, September 25, 2025, <https://www.hrw.org/news/2025/09/25/joint-civil-society-statement-marking-the-one-year-anniversary-of-the-announcement>.

⁶³⁵ "ICC: Appeals Set for Possible Afghanistan Inquiry," press release, International Federation for Human Rights (FIDH), December 3, 2019, <https://www.fidh.org/en/region/asia/afghanistan/icc-appeals-set-for-possible-afghanistan-inquiry>.

⁶³⁶ "Statement of the ICC Office of the Prosecutor on the Issuance of Arrest Warrants in the Situation in Afghanistan," International Criminal Court Office of the Prosecutor, July 8, 2025, <https://www.icc-cpi.int/news/statement-icc-office-prosecutor-issuance-arrest-warrants-situation-afghanistan>.

⁶³⁷ "Afghanistan: Joint Civil Society Statement on CEDAW Initiative," International Service for Human Rights, September 29, 2025, <https://ishr.ch/latest-updates/afghanistan-joint-civil-society-statement-on-cedaw-initiative/>.

proceedings will help ensure that accountability efforts are shaped by those most directly affected.⁶³⁸

- *Treat the recognition and codification of gender apartheid as the beginning of a long-term process of structural change.*

Codifying *gender apartheid* is an important step, but it is just one part of a much bigger process of change. Recognition alone cannot break the social and political systems that keep women oppressed.⁶³⁹ To prevent future oppression, there must be long-term support for women-led activism, attention to local histories and contexts, and inclusion of locally grounded feminist perspectives, including Islamic feminist perspectives that focus on community and collective agency.⁶⁴⁰

At the same time, feminist engagement with international law should be careful not to simply rename or reframe problems while leaving deeper structures of oppression untouched.⁶⁴¹ Recognizing *gender apartheid* can be transformative. But its impact will depend not only on legal language, but on whether all actors stay committed to centering the experiences, knowledge, and leadership of Afghanistan's women and girls throughout the process of long-term transformative change.⁶⁴²

C. Preparing for a Comprehensive Approach to Justice through the IIM-A

The establishment of the Independent Investigative Mechanism for Afghanistan (IIM-A) is an important move toward supporting a comprehensive approach to justice. The current moment represents a critical window of opportunity, since the new IIM-A is still in the process of being operationalized. Key upcoming decisions will shape its capability to contribute to future accountability efforts for years to come. This is therefore a critical opportunity to build inclusive, gender-responsive, and survivor-centred foundations from the start.

The experiences of the International, Impartial and Independent Mechanism for Syria (IIIM) and the Independent Investigative Mechanism for Myanmar (IIMM) can provide critical guidance for the IIM-A in this respect. Drawing on our interviews with experts and practitioners, their

⁶³⁸ Human Rights Watch et al., "Joint Civil Society Statement Marking the One Year Anniversary."

⁶³⁹ Jaber, 'Gender Apartheid and the Limits of Criminalisation.'

⁶⁴⁰ Jaber, "Beyond International Human Rights: Islamic Feminism."

⁶⁴¹ David Knaute, How and Why Truth and Justice Have Been Kept Off the Agenda: A Literature Review on Transitional Justice in Afghanistan (Armanshahr, 2016), 31 <https://openasia.org/en/wp-content/uploads/2016/04/FULL-REPORT-NOV-2016.pdf>.

⁶⁴² Expert interview, expert in transformative justice and peacebuilding efforts, conducted by the authors, 18th March 2026, confidential.

evolution reveals practical challenges and strategic decisions that could shape a more effective IIM-A.

All the insights uncovered highlight one key point: accountability work needs a long-term perspective.⁶⁴³ Investigative mechanisms act as a bridge between information and evidence collected today and opportunities for justice that may come in the future.⁶⁴⁴ The following sections detail recommendations to States, to the IIM-A, and civil society to maximise efforts to prepare for a comprehensive approach to justice.

i. Recommendations

a. For States

- *Commit sustained financial, technical, and diplomatic support to the newly established IIM-A and ensure this support is maintained over the long term.*

The establishment of the IIM-A by the UN Human Rights Council in October 2025, represents a landmark development.⁶⁴⁵ However, mechanisms of this kind are only as effective as the sustained support they receive. States must ensure adequate and predictable funding, protect the mechanism's independence, and use their diplomatic leverage to ensure cooperation from relevant actors.⁶⁴⁶

b. For the IIM-A

- *Establish institutional clarity from the beginning, including by setting clear operational priorities from the start to guide all phases, ensuring that efforts remain focused, coherent, and aligned with the mechanism's mandate and long-term objectives.*

Establishing strong foundations from the very beginning is essential for any investigative mechanism operating under a novel and complex mandate. Early institutional clarity helps prevent confusion, align expectations, and ensure that all actors understand the mechanism's purpose, scope, and limitations.⁶⁴⁷

⁶⁴³ "HR61 Side Event: 'Building a Victim and Survivor-Centered Investigative Mechanism for Afghanistan.'"

⁶⁴⁴ "HR61 Side Event: 'Building a Victim and Survivor-Centered Investigative Mechanism for Afghanistan.'"

⁶⁴⁵ A/HRC/59/25, para. 111.

⁶⁴⁶ Expert interview, expert in racial apartheid's codification journey and justice efforts in previous ad hoc tribunals, conducted by the authors, 17th March 2026, confidential.

⁶⁴⁷ Expert interviews, with practitioners involved in international investigative mechanisms conducted by the authors, 23rd February 2026 and 9th March, confidential.

At the same time, mechanisms must prioritise clear operational focus from the start. While broad mandates can provide valuable flexibility, as seen in the Myanmar mechanism’s “open-ended mandate... [which] can cover any crimes since it was created”⁶⁴⁸; they also make prioritisation essential. The expert further noted, “there’s a lot of work to do and a lot of priorities will need to be made.”⁶⁴⁹ Indeed, the mandate’s flexibility only works because it is paired with clear internal priorities about where to start.

Given the breadth of potential crimes in Afghanistan and limited resources, setting strategic priorities is critical to ensure coherence between its investigative work and long-term goals.⁶⁵⁰ At the same time, the IIM-A must be careful not to let resource limits or operational constraints push gender-based crimes or other complex, intersectional harms to the side; these must remain central to its priorities.⁶⁵¹

Once investigative priorities and evidentiary practices are established, correcting omissions becomes extremely difficult.⁶⁵² Strategies addressing gender, children, and marginalised groups cannot be added later without significant loss of effectiveness.⁶⁵³

- *Set clear indicators to measure the progress of and assess the success of the IIM-A by focusing on how well the work supports future accountability, prevention, and transformation efforts.*

Evaluating the effectiveness of investigative mechanisms proved challenging. IIM’s work was often confidential, with metrics such as “more than five hundred and forty requests for assistance”⁶⁵⁴ and support to “seventeen jurisdictions”⁶⁵⁵ providing only partial insight into its strategic impact. It was noted that measuring contributions to the broader justice ecosystem requires going beyond volume to assess influence on accountability pathways.⁶⁵⁶ Similarly, the IIMM emphasizes long-term impact: “Ultimately, it’s not just the work that we do but the impact that we have on justice and accountability.”⁶⁵⁷

For Afghanistan, establishing clear indicators for success can help the mechanism navigate constraints and maintain long-term goals towards accountability, prevention, and

⁶⁴⁸ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 9th March 2026, confidential.

⁶⁴⁹ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 9th March 2026, confidential.

⁶⁵⁰ Expert interviews, with practitioners involved in international investigative mechanisms conducted by the authors, 23rd February 2026 and 9th March, confidential.

⁶⁵¹ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 23rd February 2026, confidential.

⁶⁵² Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 23rd February 2026, confidential.

⁶⁵³ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 23rd February 2026, confidential.

⁶⁵⁴ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 23rd February 2026, confidential.

⁶⁵⁵ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 23rd February 2026, confidential.

⁶⁵⁶ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 23rd February 2026, confidential.

⁶⁵⁷ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 9th March 2026, confidential.

transformation.

- *Develop an adaptive victim, survivor, and civil society engagement strategy through:*

(1) inclusive engagement and continuous outreach to reach a broad range of communities across Afghanistan, particularly through accessible participation methods that remove barriers such as low literacy, limited connectivity, and difficulties with travel as well as through structured collaboration with local grassroots networks by recognising their essential role in information and evidence collection, outreach, and trust-building with victims and survivors;

The Terms of Reference for the IIM-A states that “[i]t shall consult with victims, survivors, and affected communities, and their representatives, and civil society organizations, including women’s groups, survivors and child protection networks, in implementing its mandate, and shall develop strategies to ensure their safe and meaningful participation as appropriate and mindful of the nature of its investigations.”⁶⁵⁸

Meaningful engagement with victims, survivors, and civil society will be central to the success of the IIM-A. It is essential for building trust, ensuring inclusive participation, and grounding the mechanism’s work in the realities of those most affected. This entails creating platforms for sustained dialogue, similar to the IIIM’s Lausanne platform, where both technical expertise and direct victim-survivor consultations inform the mechanism’s investigative priorities.⁶⁵⁹

Engagement must be multilayered, combining annual convenings, ad hoc online dialogues, and accessible communications to ensure that marginalised voices (including women, children, displaced persons, persons with disabilities, and LGBTQIA+ communities) are not overlooked.⁶⁶⁰ Particular attention must be paid to developing methodologies that ensure both contributions from survivors in the diaspora and the voices of affected communities still residing in Afghanistan are heard.⁶⁶¹

Collaboration with local grassroots is crucial not only for evidence collection but also for building trust with victims and survivors, particularly for sensitive cases, such as potential gender-based crimes.⁶⁶² In this context, the IIM-A must approach civil society engagement with

⁶⁵⁸ A/HRC/61/CRP.6, para. 28.

⁶⁵⁹ “HR61 Side Event: ‘Building a Victim and Survivor-Centered Investigative Mechanism for Afghanistan.’”

⁶⁶⁰ “HR61 Side Event: ‘Building a Victim and Survivor-Centered Investigative Mechanism for Afghanistan.’”

⁶⁶¹ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 23rd February 2026, confidential; Expert interview, expert in transformative justice and peacebuilding efforts, conducted by the authors, 18th March 2026, confidential.

⁶⁶² Solidarity Committee, “Supporting Civil Society in Afghanistan,” 4.

a nuanced understanding of the Afghanistan landscape. Historically, international engagement has frequently privileged urban, formally structured, and donor-funded organisations, many of which emerged as responses to external funding.⁶⁶³ As the Solidarity Committee for Afghanistan has noted, this model often created organisations that were more accountable to international donors than to the communities they purported to represent, while also sidelining traditional and informal structures and local mutual support networks that often carry greater legitimacy in rural contexts.⁶⁶⁴ Consequently, the IIM-A must actively seek out grassroots and survivor-led networks alongside established organisations. It is often these groups, despite their lower international profile, that command the deepest community trust and maintain the most direct accountability to the populations they serve.⁶⁶⁵

Engagement processes must also be structured to reflect the full diversity of knowledge and experience within Afghanistan, ensuring meaningful participation from individuals across regions, ethnic groups, genders, religious backgrounds, languages, and displacement circumstances. This requires outreach that does not rely mainly on established urban or diaspora civil society networks, which often reflect more connected and secure groups, but instead deliberately reaches rural and remote communities whose perspectives have historically been underrepresented in international consultations.⁶⁶⁶ In practice, this can involve using locally trusted intermediaries such as grassroots initiatives⁶⁶⁷; providing materials in relevant local languages and oral formats where literacy is a barrier⁶⁶⁸; and designing consultation modalities that do not require internet access or physical travel to participate.⁶⁶⁹

Because some individuals may not have access to technology, and remote interactions carry unique risks, the IIM-A must carefully assess what formats of engagement are appropriate in each context.⁶⁷⁰ Dedicated safety measures to protect sources and survivors are vital.⁶⁷¹ It must be noted that gendered dynamics shape both access to and use of digital tools, including who can safely use them, who controls access, and how different groups engage with technology in and beyond the country.⁶⁷² In Afghanistan, these considerations are especially important, as many women may be unable to safely or consistently use digital platforms, meaning that reliance on online engagement alone risks excluding those most at risk. Engagement strategies must therefore combine digital tools with secure, locally grounded alternatives to ensure safe,

⁶⁶³ Solidarity Committee, "Supporting Civil Society in Afghanistan," 1.

⁶⁶⁴ Solidarity Committee, "Supporting Civil Society in Afghanistan," 2.

⁶⁶⁵ Solidarity Committee, "Supporting Civil Society in Afghanistan," 4.

⁶⁶⁶ Solidarity Committee, "Supporting Civil Society in Afghanistan," 2-3; Expert interview, expert in transformative justice and peacebuilding efforts, conducted by the authors, 18th March 2026, confidential.

⁶⁶⁷ Expert interview, expert in gender-sensitive strategies and transitional justice processes conducted by the authors, 21st April 2026, confidential.

⁶⁶⁸ Expert interview, expert in transitional justice and peacebuilding efforts, conducted by the authors, 11th March 2026, confidential.

⁶⁶⁹ UNITAD and Stanford University, *Trauma-Informed Investigations Field Guide*, 2021, 30.

⁶⁷⁰ UNITAD and Stanford University, *Trauma-Informed Investigations Field Guide*, 2021, 119.

⁶⁷¹ "HR61 Side Event: 'Building a Victim and Survivor-Centered Investigative Mechanism for Afghanistan.'"

⁶⁷² IIM, *Gender Strategy and Implementation Plan*, 11, 14.

inclusive participation across varying levels of access and exposure.⁶⁷³ For instance, the IIIM has taken steps in this direction and begun mapping these issues and continues to deepen its analysis.⁶⁷⁴

A key aspect of initial engagement with survivors also involves establishing and managing expectations. The novelty of existing mandates meant that there were often significant delays, lasting several months, between the decision to establish the mechanisms and their actual operationalisation.⁶⁷⁵ During this time, expectations among affected communities were often high while institutional capacities were still developing.⁶⁷⁶ If survivors' expectations about their participation in each process are not properly addressed, they may disengage, especially if they become frustrated with delays or the possibility that accountability efforts may not advance.⁶⁷⁷ For instance, civil society from Syria expected results even before the IIIM staff fully arrived, creating early frustration: victims and communities were already disappointed "that nothing had been done."⁶⁷⁸ By preserving evidence and continuing engagement with victims, the mechanism sustained what could be described as institutionalised hope.⁶⁷⁹

This role, however, created ongoing pressure. Communities often expected faster or more visible outcomes than the mandate could deliver.⁶⁸⁰ The IIIM learned that managing expectations requires continuous dialogue, openness to criticism, and clear explanation of institutional limits.⁶⁸¹ In practice, this means offering survivors clear and thorough information so they can better understand potential risks and make informed decisions about whether to engage.⁶⁸² During these discussions, those collecting information should explain available accountability options, likely timeframes, how the information may be used, issues of confidentiality, and any risks involved.⁶⁸³ Care should be taken not to create unrealistic expectations, particularly regarding outcomes beyond the mechanism's control, such as the launch of criminal proceedings or access to reparations, which cannot be assured.⁶⁸⁴ Therefore, proactive communication strategies are essential to communicate clearly both the mechanism's capabilities and its limitations, helping to build trust and maintain credibility over time.⁶⁸⁵

⁶⁷³ OCHA, Afghanistan Humanitarian Needs and Response Plan 2025, 22.

⁶⁷⁴ IIIM, Gender Strategy and Implementation Plan, 17.

⁶⁷⁵ Expert interviews, with practitioners involved in international investigative mechanisms conducted by the authors, 23rd February 2026 and 9th March, confidential.

⁶⁷⁶ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 23rd February 2026, confidential.

⁶⁷⁷ REDRESS, Practice Note, 20; International Accountability Platform for Belarus (IAPB), A Survivor-Centred Approach to Documentation for Criminal Accountability (IAPB, May 2025), 17. https://iapbelarus.org/app/uploads/2025/06/SCA-Paper_EN.pdf.

⁶⁷⁸ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 23rd February 2026, confidential.

⁶⁷⁹ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 23rd February 2026, confidential.

⁶⁸⁰ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 23rd February 2026, confidential.

⁶⁸¹ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 23rd February 2026, confidential.

⁶⁸² REDRESS, Practice Note 11, 10.

⁶⁸³ REDRESS, Practice Note 11, 18; IAPB, A Survivor-Centred Approach to Documentation, 10.

⁶⁸⁴ REDRESS, Practice Note 11, 19; IAPB, A Survivor-Centred Approach to Documentation, 10.

⁶⁸⁵ "HR61 Side Event: 'Building a Victim and Survivor-Centered Investigative Mechanism for Afghanistan.'"

(2) ensuring meaningful inclusion of local expertise and affected communities in decision-making processes by structuring layered consultation that reflect their different roles, perspectives, and contributions, particularly given the overlapping nature of actors in the Afghanistan context; and

Embedding local expertise would also serve to increase the IIM-A's operational effectiveness in practice. Local staff and diaspora experts can identify culturally appropriate investigative approaches, facilitate access to communities that may be distrustful of external institutions, and help the IIM-A avoid the perception of being an externally imposed structure.⁶⁸⁶ The goal is a mechanism that is both made for Afghanistan communities and shaped by them. Opportunities for ongoing consultation are also essential, for example, through the establishment of an Afghanistan advisory board or civil society working group, enabling structured advisory input from survivors and community representatives into the mechanism's operations.⁶⁸⁷

Both the IIIM and IIMM recognized the importance of including affected communities meaningfully in decision-making. However, critical distinction must be maintained between civil society organisations and victim-survivor associations, as these are distinct groups with different roles, mandates, and forms of knowledge.⁶⁸⁸ The IIIM developed structured consultation processes that recognised this difference explicitly: technical documents created by civil society organisations provide analytical input, while victim-survivor associations articulate justice priorities and offer feedback grounded in direct experience.⁶⁸⁹ Conflating these two functions risks distorting both the evidence base and the representation of survivors' priorities.⁶⁹⁰

The IIM-A will likely face particular challenges in drawing this distinction in the Afghanistan context, where ongoing conflict, displacement, and the weakness of formal civil society infrastructure⁶⁹¹ may affect participation. The mechanism must nonetheless invest in understanding and respecting these differences, developing consultation processes that are sufficiently layered to capture both forms of knowledge without subordinating one to the other. This also means being attentive to power imbalances within civil society itself: well-resourced and internationally connected organisations should not crowd out grassroots or survivor-led groups that may have less visibility but deeper community trust and more direct accountability

⁶⁸⁶ UNITAD and Stanford University, *Trauma-Informed Investigations Field Guide*, 2021, 24-25.

⁶⁸⁷ "HR61 Side Event: 'Building a Victim and Survivor-Centered Investigative Mechanism for Afghanistan.'"

⁶⁸⁸ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 23rd February 2026, confidential.

⁶⁸⁹ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 23rd February 2026, confidential.

⁶⁹⁰ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 23rd February 2026, confidential.

⁶⁹¹ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), *Afghanistan Humanitarian Needs and Response Plan 2025* (December 2024), 3, 15 <https://www.unocha.org/publications/report/afghanistan/afghanistan-humanitarian-needs-and-response-plan-2025-december-2024>.

to affected populations.⁶⁹²

(3) maintaining clear institutional independence and defined roles in all CSO engagement, ensuring that civil society cooperation complements rather than substitutes core investigative functions and avoids perceived alignment with specific actors.

Balancing close cooperation with civil society while maintaining impartiality emerged as a central challenge during previous efforts. It was explained that the IIIM relied on documentation from NGOs and victim groups, but could not appear aligned with any actor: “You can never please everybody ... mechanisms should be open to hearing and improving.”⁶⁹³ The IIIM addressed this tension by establishing clear boundaries. It engaged in sustained dialogue with civil society and victims associations, but retained exclusive authority over evidentiary analysis and conclusions.⁶⁹⁴ It also avoided endorsing specific organisations, opting instead for transparent but neutral forms of cooperation.⁶⁹⁵

The IIMM faced similar challenges, emphasizing that civil society engagement is critical for connecting with witnesses and raising visibility but must never substitute for investigative work⁶⁹⁶: “We are very conscious that we’re not delegating our work to CSOs ... they’re not our agents who are doing our work for us.”⁶⁹⁷ It should be stressed that local organisations must not be permitted to control the choice of witnesses, act as *de facto* gatekeepers, or be present during interviews.⁶⁹⁸

For Afghanistan, carefully defined partnerships with Afghanistan’s local NGOs, grassroots organisations, victims’ associations, and diaspora organisations, guided by formal protocols and open dialogue, will be key to preserving legitimacy. Pragmatic solutions, such as providing structured summaries back to documenters instead of co-building case files, could be an option to create feedback loops.⁶⁹⁹ The IIM-A can also draw from the practice of the IIIM, which not only “provides feedback to information and evidence providers to help them maximize their work for accountability purposes,” but “[s]pecific attention” is also “given to feedback that would strengthen documentation regarding gender-based crimes.”⁷⁰⁰

⁶⁹² Solidarity Committee for Afghanistan, Supporting Afghanistan’s Civil Society: Critical Reflections of the Past and Recommendations for the Future (Policy Brief, 2025), 2-3 <https://solidaritycommittee.org/supporting-afghanistan-civil-society-policy-brief/>.

⁶⁹³ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 23rd February 2026, confidential.

⁶⁹⁴ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 23rd February 2026, confidential.

⁶⁹⁵ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 23rd February 2026, confidential.

⁶⁹⁶ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 9th March 2026, confidential.

⁶⁹⁷ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 9th March 2026, confidential.

⁶⁹⁸ UNITAD and Stanford University, *Trauma-Informed Investigations Field Guide*, 2021, 25.

⁶⁹⁹ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 23rd February 2026, confidential.

⁷⁰⁰ ‘Gender Strategy and Implementation Plan,’ P. 19.

- *Build a gender-competent institutional environment.*

Resolution 60/2 requires the IIM-A to “[a]dopt procedures that are ... gender-responsive.”⁷⁰¹ According to the Terms of Reference, the IIM-A must integrate “both gender and child rights considerations throughout its operations” and must “adopt procedures that are ... gender- and child-responsive.”⁷⁰²

A gender responsive approach attempts to “reduce gender inequalities within communities.”⁷⁰³ To help realise such an approach in practice, gender competence must be operationalised at an institutional level, requiring strong leadership, commitment, and continual innovation.⁷⁰⁴ This also means integrating gender analysis into standard operating procedures and guidance documents and providing ongoing, multi-layered training to ensure consistent understanding and application across the IIM-A.⁷⁰⁵

A gender-competent approach starts with recruitment. To avoid delays, staff need to arrive with demonstrated gender-responsive expertise, instead of relying on post-hiring training to close fundamental knowledge gaps.⁷⁰⁶ As the IIMM noted, gender expertise needs to be mainstreamed across the organisation, otherwise it risks becoming siloed and disconnected from decision-making.⁷⁰⁷ The IIMM experience reinforces this point: stand-alone gender focal points often lack the authority to influence how work is done across the institution.⁷⁰⁸ The IIM-A should commit to ensuring that all staff members are gender-competent - meaning they have a foundational level of awareness about gender and the willingness to integrate a gender perspective in their daily work - while also ensuring that staff with deeper gender expertise are integrated throughout the team structure.⁷⁰⁹

- *Prioritise a victim- and survivor-centred approach by embedding the perspectives of victims, survivors, and communities into all aspects of the IIM-A’s mandate, ensuring that their priorities guide strategies and operational decision-making; while also continuously integrating emerging best practices and resources to adapt standards, methodologies, protocols, and SOPs over time, including through continuous consultation with academics, practitioners, and*

⁷⁰¹ ‘Joint Evaluation of the UNFPA-UNICEF Joint Programme on the Elimination of Female Genital Mutilation: Accelerating Change Phase III (2018-2021),’ UNFPA, https://www.unfpa.org/sites/default/files/admin-resource/thematic%20note%201_gender_final.pdf.

⁷⁰² A/HRC/61/CRP.6, para. 28.

⁷⁰³ A/HRC/RES/60/2, para. 26(d).

⁷⁰⁴ See e.g., ‘Gender Strategy and Implementation Plan.’

⁷⁰⁵ See e.g., <https://iim.un.org/wp-content/uploads/2022/10/Gender-Strategy-Implementation-AbridgedEnglish.pdf>

⁷⁰⁶ International, Impartial and Independent Mechanism for Syria, Gender Strategy and Implementation Plan – Abridged Version (Geneva: United Nations, 2023), 14 <https://iim.un.org/wp-content/uploads/2023/02/Gender-Strategy-Implementation-Abridged.pdf>; Expert interview with specialist in gender-sensitive strategies, transitional justice processes, and human rights, conducted by the authors, April 21, 2026, confidential.

⁷⁰⁷ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 23rd February 2026, confidential.

⁷⁰⁸ See e.g., IIMM, Gender Strategy and Implementation Plan, 12.

⁷⁰⁹ See e.g., IIMM, Gender Strategy and Implementation Plan, 12, 15.

civil society, recognising that effective victim- and survivor-centred approaches require iterative learning, testing, and adjustment over time; and facilitating victim and survivor access to support pathways.

The IIM-A must “[a]dopt procedures that are ... victim-centred,” which includes “methodologies that are responsive to the protection, participation, and psychosocial needs of victims, survivors and witnesses.”⁷¹⁰ A victim- and survivor-centred approach must be embedded as the IIM-A’s foundational principle - its “North Star”⁷¹¹ - guiding all strategies and operational decisions. This means moving beyond the treatment of victims and survivors as only sources of information or evidence,⁷¹² and actively integrating victim and survivor priorities into strategies and decision-making at every level.⁷¹³ As a woman from Afghanistan we interviewed put it: “The new investigative mechanism for Afghanistan must ... also reflect our priorities.”⁷¹⁴ A victim- and survivor-centred approach requires placing the rights, needs, dignity, safety, and overall well-being of victims and survivors at the core of measures aimed at preventing and responding to human rights violations and abuses.⁷¹⁵

The IIIM offers a key model, embedding a victim- and survivor-centred approach across its work and maintaining regular consultations with civil society and survivor communities as a core function.⁷¹⁶ Because the IIIM did not deliver justice directly but served rather as an intermediary entity, it had to rethink what victim- and survivor-centred engagement meant in practice.⁷¹⁷ This required developing entirely new frameworks through consultation with academics, practitioners, and civil society actors. As it was noted, the IIIM “tested, adjusted, and built the approach as [it] went along,”⁷¹⁸ highlighting the iterative and adaptive nature of victim- and survivor-centered approaches. The IIIM similarly emphasized early integration of survivors’ voices, noting the need for victim- and survivor-centered outreach through public information and engagement.⁷¹⁹

A substantial body of guidance has been developed in recent years on victim- and survivor-centred approaches and practices.⁷²⁰ The IIM-A should adopt a plural and adaptive

⁷¹⁰ A/HRC/RES/60/2, para. 26(d); A/HRC/61/CRP.6, para. 28.

⁷¹¹ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 23rd February 2026, confidential.

⁷¹² Expert interviews with two practitioners involved in international investigative mechanisms, conducted by the authors, 23rd February 2026 and 9th March 2026, confidential; “HR61 Side Event: ‘Building a Victim and Survivor-Centered Investigative Mechanism for Afghanistan.’”

⁷¹³ Expert interviews with two practitioners involved in international investigative mechanisms, conducted by the authors, 23rd February 2026 and 9th March 2026, confidential.

⁷¹⁴ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

⁷¹⁵ REDRESS, “Practice Note” 11, 7.

⁷¹⁶ IIIM, Gender Strategy and Implementation Plan, 19.

⁷¹⁷ Expert interviews with two practitioners involved in international investigative mechanisms, conducted by the authors, 23rd February 2026 and 9th March 2026, confidential.

⁷¹⁸ Expert interviews with two practitioners involved in international investigative mechanisms, conducted by the authors, 23rd February 2026 and 9th March 2026, confidential.

⁷¹⁹ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 9th March 2026, confidential.

⁷²⁰ See e.g., Murad Code, *In Our Own Words: Survivor Perspectives Resource* (Murad Code, n.d.), <https://www.muradcode.com/survivor-perspectives-resource>; Yazda, *Get to Know Me First: A Survivor-Informed Guide*; IAPB, *Survivor-Centred Approach to Documentation*.

approach, drawing from the growing body of practitioner-oriented manuals. Importantly, standards should be continuously reviewed and improved through feedback and shared practice.⁷²¹ This suggests that the IIM-A should not only adopt existing guidance but also actively contribute to a cycle of knowledge-sharing, exchanging lessons learned with other investigative bodies, civil society organisations, and survivor networks.⁷²²

The Terms of Reference requires the IIM-A to “assist in referring vulnerable victims, survivors and witnesses who cooperate with the Mechanism, in particular children, women, individuals with diverse sexual orientation or gender identity, and victims, survivors and witnesses of sexual and gender-based violence, torture or other cruel, inhuman or degrading treatment or punishment, to relevant bodies so that they are provided with appropriate medical, psychosocial or other support as necessary and available.”⁷²³

For holistic support to be meaningfully embedded within the Mechanism’s operational framework, medical, psychosocial, mental health, and socioeconomic assistance must be treated as core components of survivor engagement.⁷²⁴ The principle of co-creation must shape how needs assessments are structured and how support pathways are developed in practice.⁷²⁵ Staff members must also be equipped to hold conversations with survivors honestly and with care, ensuring survivors are informed and active participants in identifying and navigating their support options.⁷²⁶

In reality, no single mechanism or practitioner will have the capacity to address every need a survivor presents.⁷²⁷ For instance, socioeconomic support such as housing assistance or income recovery may fall beyond what the Mechanism’s funding structure allows or what the staff is able to provide. In order to bridge these gaps, the mechanism should establish formal collaborative arrangements with specialist organisations (including NGOs with expertise in psychosocial support, medical care, and socioeconomic rehabilitation) so that survivors can be referred to appropriate services without interruption to their broader support journey.⁷²⁸

- *Adopt an intersectional approach throughout all stages of the work of the IIM-A.*

⁷²¹ IICI, Murad Code, 2022, 7.

⁷²² IICI, Murad Code, 2022, 7.

⁷²³ A/HRC/61/CRP.6, para. 31.

⁷²⁴ REDRESS, Practice Note, 23.

⁷²⁵ ‘We shaped the meaning of co-creation’, Global Survivors Fund, May 28, 2025, <https://www.globalsurvivorsfund.org/latest/articles/we-shaped-the-meaning-of-co-creation/>.

⁷²⁶ IAPB, A Survivor-Centred Approach to Documentation, 17.

⁷²⁷ REDRESS, Practice Note, 24.

⁷²⁸ REDRESS, Practice Note, 24.

According to the Terms of Reference, the IIM-A must “adopt an ...intersectional ... approach ... duly sensitive to further considerations of age, religion, ethnicity, disability and other relevant factors.”⁷²⁹ The primary purpose of an intersectional analysis is to surface and address structural discrimination and the unique harms experienced at the intersection of multiple discriminatory hierarchies.⁷³⁰ An intersectional approach should inform all stages of the mechanism’s work, recognising that violations and abuses affect individuals differently based on their gender, ethnicity, religion, disability, socio-economic status, geographic location, and other intersecting identities, as has been the case for individuals in Afghanistan.⁷³¹ Each survivor must therefore be treated as an individual, tailoring every interaction to reflect their specific age, gender, evolving capacities, socioeconomic reality, and the particular layers of discrimination they face.⁷³²

Adopting an intersectional approach requires “understanding ... differences in status, power, roles, and needs between persons ... as a result of social and political hierarchies and inequalities between persons and collectivities on intersecting grounds,” which are to “be understood within the context of the relevant society and its history”; while also considering “their relationship to structural drivers of violence in a given context as well as the impact on people’s vulnerabilities, opportunities and interactions.”⁷³³ No assumptions should be made about how survivors “should” behave, their vulnerability, or their resilience.⁷³⁴

For the IIM-A, an intersectional approach also requires recognising the particular complexity of victimhood in Afghanistan.⁷³⁵ Many individuals have experienced overlapping harms across decades, under multiple regimes, and some may have occupied roles as both victims and (at different times) perpetrators.⁷³⁶ The IIM-A must therefore avoid any hierarchy of suffering and acknowledge the full range of civil, political, and social hardships endured⁷³⁷; including displacement, loss of livelihood, and deep-rooted poverty.⁷³⁸

- *Integrate a trauma-informed approach and institutionalize trauma expertise.*

As per the Terms of Reference, the IIM-A must adopt a “trauma-informed approach.”⁷³⁹ A

⁷²⁹ A/HRC/61/CRP.6, para. 28.

⁷³⁰ Akbari and Moradi, “Hazara Women,” Just Security.

⁷³¹ IIM, Gender Strategy and Implementation Plan, 6; See e.g., A/HRC/61/63, para. 21. and 22.

⁷³² IICI, Murad Code, 2022, 3.

⁷³³ ‘Office of the Prosecutor Policy on Gender-Based Crimes,’ December 2023, <https://www.icc-cpi.int/sites/default/files/2023-12/2023-policy-gender-en-web.pdf>, P. 32.

⁷³⁴ IICI, Murad Code, 2022, 3.

⁷³⁵ “HR61 Side Event: ‘Building a Victim and Survivor-Centered Investigative Mechanism for Afghanistan.”

⁷³⁶ “HR61 Side Event: ‘Building a Victim and Survivor-Centered Investigative Mechanism for Afghanistan.”

⁷³⁷ “HR61 Side Event: ‘Building a Victim and Survivor-Centered Investigative Mechanism for Afghanistan.”

⁷³⁸ “HR61 Side Event: ‘Building a Victim and Survivor-Centered Investigative Mechanism for Afghanistan.”

⁷³⁹ A/HRC/61/CRP.6, para. 28.

trauma-informed approach requires being “aware of, and responsive to, trauma and its impacts on individuals, their families, and their communities,” while seeking “to promote safety, healing, and recovery from traumatic experiences.”⁷⁴⁰ It is also fundamental to institutionalise trauma expertise within the IIM-A by ensuring the consistent involvement of professionals with specialised knowledge of trauma-informed interviewing, psychosocial support, and survivor protection.⁷⁴¹ Investigators should also embed psychological expertise directly within their teams.⁷⁴²

Practitioners must conduct all activities with compassion and cultural sensitivity, acknowledging that survivors may be carrying profound and long-lasting trauma, and that poorly managed interactions can unintentionally exacerbate that harm.⁷⁴³ The physical and psychological safety of survivors, as well as of those acting on their behalf, should remain the central concern throughout the entire process.⁷⁴⁴ This requires not only an understanding of how trauma may affect individuals, but also a systematic and proactive approach to identifying, assessing, and mitigating any risks that engagement may pose.⁷⁴⁵

Fragmented, non-linear, or internally inconsistent survivor accounts should not be read as indicators of dishonesty or issues of credibility.⁷⁴⁶ They are, in many cases, entirely consistent with how traumatic memory is stored and retrieved.⁷⁴⁷ When properly understood and analysed, such testimonies can in fact strengthen evidentiary credibility.⁷⁴⁸ Investigators must therefore resist the temptation to privilege accounts that are detailed, structured, and easy to follow.⁷⁴⁹ Central to this approach is the principle of survivor agency. Investigators must create genuine space for survivors to share their experiences in their own words, at their own pace, and in a way that feels safe and meaningful to them.⁷⁵⁰

A critical distinction must also be maintained between the collection and the analysis of testimony. At the collection stage, investigators should gather accounts without imposing interpretive frameworks or assumptions.⁷⁵¹ Contradictions, gaps, and apparent inconsistencies belong to the analytical stage, where they can be examined in context and against wider

⁷⁴⁰ ‘Office of the Prosecutor Policy on Gender-Based Crimes,’ para. 72.

⁷⁴¹ REDRESS, “Practice Note” 11, 10.

⁷⁴² UNITAD and Stanford University, Trauma-Informed Investigations Field Guide, 2021, 61.

⁷⁴³ IAPB, “A Survivor-Centred Approach to Documentation”, 6; REDRESS, “Practice Note 11”, 10.

⁷⁴⁴ IAPB, “A Survivor-Centred Approach to Documentation”, 6; REDRESS, “Practice Note 11”, 10.

⁷⁴⁵ IAPB, “A Survivor-Centred Approach to Documentation”, 6-7; REDRESS, “Practice Note 11”, 10-11.

⁷⁴⁶ IICI, Murad Code, 2022, 11, para 10.2; Expert interview, expert in gender- sensitive strategies and transitional justice processes conducted by the authors, 21st April 2026, confidential.

⁷⁴⁷ UNITAD and Stanford University, Trauma-Informed Investigations Field Guide, 2021, 19- 20.

⁷⁴⁸ Expert interview, expert in gender- sensitive strategies and transitional justice processes conducted by the authors, 21st April 2026, confidential.

⁷⁴⁹ Expert interview, expert in gender- sensitive strategies and transitional justice processes conducted by the authors, 21st April 2026, confidential.

⁷⁵⁰ IICI, Murad Code, 2022, 11, para 10.5.

⁷⁵¹ Expert interview, expert in gender- sensitive strategies and transitional justice processes conducted by the authors, 21st April 2026, confidential.

patterns of evidence.⁷⁵² Conflating these two stages risks distorting both the testimony and the conclusions drawn from it.⁷⁵³

Practitioners further highlight the importance of integrating both a trauma-sensitive approach and a strong understanding of relevant domestic or international legal procedures, in order to avoid compromising the admissibility and evidentiary value of testimony.⁷⁵⁴ Integrating these lessons into Afghanistan operations can enhance both trauma-informed practices and the quality of evidence collection.

How investigators engage with survivors once contact is made requires careful, principled practice. Investigators should approach each survivor with empathy and respect and not pity, expressing genuine appreciation to the witness for having come forward and engaged in the difficult process of sharing their experiences.⁷⁵⁵ The interview environment, whether physical or remote, must be safe, accessible, and sensitive to the survivor's gender, age, disability, and cultural context.⁷⁵⁶ The number of people present should be minimised, and the survivor should be consulted in advance about who they would like to be present, including any support person, guardian, or legal representative.⁷⁵⁷ Informed consent must be obtained before any interview, clearly communicated in an understandable manner in the survivor's language, and understood to be entirely voluntary.⁷⁵⁸ Consent for audio or video recording, particularly for evidence of high probative value or where a witness may not be available later, must be obtained separately.⁷⁵⁹

Cultural sensitivity must extend to all aspects of the interview setting: clothing, customary greetings, demeanour, and the avoidance of certain jewellery or attire that could cause disturbance or distraction.⁷⁶⁰ Cultural and contextual preparation is equally essential. Investigators must ensure that they and those acting on their behalf have a solid understanding of the context in which violations took place, as well as the immediate environment surrounding the survivor.⁷⁶¹ Relevant cultural and social norms, attitudes, traditions, and customary practices, including those relating to gender roles, must be understood and factored into all preparation and practice.⁷⁶²

⁷⁵² Expert interview, expert in gender-sensitive strategies and transitional justice processes conducted by the authors, 21st April 2026, confidential.

⁷⁵³ Expert interview, expert in gender-sensitive strategies and transitional justice processes conducted by the authors, 21st April 2026, confidential.

⁷⁵⁴ REDRESS, "Practice Note" 11, 10.

⁷⁵⁵ UNITAD and Stanford University, Trauma-Informed Investigations Field Guide, 2021, 45.

⁷⁵⁶ IICI, Murad Code, 2022, 10, para 9.3.

⁷⁵⁷ IICI, Murad Code, 2022, 10, para 9.4.

⁷⁵⁸ UNITAD and Stanford University, Trauma-Informed Investigations Field Guide, 2021, 27.

⁷⁵⁹ UNITAD and Stanford University, Trauma-Informed Investigations Field Guide, 2021, 33.

⁷⁶⁰ UNITAD and Stanford University, Trauma-Informed Investigations Field Guide, 2021, 32.

⁷⁶¹ IICI, Murad Code, 2022, 8, para 6.1.

⁷⁶² IICI, Murad Code, 2022, 8, para 6.2.

Engagement methods must also account for digital safety concerns, particularly in contexts where surveillance or exposure may create additional harm.⁷⁶³ Secure remote data collection and witness protection protocols (including the use of digital repositories and structured remote interview methodologies), are essential safeguards.⁷⁶⁴ The IIIM and IIMM both innovated in this space, employing digital repositories, open-source intelligence, satellite imagery, social media verification, and geolocation tools to assess credibility and expand investigative reach without direct field access.⁷⁶⁵ The IIM-A can adopt similar approaches, particularly in high-risk or remote areas.

Preventing retraumatisation demands sustained attentiveness throughout the entire process of engagement, not only at the point of the interview itself.⁷⁶⁶ Investigators must plan carefully so that survivors are not required to recount their experiences multiple times across different stages of the process, and must anticipate situations that carry a heightened risk of retraumatisation so that they can intervene before harm occurs.⁷⁶⁷

On the question of retraumatisation, investigators must walk a careful line. They should not assume that a witness is experiencing trauma, nor should they pathologise distress by reaching prematurely for clinical language.⁷⁶⁸ At the same time, they must remain alert to signs that a witness is struggling.⁷⁶⁹ If severe distress emerges during an interview, it must be paused immediately so the witness can access their support person or a clinical psychologist.⁷⁷⁰ The interview process must never take precedence over the witness's wellbeing.⁷⁷¹

The mechanism must also ensure interpreters are highly qualified and contextually competent. Their selection should be handled with care, including proper vetting and preparation, to ensure they can support clear, respectful, and reliable communication throughout the interview process. Interpreters play a critical role in interviews conducted across language barriers and should be treated as integral to the investigative process, not merely as translators of words.⁷⁷² They must be able to convey meaning, tone, and cultural nuance accurately, including how survivors describe harm and emotion, where phrasing may not translate directly but is important for evidentiary understanding.⁷⁷³ They should also support clear communication

⁷⁶³ IICI, Murad Code, 2022, 2, 7, para 5.4

⁷⁶⁴ UNITAD and Stanford University, Trauma-Informed Investigations Field Guide, 2021, 58; IAPB, Survivor-Centred Approach to Documentation, 22.

⁷⁶⁵ Expert interviews, with practitioners involved in international investigative mechanisms conducted by the authors, 23rd February 2026 and 9th March , confidential.

⁷⁶⁶ REDRESS, "Practice Note" 11, 10.

⁷⁶⁷ REDRESS, "Practice Note" 11, 10.

⁷⁶⁸ UNITAD and Stanford University, Trauma-Informed Investigations Field Guide, 2021, 37.

⁷⁶⁹ UNITAD and Stanford University, Trauma-Informed Investigations Field Guide, 2021, 37.

⁷⁷⁰ UNITAD and Stanford University, Trauma-Informed Investigations Field Guide, 2021, 37.

⁷⁷¹ IICI, Murad Code, 2022, 3 para 1.4.

⁷⁷² UNITAD and Stanford University, Trauma-Informed Investigations Field Guide, 2021, 30.

⁷⁷³ UNITAD and Stanford University, Trauma-Informed Investigations Field Guide, 2021, 31.

between all participants, including psychosocial professionals when present, making careful selection and briefing of interpreters a key part of effective and reliable interviewing.⁷⁷⁴

For survivors of sexual and gender-based violence, additional care and application of trauma-informed techniques are required.⁷⁷⁵ Wherever possible, the survivor's preferences regarding the gender of the interviewer and of all others present in the room, including the interpreter should be respected.⁷⁷⁶ Preferably, a single investigator should conduct the entirety of the interview, and the most sensitive incidents should be discussed only once.⁷⁷⁷ The IIM-A must also be attentive to gender stereotypes, cultural assumptions, and stigma around sexual violence.⁷⁷⁸ Case-building must acknowledge the full extent of harms suffered without validating these prejudicial frameworks that could further marginalise survivors.⁷⁷⁹

Investigators must also not ask about sensitive or graphic details of sexual violence where these are not specifically needed for the investigative purpose.⁷⁸⁰ Where such information is necessary, the reason should be explained clearly and the survivor's decision on whether to answer must be respected.⁷⁸¹ Sensationalising or fixating on graphic details causes harm and serves neither the survivor nor the quality of the evidence.⁷⁸²

- *Prepare for multiple future diverse accountability initiatives by prioritising flexibility and long-term readiness by creating a strong, central system to store information and evidence, and keeping the overall strategy adaptable so the IIM-A can respond to new opportunities for justice as they arise.*

The IIM-A is specifically mandated to “to collect, consolidate, preserve and analyse evidence of international crimes and the most serious violations of international law, including those that may also amount to violations and abuses of international human rights law, committed in Afghanistan, including against women and girls, and to prepare files in order to facilitate and expedite fair and independent criminal proceedings, in accordance with international law standards, in national, regional or international courts or tribunals that have or may in the future have jurisdiction over these crimes, in accordance with international law.”⁷⁸³ The IIM-A is also required to “[c]ooperate closely with *ongoing and future investigations by national, regional or*

⁷⁷⁴ UNITAD and Stanford University, Trauma-Informed Investigations Field Guide, 2021, 31.

⁷⁷⁵ UNITAD and Stanford University, Trauma-Informed Investigations Field Guide, 2021, 43.

⁷⁷⁶ UNITAD and Stanford University, Trauma-Informed Investigations Field Guide, 2021, 43.

⁷⁷⁷ UNITAD and Stanford University, Trauma-Informed Investigations Field Guide, 2021, 43.

⁷⁷⁸ IIM, Gender Strategy and Implementation Plan, 12.

⁷⁷⁹ IIM, Gender Strategy and Implementation Plan, 12.

⁷⁸⁰ ICI, Murad Code, 2022, 11, para 10.8.

⁷⁸¹ ICI, Murad Code, 2022, 11, para 10.8.

⁷⁸² ICI, Murad Code, 2022, 11, para 10.8.

⁷⁸³ A/HRC/RES/60/2, para. 25.

international courts or tribunals, including those conducted by the International Criminal Court or the International Court of Justice, or other legal proceedings."⁷⁸⁴

Operative Paragraph 20 of Resolution 60/2 also: "Recognizes the need to strengthen existing mechanisms and to give consideration to ensuring the capacity for collecting, preserving and analysing evidence of the most serious international crimes and violations of international law *in a way that could be used to facilitate future accountability and transitional justice processes.*"⁷⁸⁵

Operative Paragraph 23: "Reiterates that *delivering justice and redress to victims, and accountability to perpetrators*, of gross human rights violations and abuses and serious violations of international humanitarian law *through all available processes is an essential pillar* needed for long-term sustainable peace, development and reconciliation in Afghanistan and is necessary for re-establishing the rule of law, strengthening the institutional protection of human rights and preventing the continued recurrence of grave violations and abuses, as well as restoring human dignity and rebuilding trust among the full range of members of Afghan society."⁷⁸⁶

Finally, Operative Paragraph 24 underlines applying "*a comprehensive approach to transitional justice*" as well as ensuring "accountability through processes that are *comprehensive, multidimensional, gender-responsive and victim-centred.*"⁷⁸⁷

Taken together, the IIM-A must consider how it can become capable of building and maintaining an information and evidence base capable of supporting the full spectrum of accountability avenues, ensuring that its work is structured in ways that are usable across multiple forums.

⁷⁸⁴ A/HRC/RES/60/2, para. 26(i).

⁷⁸⁵ A/HRC/RES/60/2, para. 20.

⁷⁸⁶ A/HRC/RES/60/2, para. 23.

⁷⁸⁷ A/HRC/RES/60/2, para. 24.

Experiences from the IIIM and IIMM demonstrate that success will depend on the IIM-A's ability to remain flexible, develop new methods, and remain prepared to respond creatively to evolving challenges.⁷⁸⁸ The IIIM had to remain agile to respond to diverse and unpredictable justice opportunities: "There had been some universal jurisdiction cases already, but no one predicted the volume of universal jurisdiction investigations that later occurred."⁷⁸⁹ This required building a centralized repository of evidence and a strategic foundation capable of supporting multiple jurisdictions over time. The IIIM is also coordinating with other actors on how technology can better support accountability for gender-based crimes, an approach from which the new IIM-A can draw.⁷⁹⁰

The International Criminal Court

Evidence or other information collected by the IIM-A could be made available to the ICC's Office of the Prosecutor to support its ongoing or future investigations into war crimes and crimes against humanity in Afghanistan,⁷⁹¹ thereby strengthening prosecutorial efforts through the preservation of material that may otherwise be lost, altered, or inaccessible.⁷⁹² By systematically collecting, verifying, and organizing witness testimony, documentary records, digital evidence, and other forms of information, the mechanism could help establish patterns of conduct, identify potential perpetrators, and corroborate the contextual elements required for international criminal charges.⁷⁹³ In this way, the IIM-A can function as an important bridge, while also complementing broader efforts to combat impunity in Afghanistan.

The International Court of Justice

Information and evidence gathered by the IIM-A can be of considerable value for the ICJ, provided it is systematically organized in a manner that enables States to rely upon it in potential litigation against Afghanistan for breaches of international obligations, including those arising under treaties such as CEDAW.⁷⁹⁴

National Courts

⁷⁸⁸ Expert interviews with two practitioners involved in international investigative mechanisms, conducted by the authors, 23rd February 2026 and 9th March 2026, confidential.

⁷⁸⁹ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 23rd February 2026, confidential.

⁷⁹⁰ IIIM, Gender Strategy and Implementation Plan, 17.

⁷⁹¹ Questions & Answers on the Establishment of an Independent International Accountability Mechanism for Afghanistan | Human Rights Watch, 26 November 2024, <https://www.hrw.org/news/2024/11/26/questions-answers-establishment-independent-international-accountability-mechanism>.

⁷⁹² Expert interviews, with practitioners involved in international investigative mechanisms conducted by the authors, 23rd February 2026 and 9th March, confidential.

⁷⁹³ Expert interview, conducted by the authors, March 2026 (confidential).

⁷⁹⁴ Questions & Answers on the Establishment of an Independent International Accountability Mechanism for Afghanistan | Human Rights Watch.

Evidence or other information collected could also be made available to national investigators and prosecutors in the advancement of cases under the principle of universal jurisdiction and other forms of extraterritorial jurisdiction for crimes under international law.⁷⁹⁵

Other Avenues, Including Future Transitional Justice Processes

The IIM-A should further prepare and structure information and evidence in a manner that makes it usable across additional avenues, including future potential hybrid or domestic transitional justice processes.⁷⁹⁶

- *Strengthen synergies with international human rights mechanisms and UN entities.*

The IIM-A has to work in close cooperation with other international human rights mechanisms and UN entities and at the same time be fully independent in its leadership.⁷⁹⁷ The IIM-A will not operate in isolation, but will actively have to collaborate and coordinate with the work of other mechanisms and entities, and the potential to strengthen synergies with each are discussed in turn, including (1) the Special Rapporteur on the situation of human rights in Afghanistan; (2) applicable treaty bodies; (3) the OHCHR and UNAMA; and (4) other investigative bodies.⁷⁹⁸

The Special Rapporteur on the Situation of Human Rights in Afghanistan

Resolution 60/2 requires the IIM-A to “[b]uild on the work and findings of the Special Rapporteur on the situation of human rights in Afghanistan, and to this end be able to make use of relevant information collected by the Special Rapporteur, with the consent of information providers as appropriate, and continue to collect evidence.”⁷⁹⁹

The UNHRC “[a]lso decid[ed] that the mandate of the Special Rapporteur to document and preserve information relating to human rights violations and abuses as outlined by the Human Rights Council in its resolution 51/20 and subsequent resolutions on Afghanistan will continue and remain valid until such time that the investigative mechanism is operational and the information collected can be safely preserved and, to the extent possible, transmitted to the

⁷⁹⁵ Questions & Answers on the Establishment of an Independent International Accountability Mechanism for Afghanistan | Human Rights Watch.

⁷⁹⁶ Expert interviews, with practitioners involved in international investigative mechanisms conducted by the authors, 23rd February 2026 and 9th March, confidential.

⁷⁹⁷ “HR61 Side Event: ‘Building a Victim and Survivor-Centered Investigative Mechanism for Afghanistan.’”

⁷⁹⁸ “HR61 Side Event: ‘Building a Victim and Survivor-Centered Investigative Mechanism for Afghanistan.’”

⁷⁹⁹ A/HRC/RES/60/2, para. 26(b).

investigative mechanism for its use.”⁸⁰⁰

The Syria experience has demonstrated that the simultaneous use of the IIIM and the Commission of Inquiry was effective; and the Myanmar experience, in which the Fact-Finding Mission began before the IIIM's public reporting role took over, revealed the need for the Commission's confidential mandate to complement the public reporting role of the IIIM.⁸⁰¹

The architecture of mechanisms concerning Afghanistan deliberately preserves the complementary functions of the Special Rapporteur on Afghanistan and the IIM-A. According to Human Rights Officer Sergio Polifroni Benedetti: “The Terms of Reference for the IIM-A “provides for coordination with the Special Rapporteur on Afghanistan, as mandated by the Resolution.”⁸⁰² The Terms of Reference states that the Head of the IIM-A and the Special Rapporteur “shall determine modalities that ensure seamless transfer of relevant information held by the Special Rapporteur to the Mechanism.”⁸⁰³ These modalities must be determined from the outset.

The Terms of Reference goes on to specify: “For the period of parallel activity pursuant to their respective mandates, the Mechanism and the Special Rapporteur shall pursue close cooperation and coordination with each other to ensure fullest operational harmonization and continuity, effective sharing of information, documentation and evidence in line with international standards on an ongoing basis.”⁸⁰⁴

In addition, if the Special Rapporteur on Afghanistan were to lapse, the IIM-A could risk losing information upon which it would rely. Thus, the role and mandate of the Special Rapporteur on the situation of human rights in Afghanistan must be maintained in parallel to the IIM-A for the duration of its operation.

Mr. Richard Bennett emphasised his mandate “stands ready to support the work of the Mechanism, including through the body of analysis we’ve built already on human rights violations, the evidence that we have gathered and will continue to gather and the networks of Afghan women and survivors we continue to work with.”⁸⁰⁵ He further underlined that he is “fully in favor of the synergies and efficiencies that can be created.”⁸⁰⁶

⁸⁰⁰ A/HRC/RES/60/2, para. 36.

⁸⁰¹ Federica D'Alessandra, “UN Accountability Mandates in International Justice,” *Journal of International Criminal Justice* 21, no. 3 (July 2023): 551–578, <https://doi.org/10.1093/jicj/mgad038>.

⁸⁰² ‘Strengthening Coordination, Survivor-Centred Accountability, and Prevention in Light of the IIM-A’s Operationalisation.’

⁸⁰³ A/HRC/61/CRP.6, para. 47.

⁸⁰⁴ A/HRC/61/CRP.6, para. 48.

⁸⁰⁵ ‘Strengthening Coordination, Survivor-Centred Accountability, and Prevention in Light of the IIM-A’s Operationalisation.’

⁸⁰⁶ ‘Strengthening Coordination, Survivor-Centred Accountability, and Prevention in Light of the IIM-A’s Operationalisation.’

Applicable Treaty Bodies

The UNHRC, in Resolution 60/2, “invite[d] the treaty bodies, to closely monitor and reflect on the situation of human rights in Afghanistan within the scope of their respective mandates.”⁸⁰⁷ This monitoring combined with the CEDAW Committee’s 2025 Concluding Observations could support establishing the systematic and widespread nature of violations and abuses against Afghanistan’s women and girls.⁸⁰⁸ These findings could provide the context upon which the IIM-A may rely in assessing whether conduct forms part of a “widespread or systematic attack directed against any civilian population,” the chapeau threshold for crimes against humanity.⁸⁰⁹

UNAMA

Since August 2021, UNAMA’s Human Rights Service has documented more than 800 confirmed cases of extra-judicial killings, arbitrary arrests, torture, disappearances, among others.⁸¹⁰ However, its “valuable data is largely inaccessible and remains underutilized.”⁸¹¹ The Afghanistan Analysts Network notes that “the extent to which [UNAMA’s] information has been preserved with a clear chain of custody or the required consent is less clear,” which is a gap that must be audited before transmission.⁸¹²

The IIM-A, in determining its synergies with UNAMA, can also draw from the relationship between UNITAD and UNAMI. UNITAD operated in close administrative and logistical coordination with UNAMI, including use of UNAMI support services and cost-recovery arrangements, and supported some 300 requests for assistance from 21 third States/national jurisdictions.⁸¹³ That institutional proximity accelerated the mechanism’s early operational capacity and can provide a direct model for Afghanistan.⁸¹⁴

OHCHR

While the IIM-A “will operate independently when it formally commences its work,” according to Human Rights Officer Sergio Polifroni Benedetti, “the role of OHCHR, the Office of Legal

⁸⁰⁷ A/HRC/RES/60/2, para. 40.

⁸⁰⁸ UN Committee on the Elimination of Discrimination Against Women, *Concluding Observations on the Fourth Periodic Report of Afghanistan*, CEDAW/C/AFG/CO/4, 10 July 2025, paras. 11–13, <https://docs.un.org/en/CEDAW/C/AFG/CO/4>.

⁸⁰⁹ Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Fourth Periodic Report of Afghanistan*, U.N. Doc. CEDAW/C/AFG/CO/4, paras. 11–14, 17, 35, 38 (July 10, 2025); Rome Statute of the International Criminal Court art. 7(1), July 17, 1998, 2187 U.N.T.S. 90.

⁸¹⁰ United Nations Assistance Mission in Afghanistan (UNAMA), “A Barrier to Securing Peace: Human Rights Violations Against Former Government Officials and Former Armed Force Members in Afghanistan (15 August 2021 – 30 June 2023),” published August 22, 2023, [ReliefWeb report](https://reliefweb.org/report).

⁸¹¹ Human Rights Watch, “Questions and Answers on Advancing Accountability for Past and Ongoing Crimes under International Law in Afghanistan,” 18 September 2024, <https://www.hrw.org/news/2024/09/18/questions-and-answers-advancing-accountability-past-and-ongoing-crimes-under>.

⁸¹² Ehsan Qaane, “A New Accountability Mechanism for Afghanistan: What the IIM-A Can (and Cannot) Do,” Afghanistan Analysts Network, 5 November 2025, <https://www.afghanistan-analysts.org/en/reports/rights-freedom/a-new-accountability-mechanism-for-afghanistan-what-the-iim-a-can-and-cannot-do/>.

⁸¹³ United Nations Secretary-General, *United Nations Investigative Team to Promote Accountability for Crimes Committed by Da’esh/Islamic State in Iraq and the Levant*, U.N. Doc. A/73/352/Add.6, paras. 5–6, 10–11 (Oct. 12, 2018); United Nations Iraq, “UNITAD and Iraq: Cooperation with Third States,” press release, September 15, 2024.

⁸¹⁴ UNITAD, “Cooperation with Third States,” (15th September 2024), <https://iraq.un.org/en/278694-unitad-and-iraq-cooperation-third-states>.

affairs, and other Secretariat entities is to take, at this stage, steps to ensure the preparatory work is carried out for the Mechanism to become operational.”⁸¹⁵ He explained that “the main milestone so far” was “the approval by the Secretary-General of the Terms of Reference of the Mechanism.”⁸¹⁶

He underscored that the Terms of Reference highlights “the importance of gender and age sensitive approaches and also a survivor-centred approach” and that “the final version” also includes “the need for the Mechanism to establish close engagement with civil society, secure reporting channels, strict confidentiality and data protection standards and appropriate protection measures for victims, witnesses, and others who cooperate with the Mechanism.”⁸¹⁷

In a 2024 report on the human rights situation in Afghanistan, the OHCHR concluded: “existing mechanisms need to be strengthened, including the capacity of OHCHR in collecting, preserving and analysing evidence of crimes in a way that could be used to facilitate future accountability and transitional justice processes.”⁸¹⁸ Increasing that capacity may offer a door for greater synergies between OHCHR and the IIM-A.

Other Investigative Bodies

Resolution 60/2 requires the IIM-A to “benefit from the experience of, and possible synergies with, existing investigative mechanisms, with no prejudice to their work” and “[o]ptimize possible synergies with existing investigative mechanisms, including to ensure cost-efficient use of its resources.”⁸¹⁹ The Terms of Reference states that the IIM-A “will coordinate with existing investigative mechanisms as well as other United Nations accountability bodies to identify and cooperate on possible synergies.”⁸²⁰ It further specifies: “In developing its procedures and methods of work, the Mechanism shall draw upon the good practices of other comparable international accountability mechanisms.”⁸²¹ The Terms of Reference also refers to “drawing upon good practices, ensuring efficient use of resources, reducing costs, and harmonization of activities and methods of work across the United Nations.”⁸²²

The synergistic approach is designed to avoid duplication and to draw on the technical

⁸¹⁵ ‘Strengthening Coordination, Survivor-Centred Accountability, and Prevention in Light of the IIM-A’s Operationalisation.’

⁸¹⁶ ‘Strengthening Coordination, Survivor-Centred Accountability, and Prevention in Light of the IIM-A’s Operationalisation.’

⁸¹⁷ ‘Strengthening Coordination, Survivor-Centred Accountability, and Prevention in Light of the IIM-A’s Operationalisation.’

⁸¹⁸ A/HRC/57/22, para. 60.

⁸¹⁹ A/HRC/RES/60/2, paras. 26(a) & (g).

⁸²⁰ A/HRC/61/CRP.6, para. 49.

⁸²¹ A/HRC/61/CRP.6, para. 26.

⁸²² A/HRC/61/CRP.6, para. 49.

expertise of established bodies.⁸²³ Drawing from the “thematic expertise, tools, processes and capabilities that are common to all investigations” would help achieve “efficacy and efficiency” gains, enabling the IIM-A’s “fast-deployment” and supporting its “immediate operational needs.”⁸²⁴

The IIIM for instance has supported over 530 requests for assistance from 17 jurisdictions and contributed to landmark universal jurisdiction convictions; the IIMM’s evidence fed the Gambia’s ICJ proceedings against Myanmar.⁸²⁵ These track records demonstrate the model works and can provide tested methodologies for evidence management, open-source investigation, and witness protection that the IIM-A should adopt rather than develop independently.⁸²⁶

In all the interviews conducted for this project, the importance of collaboration between the Syria and Myanmar mechanisms was underlined, noting that both are based in Geneva, which allows for relatively easy consultation and ongoing communication.⁸²⁷ In contrast, the new IIM-A will be located in Vienna, which raises questions about how regular coordination, real-time advice, and close engagement with established mechanisms can be maintained.⁸²⁸ Nevertheless, despite the geographic difference, maintaining connections with these mechanisms would offer the IIM-A the opportunity to adopt established consultation models, victim- and survivor-centred engagement practices, and robust protection protocols for sources, ensuring that its work is both effective, while also taking into account Afghanistan’s realities.⁸²⁹

To maximize its relationship with the other investigative bodies, the IIM-A should establish a formal memorandum of understanding with both the IIIM and the IIMM, setting out agreed channels of communication, protocols for requesting technical assistance, and frameworks for information and evidence-sharing where legally permissible; should also designate a senior liaison function responsible for maintaining ongoing communication with the IIIM and IIMM; and should explore the feasibility of periodic secondments between mechanisms to facilitate knowledge transfer.

⁸²³ ICJ et al., “Questions and Answers on the Establishment of an Independent International Accountability Mechanism for Afghanistan.” <https://www.ici.org/questions-answers-on-the-establishment-of-an-independent-international-accountability-mechanism-for-afghanistan/>.

⁸²⁴ “UN Accountability Mandates in International Justice.”

⁸²⁵ Qaane, “A New Accountability Mechanism for Afghanistan: What the IIM-A can (and can not) do.” 5th November 2025

[a-new-accountability-mechanism-for-afghanistan-what-the-iim-a-can-and-cannot-do](https://www.ici.org/wp-content/uploads/2021/12/GLOBAL-Report-The-Future-of-Accountability-Mechanisms-ENG-2021.pdf).

⁸²⁶ ICJ and Kingdom of the Netherlands, *The Future of Accountability Mechanisms: Twenty Recommendations* (December 2021),

<https://www.ici.org/wp-content/uploads/2021/12/GLOBAL-Report-The-Future-of-Accountability-Mechanisms-ENG-2021.pdf>.

⁸²⁷ Expert interviews, with practitioners involved in international investigative mechanisms conducted by the authors, 23rd February 2026 and 9th March, confidential.

⁸²⁸ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 9th March 2026, confidential.

⁸²⁹ “HR61 Side Event: ‘Building a Victim and Survivor-Centered Investigative Mechanism for Afghanistan.’”

c. For Civil Society

- *Facilitate connection, participation, and engagement of the people of Afghanistan to international human rights mechanisms, courts, and other applicable fora by providing them as much legal, language, technical, social, health, mental health, and other forms of support and building their capacity to participate and engage effectively.*

Afghanistan's victims and survivors, especially women, encounter many barriers when trying to access justice.⁸³⁰ Many may not be aware of opportunities to meaningfully engage or the process of doing so effectively. Providing support to women to overcome these obstacles is a necessary element of empowering them as agents of change.⁸³¹ CSOs can thus play a specifically important role in bridging the gap between affected communities and international human rights mechanisms, UN entities, courts, or relevant future avenues. Civil society organisations occupy a structurally unique position, capable of connecting testimonies of women who continue to resist inside Afghanistan with the advocacy capacity of those in diaspora who can access international forums, build coalitions, and translate experiences into the technical language required by applicable avenues.⁸³²

NGOs, civil society organisations, grassroots and other community-based organisations, as well as victims' and survivor' associations, in collaboration with other actors, should contribute to "develop[ing] sustainable mechanisms"⁸³³ to strengthen accessibility to international human rights mechanisms, UN entities, courts, and other relevant fora.⁸³⁴ Such support could take the form of providing legal aid and advice to victims and survivors, translation services or assistance for illiterate persons, establishing accessible and adapted information platforms about the available legal pathways, as well as providing legal, social and psychological accompaniment of victims and survivors throughout accountability processes.⁸³⁵ Legal accompaniment ensures Afghanistan's women have access to procedural knowledge and institutional navigation support needed to meaningfully engage with courts and mechanisms.⁸³⁶

In order to effectively build capacities, organisations must also invest in standardisation of

⁸³⁰ UN Committee on the Elimination of Discrimination against Women, *General recommendation No. 33 on women's access to justice*, CEDAW/C/GC/33 (United Nations, 2015), 25, https://digitalibrary.un.org/record/807253/files/CEDAW_C_GC_33-FN.pdf, 5.

⁸³¹ CEDAW/C/GC/33, 6.

⁸³² ABILA, "Webinar: Towards an Effective and Universal Convention on Crimes Against Humanity"; Mansoor Hussein Ayobi, *Afghan Diaspora's Role in Peacebuilding and Reconciliation* (Vienna: Vienna Institute for International Dialogue and Cooperation, 2025), 5.

⁸³³ CEDAW/C/GC/33, 7.

⁸³⁴ See e.g. The Center for Human Rights Advocacy was established precisely to help ensure victims and survivors are heard by providing support to facilitate their access to international human rights mechanisms and national and international courts. Center for Human Rights Advocacy (CHRA), *About*, <https://www.cfhra.org/about>; *Activities*, <https://www.cfhra.org/activities>.

⁸³⁵ CEDAW/C/GC/33, 7.

⁸³⁶ United Nations Department of Peace Operations, *Handbook for United Nations Field Missions on Preventing and Responding to Conflict-Related Sexual Violence* (New York: United Nations, 2020), 128, <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2020/06/2020.08-UN-CRSV-Handbook.pdf>.

practices and professionalization of their procedures, so that information and evidence collected by various groups can be effectively used in criminal proceedings.⁸³⁷ Civil society “[d]ocumentation strategies should be geared toward supporting ongoing cases at international courts and catalyzing further accountability processes.”⁸³⁸ Documentation should include “human rights abuses ... but given their widespread and systematic character,” should also include “the rules and practices that produce these abuses” as well as how they are the “very means and ends, central to maintaining the system [of gender apartheid in Afghanistan].”⁸³⁹

By bridging the gap between an often complex ecosystem and affected populations, CSOs and NGOs can contribute to enable meaningful participation and empowerment in accountability processes.

D. Beyond Recognition and Codification: Towards Lasting Transformative Change

The immense scope of the system of institutionalised oppression and discrimination not only creates a dire situation for women and girls today, but will also have devastating consequences for generations to come.⁸⁴⁰ To respond to this situation, this project proposes that all current and future justice efforts must adopt a transformative vision of justice. Only such an approach can meaningfully address the root causes of the structural gender discrimination and lay the foundations of lasting peace and respect for human rights.

This chapter first draws upon lessons from the failures of past transitional justice processes in Afghanistan; second, it examines the concept of transformative justice; and finally; it offers recommendations for all relevant stakeholders to guide the implementation of a transformative approach to Afghanistan.

Importantly, while a full transformative justice process may only become possible in the event of a political transition in the future, a transformative approach must already be integrated into current accountability efforts.⁸⁴¹ This is essential to begin building the foundations for prevention, justice, and long-term peace.

⁸³⁷ HRC Res. A/HRC/60/L.9, 6 October 2025; See e.g. the work of Justice Rapid Response, <https://justicerapidresponse.org/civil-society-programme/>.

⁸³⁸ Wesna Saidy and Iavor Rangelov, “How the Taliban Is Using Law for Gender Apartheid, and How to Push Back,” Atlantic Council, May 29, 2025, <https://www.atlanticcouncil.org/content-series/inside-the-talibans-gender-apartheid/how-the-taliban-is-using-law-for-gender-apartheid-and-how-to-push-back/>

⁸³⁹ “How the Taliban Is Using Law for Gender Apartheid, and How to Push Back.”

⁸⁴⁰ Expert interview, expert in gender-sensitive strategies and transitional justice processes conducted by the authors, 21st April 2026, confidential.

⁸⁴¹ Expert interview, expert in gender-sensitive strategies and transitional justice processes conducted by the authors, 21st April 2026, confidential.

i. Lessons from Past Transitional Justice Processes

The concept of transitional justice refers to the full array of processes and mechanisms working within a society to attempt “to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation.”⁸⁴² These attempts may take the form of both judicial and non-judicial mechanisms “with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof.”⁸⁴³ It is often used to refer to accountability, justice and peacebuilding efforts in conflict and post-conflict societies, which carry heavy legacies of human rights violations and abuses.⁸⁴⁴ In the case of Afghanistan, it is often used to describe the efforts undertaken to rebuild the country after 2001.⁸⁴⁵

The fall of the Taliban in 2001, and the transitional justice process that followed, represented a major opportunity to pursue a transformative path toward accountability for past crimes. However, the complexity of the post-conflict context came with significant challenges that must be examined when designing current and future justice efforts capable of producing genuine transformation.

One major failure of the post-2001 transitional justice process was the lack of criminal accountability for past crimes, largely linked to influence from local, national, and international hegemonic powers.⁸⁴⁶ Following the fall of the Taliban and establishment of the interim government, there was initial expectation among the population that a process of genuine justice and accountability would emerge.⁸⁴⁷

The Afghanistan Independent Human Rights Commission (AIHRC) was a national institution in which much hope was placed; it was created through the Constitution established in the 2001 Bonn Agreement.⁸⁴⁸ However, despite the AIHRC formal designation as an independent body, the Commission’s autonomy was significantly undermined in practice.⁸⁴⁹ Though the Commission was nominally independent, its commissioners were appointed by the President in

⁸⁴² S/2004/616, 4.

⁸⁴³ S/2004/616, 4.

⁸⁴⁴ S/2004/616, 1; Huma Saeed, ‘The Failure of Transitional Justice in Afghanistan: Impunity Turned Into Law’, *Just Security*, 16 September 2021, <https://www.justsecurity.org/78252/the-failure-of-transitional-justice-in-afghanistan-impunity-turned-into-law/>.

⁸⁴⁵ International Center for Transitional Justice, “Afghanistan,” <https://www.ictj.org/where-we-work/afghanistan>.

⁸⁴⁶ Saeed, ‘The Failure of Transitional Justice in Afghanistan.’

⁸⁴⁷ Bilal Badloon, ‘The Failure of Transitional Justice in Afghanistan: The Political Dimension’, *American International Journal of Social Science Research* 10, no. 1 (2021): 41–49, <https://doi.org/10.46281/aijssr.v10i1.1530>, 41.

⁸⁴⁸ Saeed, ‘The Failure of Transitional Justice in Afghanistan.’

⁸⁴⁹ Expert interview, expert in transitional justice and peacebuilding efforts, conducted by the authors, 11th March 2026, confidential.

a highly centralized system, from which all major decisions flowed.⁸⁵⁰ As a result, efforts for accountability and justice pushed by civil society or minor factions were systematically blocked.⁸⁵¹

Moreover, many additional efforts for transitional justice and accountability, including a 2003 commission report, were blocked and never made public, largely due to opposition from multiple stakeholders.⁸⁵² First, resistance to accountability initiatives stemmed from segments of the government's leadership, which possessed the institutional authority to halt such processes.⁸⁵³ Secondly, responsibility for missed justice opportunities also lied with international actors, whose policy priorities favored political reconciliation without prosecution, framing accountability as secondary to "peace and stability,"⁸⁵⁴ even sometimes operating in cooperation with individuals implicated in past abuses.⁸⁵⁵ In addition, powerful figures in Afghanistan with direct involvement in earlier conflicts had vested interests in preventing scrutiny of past violations and abuses, further contributing to the obstruction of transitional justice initiatives.⁸⁵⁶ As a result, the opportunity to address decades of human rights violations and abuses was largely lost alongside a "climate of impunity and ... continued failure to hold officials and commanders accountable."⁸⁵⁷

The transitional justice process, taken over by an externally imposed vision of justice and internal power dynamics, largely failed to respond to local demands and expectations. The 2005 Afghanistan Independent Human Rights Commission's consultations with the people of Afghanistan about their vision of justice and its resulting report "A Call for Justice,"⁸⁵⁸ demonstrated a clear public demand for accountability.⁸⁵⁹ These demands were however largely ignored and overridden by obtrusive political dynamics. The report "led to the drafting of an "Action Plan for Peace, Reconciliation and Justice" by the President's Office, the AIHRC and UNAMA, which was launched on 10 December 2006"; though "only limited parts of the plan were implemented."⁸⁶⁰ A mapping report, which began in 2007, was also prepared by the AIHRC and shared with President Karzai and President Ghani after, which was never

⁸⁵⁰ Expert interview, expert in transitional justice and peacebuilding efforts, conducted by the authors, 11th March 2026, confidential.

⁸⁵¹ Expert interview, expert in transitional justice and peacebuilding efforts, conducted by the authors, 11th March 2026, confidential.

⁸⁵² Expert interview, expert in transitional justice and peacebuilding efforts, conducted by the authors, 11th March 2026, confidential; Saeed, 'The Failure of Transitional Justice in Afghanistan'; Saeed, "What's Missing in the Afghanistan War Commission," Justice Info, November 27, 2025, <https://www.justiceinfo.net/en/152817-afghanistan-war-commission-whats-missing.html>.

⁸⁵³ Expert interview, expert in transitional justice and peacebuilding efforts, conducted by the authors, 11th March 2026, confidential; Saeed, "What's Missing in the Afghanistan War Commission"; Saeed, 'The Failure of Transitional Justice in Afghanistan.'

⁸⁵⁴ Saeed, 'The Failure of Transitional Justice in Afghanistan'; Huma Saeed, "What's Missing in the Afghanistan War Commission."

⁸⁵⁵ Expert interview, expert in transitional justice and peacebuilding efforts, conducted by the authors, 11th March 2026, confidential; Saeed, "What's Missing in the Afghanistan War Commission."

⁸⁵⁶ Expert interview, expert in transitional justice and peacebuilding efforts, conducted by the authors, 11th March 2026, confidential; Saeed, 'The Failure of Transitional Justice in Afghanistan.'

⁸⁵⁷ Richard Bennett, *Situation of Human Rights in Afghanistan*, A/HRC/52/84 (United Nations, 2023),

<https://www.ohchr.org/en/documents/country-reports/ahrc5284-situation-human-rights-afghanistan-report-special-rapporteur>, para. 57, 11; Expert interview, expert in transitional justice and peacebuilding efforts, conducted by the authors, 11th March 2026, confidential.

⁸⁵⁸ Afghanistan Independent Human Rights Commission, *A Call for Justice - A National Consultation on Past Human Rights Violations in Afghanistan* (Afghanistan Independent Human Rights Commission, 2005), <https://www.refworld.org/reference/confdoc/aihr/2005/58500>.

⁸⁵⁹ Saeed, 'The Failure of Transitional Justice in Afghanistan.'

⁸⁶⁰ A/HRC/57/22, para. 36.

published.⁸⁶¹ Then, the AIHRC “lost funding for this work, and its Transitional Justice Unit was disbanded.”⁸⁶²

The National Stability and Reconciliation Law was passed by Afghanistan’s Parliament in 2007 under the influence of a powerful coalition to prevent the prosecution of individuals responsible for large-scale human rights abuses in the preceding decades and had no temporal limitation.⁸⁶³ Also called the “Amnesty Law,” it stipulated that all those who had been engaged in armed conflict before the formation of the Interim Administration in Afghanistan in December 2001 would enjoy all their legal rights and would not be prosecuted.⁸⁶⁴

More recently, the “Agreement for Bringing Peace to Afghanistan signed between the United States and the Taliban in Doha on 29 February 2020” had “no specific provisions on justice or accountability”; and following the military takeover by the Taliban *de facto* authorities, they “issued a ‘general amnesty’ for former officials of the government of the Islamic Republic of Afghanistan and former members of the ANDSF,” which has been repeatedly violated.⁸⁶⁵

These amnesties illustrate how the exclusion of victim and survivor perspectives and the dominance of political interests undermined the legitimacy of transitional justice processes, highlighting the need for more inclusive and locally grounded approaches in future justice efforts.

Need to Include Perspectives of Victims and Survivors

A major lesson from past efforts is thus the importance of grounding transitional justice processes in the perspectives of those affected.⁸⁶⁶ Understanding what Afghanistan’s communities, particularly victims and survivors, consider meaningful justice is critical. Some early transitional justice initiatives, such as the 2005 Action Plan for Peace, Justice, and Reconciliation, did attempt to do that, offering structured approaches, including truth-telling mechanisms, documentation, and limitations on participation of known perpetrators in government.⁸⁶⁷

⁸⁶¹ A/HRC/57/22, para. 38.

⁸⁶² A/HRC/57/22, para. 38.

⁸⁶³ Knaute, *How and Why Truth and Justice Have Been Kept off the Agenda*, 29; Human Rights Watch, ‘Afghanistan: Repeal Amnesty Law’, Human Rights Watch, 10 March 2010, <https://www.hrw.org/news/2010/03/10/afghanistan-repeal-amnesty-law>; A/HRC/57/22, para. 37.

⁸⁶⁴ Human Rights Watch, ‘Afghanistan.’

⁸⁶⁵ A/HRC/57/22, para. 41.

⁸⁶⁶ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

⁸⁶⁷ Government of the Islamic Republic of Afghanistan, Afghan Independent Human Rights Commission, and United Nations Assistance Mission in Afghanistan, *Peace, Reconciliation and Justice in Afghanistan: Action Plan* (Hague Conference, June 6–7, 2005), <https://www.legal-tools.org/doc/17033d>.

While these plans reflected an understanding of justice needs and incorporated some level of consultation with Afghanistan's communities, implementation was, however, largely undermined by a lack of political will and the priorities of international actors.⁸⁶⁸ As a result, efforts towards justice failed to resonate with the lived realities of Afghanistan's victims, survivors, and communities.

Failure to address impunity has "shaped how Afghanistan looks today"⁸⁶⁹ and that without truth and justice, "it has been and will remain impossible to break the cycle of violence."⁸⁷⁰ Therefore, future initiatives must prioritize updated, comprehensive research to capture the voices of those most impacted.⁸⁷¹ This requires not only capturing views from inside Afghanistan, but also integrating the perspectives of the diaspora, particularly women who have fled persecution.⁸⁷²

Furthermore, it is important to mention the linguistic barriers, limited awareness, and centralized decision-making structures that restricted victims' ability to access justice.⁸⁷³ Adding to this, the stigma and trauma surrounding the reporting of sexual violence creates significant obstacles for survivors, leaving avenues for justice largely inaccessible, emphasising the indeed for gender-sensitive and trauma-informed approaches.⁸⁷⁴ Future initiatives must therefore, be victim-centered, culturally informed, and inclusive of minorities and rural communities, ensuring that processes reflect local realities.⁸⁷⁵ Civil society organisations play an essential bridging role, connecting victims to both domestic and international mechanisms and courts and facilitating meaningful participation in accountability efforts.⁸⁷⁶

Need for a Systematic Approach

Another central lesson concerns how past efforts lacked a systematic approach to documenting violations and abuses and linking evidence to potential judicial accountability.⁸⁷⁷ This gap highlights the need for independent, well-resourced institutions capable of gathering, verifying, and preserving evidence for future accountability.⁸⁷⁸

Need to Ensure Independence and Impartiality

⁸⁶⁸ Expert interview, expert in transitional justice and peacebuilding efforts, conducted by the authors, 11th March 2026, confidential.

⁸⁶⁹ Knaute, *How and Why Truth and Justice Have Been Kept off the Agenda*, 7.

⁸⁷⁰ Knaute, *How and Why Truth and Justice Have Been Kept off the Agenda*, 6.

⁸⁷¹ Expert interview, expert in transitional justice and peacebuilding efforts, conducted by the authors, 11th March 2026, confidential.

⁸⁷² Expert interview, expert in transitional justice and peacebuilding efforts, conducted by the authors, 11th March 2026, confidential.

⁸⁷³ Expert interview, expert in transitional justice and peacebuilding efforts, conducted by the authors, 11th March 2026, confidential.

⁸⁷⁴ Expert interview, expert in transitional justice and peacebuilding efforts, conducted by the authors, 11th March 2026, confidential.

⁸⁷⁵ Expert interview, expert in transitional justice and peacebuilding efforts, conducted by the authors, 11th March 2026, confidential.

⁸⁷⁶ Expert interview, expert in transformative justice and peacebuilding efforts, conducted by the authors, 18th March 2026, confidential.

⁸⁷⁷ Expert interview, expert in transitional justice and peacebuilding efforts, conducted by the authors, 11th March 2026, confidential.

⁸⁷⁸ Expert interview, expert in transitional justice and peacebuilding efforts, conducted by the authors, 11th March 2026, confidential.

Finally, it is vital to have mechanisms that political actors cannot easily shut down. Independence, strong legal protections, and clear mandates are essential to prevent impunity and ensure the process remains credible, especially in contexts where politics, ethnicity, or other relevant factors create divisions.⁸⁷⁹ At the same time, cooperation with courts, including the ICC, the ICJ, and national courts, international human rights mechanisms, UN entities, and supportive States, is essential to keep processes impartial and to prevent the political obstacles that have blocked justice in the past.⁸⁸⁰

Taken together, these lessons demonstrate features that future efforts need to ensure to be effective, including a long-term, systematic, and independent approach shaped by people's lived experiences.⁸⁸¹ Most importantly, it must address the deeper structures of inequality and exclusion that made those harms possible.⁸⁸² The following section thus will build on these lessons and turn to how transformative justice can offer a way forward.

ii. Towards Transformative Gender Justice

These shortcomings highlight the limits of the concept of transitional justice in contexts characterised by deeply entrenched and systematic forms of discrimination. While transitional justice efforts are essential, they may be insufficient to address structural inequalities. This project therefore proposes that a broader transformative justice approach is required, one that not only addresses past violations and abuses, but also seeks to fundamentally reshape the conditions that sustain oppression.⁸⁸³

Defining Transformative Justice

Transformation includes transforming "the position of victims within a society, restoring their dignity and reaffirming their status as rights holders"; transforming "societal relations, addressing disinformation, distrust, inequality and discrimination, exclusion, and marginalisation, thereby promoting healing and reconciliation"; and transforming "dysfunctional ... institutions, inequitable power structures ... and other structural issues that may lie at the root of serious human rights violations, undermine the rule of law and weaken

⁸⁷⁹ Expert interview, expert in transitional justice and peacebuilding efforts, conducted by the authors, 11th March 2026, confidential.

⁸⁸⁰ Expert interview, expert in transitional justice and peacebuilding efforts, conducted by the authors, 11th March 2026, confidential.

⁸⁸¹ Gready and Robins, 'From Transitional to Transformative Justice', 36: Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

⁸⁸² Hoddy and Gready, 'From Agency to Root Causes', 561.

⁸⁸³ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential; Knaute, *How and Why Truth and Justice Have Been Kept off the Agenda*, 49.

the population's trust in the State and its institutions."⁸⁸⁴

Genuine transformation requires more than top-down reforms; it demands addressing patriarchal power structures and actively supporting women-led activism and women's agency.⁸⁸⁵ The concept of transformative justice can offer a way to think about this. Unlike transitional justice, which focuses mostly on punishment after crimes, transformative justice seeks to address the social, political, and economic structures that allow oppression to continue.⁸⁸⁶ It seeks to change the conditions that make such violations and abuses possible in the first place.⁸⁸⁷ For future efforts to truly address the structures oppressing Afghanistan's women and girls, they must be multifaceted.

Acknowledging Decades of Unaddressed Grievances

Accountability efforts must also address the historical and geopolitical factors that have contributed to shaping the current situation, including the legacies of colonialism and foreign intervention in the country.⁸⁸⁸ In the case of Afghanistan, considering the specific historical background is especially important when designing transformative justice approaches, as the country's history of conflict, spanning nearly fifty years, has produced a deeply complex environment for pursuing justice and accountability.⁸⁸⁹ The cyclical nature of political transitions has meant that human rights violations and abuses have often been left addressed.⁸⁹⁰ Each decade of violations and abuses resulted in overlapping layers of victimization and a persistent victim-perpetrator dilemma, where former perpetrators sometimes became victims under new political structures.⁸⁹¹ Consequently, transitional justice in Afghanistan cannot be understood simply as a post-2001 or post-2021 phenomenon, but requires acknowledging decades of unaddressed grievances.⁸⁹²

Ensuring Women's Own Experiences, Knowledge, and Strategies Remain at the Forefront

Engaging with feminist perspectives - such as Islamic feminist approaches that emphasize collective agency and locally rooted ideas of justice⁸⁹³ - ensures that transformative justice

⁸⁸⁴ United Nations Secretary-General. Guidance Note of the Secretary-General: Transitional Justice - A Strategic Tool for People, Prevention and Peace. United Nations, 2023. <https://peacemaker.un.org/sites/default/files/document/files/2024/03/202307guidancenottransitionaljusticeen.pdf>, P. 11.

⁸⁸⁵ Ayşe Gül Altınay and Andrea Pető, 'Women's Courageous Resistance to Gender Apartheid in Afghanistan: A Conversation with Shaharazad Akbar', *European Journal of Women's Studies* 29, no. 4 (2022): 493–494, 496–497, <https://doi.org/10.1177/13505068221130406>.

⁸⁸⁶ Ní Aoláin, "Transformative Gender Justice?"

⁸⁸⁷ Paul Gready and Simon Robins, 'From Transitional to Transformative Justice: A New Agenda for Practice', in *From Transitional to Transformative Justice*, ed. Paul Gready and Simon Robins (Cambridge University Press, 2019), 38.

⁸⁸⁸ Jaber, 'Gender Apartheid and the Limits of Criminalisation.'

⁸⁸⁹ ABILA, "Webinar: Towards an Effective and Universal Convention on Crimes Against Humanity."

⁸⁹⁰ Expert interview, expert in transformative justice and peacebuilding efforts, conducted by the authors, 18th March 2026, confidential.

⁸⁹¹ ABILA, "Webinar: Towards an Effective and Universal Convention on Crimes Against Humanity."

⁸⁹² Expert interview, expert in transformative justice and peacebuilding efforts, conducted by the authors, 18th March 2026, confidential.

⁸⁹³ Jaber, "Beyond International Human Rights: Islamic Feminism".

efforts listen to, not override, the voices of Afghanistan's women's demands and representations of justice.⁸⁹⁴ Their own experiences, knowledge, and strategies for resistance should guide how accountability efforts are designed.⁸⁹⁵ A woman of Afghanistan we interviewed underscored: *"Lasting change will only come when Afghanistan's women are not treated as victims of history, but as agents of justice."*⁸⁹⁶ A truly transformative gender justice framework must be grounded in their perspectives, ensuring that laws, policies, and institutions reflect the lived realities of women instead of being driven solely by external actors.⁸⁹⁷ For example, discussions about recognising *gender apartheid*, codifying it as an international crime, and ending it must put Afghanistan women's own perspectives and forms of resistance at the center.⁸⁹⁸

Yet, there is still a lack of comprehensive insight into what women inside Afghanistan themselves identify as justice priorities.⁸⁹⁹ Much remains to be understood about their specific aspirations and needs, particularly regarding social, economic, and intersectional dimensions of justice.⁹⁰⁰

One woman of Afghanistan, interviewed for this report, made it clear:

*Most importantly, this [[transformative justice] approach must be shaped by [Afghanistan's] women's own priorities. We know what we need: access to schools and universities, the ability to work and support our families, safe spaces to speak and be heard, and mechanisms of accountability that ensure our suffering is not ignored.*⁹⁰¹

Justice for Afghanistan's women may not primarily mean international prosecutions or formal legal language, it may mean ensuring access to education, healthcare, and the ability to participate fully in public life for all.⁹⁰² Afghanistan's women and civil society actors have also carried out documentation, undertaken media initiatives, and created advocacy networks. These initiatives play a crucial role in preserving memory, raising awareness, and connecting communities across borders.⁹⁰³ Therefore, transformative efforts should relate not only to legal accountability, but also address other dimensions or harms too.

⁸⁹⁴ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

⁸⁹⁵ Jaber, 'Gender Apartheid and the Limits of Criminalisation.'

⁸⁹⁶ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

⁸⁹⁷ Expert interview, expert in gender-sensitive strategies and transitional justice processes conducted by the authors, 21st April 2026, confidential.

⁸⁹⁸ Jaber, "Beyond International Human Rights: Islamic Feminism"; Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

⁸⁹⁹ Expert interview, expert in gender-sensitive strategies and transitional justice processes conducted by the authors, 21st April 2026, confidential.

⁹⁰⁰ Expert interview, expert in gender-sensitive strategies and transitional justice processes conducted by the authors, 21st April 2026, confidential.

⁹⁰¹ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

⁹⁰² Expert interview, expert in transformative justice and peacebuilding efforts, conducted by the authors, 18th March 2026, confidential; Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

⁹⁰³ Expert interview, expert in transformative justice and peacebuilding efforts, conducted by the authors, 18th March 2026, confidential.

Additionally, future transformative justice efforts need to balance international standards with the realities on the ground. This means creating accessible ways for victims and survivors to report abuses, providing strong support services, and ensuring that violations and abuses are properly documented.⁹⁰⁴

Addressing Structural and Socio-Economic Drivers of Violations and Abuses

The main barrier to justice for Afghanistan's women was a society that normalized their marginalisation.⁹⁰⁵ A truly transformative approach must thus be designed in a manner capable of dismantling the structural barriers they face.⁹⁰⁶

International crimes are rarely the work of individual perpetrators; they often occur because of deeply rooted networks and organized systems of power.⁹⁰⁷ A case-by-case approach to these crimes often results in fragmented investigations, weak indictments, and leaves intact the very systems that perpetuate violence.⁹⁰⁸ A truly transformative approach must go beyond the prosecution of individual perpetrators - necessary as that is - to target the deeper social structures that enabled these violations and abuses in the first place and that persist long after conflict formally ends.⁹⁰⁹

Lasting transformation for women and girls requires addressing the deeply embedded social structures that constrain and have constrained them into a specific role and position within their society.⁹¹⁰ This means acknowledging that each period was deeply shaped by a patriarchal social order that weaponized gender inequality.⁹¹¹ For example, a report by the UN Special Rapporteur on violence against women Yakin Ertürk following her visit to Afghanistan in 2005, highlighted four dynamics underpinning violence against women: "the traditional patriarchal gender order; the erosion of protective social mechanisms; the lack of the rule of law; and poverty and insecurity in the country."⁹¹² Therefore, because violence in Afghanistan is rooted in a deeply patriarchal social order, any effort at transformative justice must actively address this gendered dimension to be effective.⁹¹³ The CEDAW Committee has offered a hopeful

⁹⁰⁴ Expert interview, expert in transitional justice and peacebuilding efforts, conducted by the authors, 11th March 2026, confidential.

⁹⁰⁵ Knaute, *How and Why Truth and Justice Have Been Kept off the Agenda*, 11.

⁹⁰⁶ Knaute, *How and Why Truth and Justice Have Been Kept off the Agenda*.

⁹⁰⁷ Knaute, *How and Why Truth and Justice Have Been Kept off the Agenda*, 31.

⁹⁰⁸ Knaute, *How and Why Truth and Justice Have Been Kept off the Agenda*, 30.

⁹⁰⁹ Expert interview, expert in transformative justice and peacebuilding efforts, conducted by the authors, 18th March 2026, confidential; Knaute, *How and Why Truth and Justice Have Been Kept off the Agenda*, 32; CEDAW General Recommendation 35, para. 9.

⁹¹⁰ Knaute, *How and Why Truth and Justice Have Been Kept off the Agenda*, 49.

⁹¹¹ Knaute, *How and Why Truth and Justice Have Been Kept off the Agenda*, 16, 50.

⁹¹² Yakin Ertürk, Report on Violence against Women, Its Causes and Consequences, Addendum: Mission to Afghanistan (9–19 July 2005), UN Commission on Human Rights, E/CN.4/2006/61/Add.5 (15 Feb. 2006), 7, para 20, <https://docs.un.org/en/E/CN.4/2006/61/Add.5>.

⁹¹³ Knaute, *How and Why Truth and Justice Have Been Kept off the Agenda* 30-32; See Also, CEDAW Committee General Recommendation 35, para. 19.

perspective, namely, that the social positioning of individuals is “affected by political, economic, cultural, social, religious, ideological and environmental factors and can be changed by culture, society and community.”⁹¹⁴

Furthermore, discrimination in Afghanistan is also compounded by class and social status. Poor, rural, and working-class women are disproportionately subjected to restrictions, surveillance, and punishment.⁹¹⁵ Reports and testimonies indicate that punishment and treatment are often applied differently depending on social status.⁹¹⁶ As one account explains, “if a scholar commits a crime, he will just be informed about the crime; if a rich person commits a crime, he will be asked to appear in court. However, if a common person commits a crime, he or she must appear in court, will be imprisoned, and will be punished.”⁹¹⁷

These inequalities are closely tied to deeper economic structures that further increase women’s vulnerabilities. Many victims and survivors from Afghanistan experience systematic socioeconomic deprivation caused by decades of conflict, including displacement, loss of livelihoods, denial of education, and restricted access to healthcare.⁹¹⁸

In Afghanistan, past programmes often overlooked the specific forms of violence that women experienced, such as reproductive violence (including forced pregnancy, sterilization, or abortion) and the widespread denial of land ownership rights.⁹¹⁹ When land rights were ignored for instance, these programmes unintentionally reinforced women’s economic dependence, which is a major factor in their vulnerability.⁹²⁰

To be truly effective, future transformative justice efforts must therefore prioritize reparations that include restoring land ownership and providing livelihood programmes, so that women gain tangible access to economic independence, over leaving the underlying structures of economic inequality intact.⁹²¹ The CEDAW Committee has recommended designing “transformative reparations programmes that help to address the underlying discrimination or disadvantaged position that caused or significantly contributed to the violation, taking into account the individual, institutional and structural aspects.”⁹²²

⁹¹⁴ CEDAW Committee General Recommendation 28, para. 5.

⁹¹⁵ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

⁹¹⁶ See e.g., A/HRC/58/74, para. 80.

⁹¹⁷ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

⁹¹⁸ Expert interview, expert in transformative justice and peacebuilding efforts, conducted by the authors, 18th March 2026, confidential.

⁹¹⁹ Knaute, *How and Why Truth and Justice Have Been Kept off the Agenda*, 50.

⁹²⁰ Knaute, *How and Why Truth and Justice Have Been Kept off the Agenda*, 49.

⁹²¹ Knaute, *How and Why Truth and Justice Have Been Kept off the Agenda*, 32, para 54, 49.

⁹²² CEDAW Committee General Recommendation 35, para. 33(b).

The Roles of Education and Youth Engagement

Finally, a transformative approach also emphasizes education, both conventional and human rights-focused, as a prerequisite for informed participation in justice and peace processes.⁹²³ Empowering communities with knowledge about their rights and avenues for accountability is a vital first step before any transformative justice processes can be effective.⁹²⁴

As one woman of Afghanistan made clear:

*"For me, justice means restoring what has been stolen: the right to learn, to work, to move freely, and to participate in society. It means creating pathways for [Afghanistan's] girls to reclaim education, for women to rebuild economic opportunity, and for communities to heal from the trauma of exclusion. Transformative justice must also recognize the psychological wounds, the despair, the suicides, the silencing and prioritize mental health support alongside legal and social repair."*⁹²⁵

Children are often the most affected by conflict, yet they are rarely included in transitional justice efforts, thus education and youth engagement should be essential.⁹²⁶ Justice must involve young people and use education to reshape collective memory. Only then can the next generation be freed from inheriting cycles of violence, impunity, and hatred.⁹²⁷ Without such a comprehensive approach, Afghanistan risks a painful continuity, in which, often unintentionally, parents may continue to pass down their own histories and hatreds to their children - a "poisoned gift"⁹²⁸ that perpetuates divisions in place of healing.

Overall, achieving meaningful transformative justice in Afghanistan requires a multidimensional and holistic approach. It demands addressing unaddressed grievances, centering the voices of victims, survivors, and communities, addressing structural and socio-economic drivers of violence, as well as promoting education, awareness, and youth engagement.⁹²⁹

⁹²³ Expert interview, expert in transformative justice and peacebuilding efforts, conducted by the authors, 18th March 2026, confidential; See Also, <https://www.unesco.org/en/legal-affairs/recommendation-education-peace-and-human-rights-international-understanding-cooperation-fundamental?hub=87862>.

⁹²⁴ Expert interview, expert in transformative justice and peacebuilding efforts, conducted by the authors, 18th March 2026, confidential; Expert interview, expert in gender-sensitive strategies and transitional justice processes conducted by the authors, 21st April 2026, confidential.

⁹²⁵ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

⁹²⁶ Knaute, *How and Why Truth and Justice Have Been Kept off the Agenda*, 51.

⁹²⁷ Knaute, *How and Why Truth and Justice Have Been Kept off the Agenda*, 6-7.

⁹²⁸ Knaute, *How and Why Truth and Justice Have Been Kept off the Agenda*, 7.

⁹²⁹ Expert interview, expert in transformative justice and peacebuilding efforts, conducted by the authors, 18th March 2026, confidential.

iii. Recommendations

a. To States

a. Prioritise long-term, flexible funding and support for direct partnerships with locally-rooted civil society structures, including women-led organisations, transferring ownership of transformative justice initiatives to these communities to ensure they are culturally grounded, gender sensitive, inclusive, and community-led.

Contemporary transitional justice tends to be shaped primarily through international mechanisms, professionals in that area, and major donors, instead of being led by local actors themselves.⁹³⁰ Post-2001, international organisations and donors tended to provide direct support towards civil society organisations that fit a certain framework, with a prioritization of “urban-based NGOs”⁹³¹ to the expense of more traditional and locally-rooted forms of civil society.⁹³² While considerable progress has been made in the field of human rights, this tendency to engage with actors fitting a narrow vision of civil society risked marginalising other forms of civic engagement deeply rooted in Afghanistan’s history and culture, and resulted in a sidelining of voices from rural communities.⁹³³ In contrast, the Malala Fund’s investment of over three million dollars in Afghan-led coalitions building legal and political momentum to codify gender apartheid demonstrates the scale of civil society contribution that becomes possible when long-term, flexible funding is made available directly to local and diaspora organisations.⁹³⁴

Therefore, for justice to be transformative, it must take the form of a “locally rooted movement,”⁹³⁵ through “grassroot driven approaches that impact directly on communities.”⁹³⁶ Women-led organisations built their legitimacy not through institutional recognition but through years of sustained presence alongside their communities.⁹³⁷ Thus, local structures should be able to take ownership of transition justice processes so that they become truly inclusive transitional and enable the participation of marginalised communities.⁹³⁸ Past experience suggests that activists have been able to achieve transformative effects for

⁹³⁰ Gready and Robins, ‘From Transitional to Transformative Justice’, 34.

⁹³¹ Kajsa Johansson, *Supporting Civil Society in Afghanistan*, Policy Brief (Solidarity Committee for Afghanistan, 2025), <https://solidaritycommittee.org/wp-content/uploads/sites/3/2025/09/Solidarity-Committee-Policy-Brief-Supporting-Civil-Society-in-Afghanistan.pdf>, 1.

⁹³² Johansson, *Supporting Civil Society in Afghanistan*, 2.

⁹³³ Johansson, *Supporting Civil Society in Afghanistan*, 2-3.

⁹³⁴ Malala Fund, “\$3 Million in Grants to Defend Afghan Girls’ Rights,” 20 August 2025 <https://malala.org/news-and-voices/3-million-in-grants-to-defend-afghan-girls-rights>.

⁹³⁵ Gready and Robins, ‘From Transitional to Transformative Justice’, 34.

⁹³⁶ Gready and Robins, ‘From Transitional to Transformative Justice’, 35.

⁹³⁷ Monroy-Santander and Otálora-Gallego, “Disrupting the Transitional Justice Circuit,” 670.

⁹³⁸ United Nations Secretary-General, *Guidance Note of the Secretary-General: Transitional Justice*, 8.

themselves and their communities with little to no support from State and international donors.⁹³⁹ This suggests that, when adequately supported, locally-led initiatives may help bridge the gap between the ambitious promises of transformative justice and the enduring limitations embedded within its institutional structures.⁹⁴⁰ Therefore, those who often act as main recipients and distributors of financial support, should prioritize partnership with locally rooted forms of civil society.⁹⁴¹

- *Provide holistic support to victims, survivors, and communities, including by establishing a dedicated victims and survivors fund to enable safe, sustained, full, effective, and meaningful leadership and participation in transformative justice efforts.*

For a victim- and survivor-centred approach to be implemented in practice, affected individuals must first possess the capability to engage meaningfully with each process. In this context, States should do what they can to provide holistic, long-term support to victims and survivors. Survivors often experience a range of interconnected needs that extend well beyond access to legal remedies.⁹⁴² These include livelihood concerns, personal safety, housing and relocation driven by ongoing risks of violence, childcare responsibilities, travel costs tied to court appearances, asylum claims, and access to medical and psychosocial care.⁹⁴³

Providing holistic support to affected communities is a core element of an effective transformative justice approach, as it is essential that they are empowered as agents of change who can meaningfully participate.⁹⁴⁴ States should offer support that can be rapidly delivered and highly impactful to victims and survivors, such as “areas of sanitation, housing, education, protection and health care, as well as measures to confer legal identity.”⁹⁴⁵ Additionally, they should offer financial, logistical, and social support to victims and survivors seeking justice including through asylum pathways, legal aid, and psychosocial support.⁹⁴⁶ These are prerequisite capacity-building support measures to ensure that victims and survivors can meaningfully lead, participate, engage, and address the long-term harms caused by systemic oppression.

The IIM-A should be specifically supported through the establishment of a dedicated fund to enable the safe, sustained, and meaningful participation of victims and survivors. Such a fund

⁹³⁹ Monroy-Santander and Otálora-Gallego, “Disrupting the Transitional Justice Circuit,” 674.

⁹⁴⁰ Monroy-Santander and Otálora-Gallego, “Disrupting the Transitional Justice Circuit,” 674.

⁹⁴¹ Johansson, *Supporting Civil Society in Afghanistan*, 2.

⁹⁴² UN Office of the Special Representative on Sexual Violence in Conflict, *International Protocol*, 16.

⁹⁴³ REDRESS, Practice Note, 24.

⁹⁴⁴ United Nations Secretary-General, *Guidance Note of the Secretary-General: Transitional Justice*, 19.

⁹⁴⁵ United Nations Secretary-General, *Guidance Note of the Secretary-General: Transitional Justice*, 19.

⁹⁴⁶ IAPB, *Survivor-Centred Approach to Documentation*, 16-17.

could provide targeted support for medical care, psychological rehabilitation, legal assistance, and basic livelihood needs, ensuring that engagement does not exacerbate vulnerability or re-traumatization.⁹⁴⁷

An example of this approach is the ICC Trust Fund for Victims (TFV), which provides both reparations and direct assistance - such as physical rehabilitation, psychological care, and material support - to victims and their families, sometimes even before the conclusion of legal proceedings.⁹⁴⁸ It has supported over 120,000 victims and funded through voluntary contributions.⁹⁴⁹ Importantly, it enables victims to receive support regardless of whether their harm stems from particular crimes charged in a specific case, making it broader and more inclusive than reparations tied to individual criminal liability.⁹⁵⁰

Therefore, engaging victims and survivors effectively often requires addressing their needs as a precondition for participation, enabling them to act not only as survivors of harm, but as recognised and equal participants in accountability processes.⁹⁵¹ A dedicated fund for the IIM-A would thus give practical effect to this principle.

b. To the IIM-A

- *The IIM-A should be understood not only as a retrospective tool focused on past violations and abuses, but also as a preventive institution capable of disrupting ongoing patterns of violations and abuses, deterring future violations and abuses, and supporting transformative justice initiatives.*

The preventive function of an independent investigative mechanism, like the IIM-A, is explicitly grounded in the understanding that “only through the rule of law, coupled with human-rights driven legislation and policy-making, can human rights violations and abuses be effectively prevented,”⁹⁵² and that “applying a preventive lens is crucial to situating accountability in the overall objectives enshrined in the United Nations Charter.”⁹⁵³ Prevention operates by deterring future crimes, addressing root causes of conflict and repression, and identifying early warning

⁹⁴⁷ Trust Fund for Victims, “Assistance Mandate,” <https://www.trustfundforvictims.org/en/about/two-mandates-tfv/assistance>.

⁹⁴⁸ Trust Fund for Victims, “Legal Basis,” <https://www.trustfundforvictims.org/en/about/legal-basis>.

⁹⁴⁹ Coalition for the International Criminal Court, “Trust Fund for Victims,” <https://www.coalitionfortheicc.org/explore/trust-fund-victims>.

⁹⁵⁰ Trust Fund for Victims, “Assistance Mandate.”

⁹⁵¹ Ilze Brands-Kehris, statement delivered on behalf of Michelle Bachelet, “The Role of UN-Created Accountability Mechanisms in the Global Fight Against Impunity: What’s Next?” United Nations Office of the High Commissioner for Human Rights, January 20, 2021, <https://www.ohchr.org/en/statements-and-speeches/2021/01/role-un-created-accountability-mechanisms-global-flight-against>.

⁹⁵² Ilze Brands-Kehris, statement delivered on behalf of Michelle Bachelet, “The Role of UN-Created Accountability Mechanisms in the Global Fight Against Impunity.”

⁹⁵³ Ilze Brands-Kehris, statement delivered on behalf of Michelle Bachelet, “The Role of UN-Created Accountability Mechanisms in the Global Fight Against Impunity.”

indicators of escalating abuse.⁹⁵⁴

It further depends on embedding accountability within broader societal and institutional transformation.⁹⁵⁵ This requires comprehensive, complementary local, national, and international mechanisms that are responsive to affected populations and designed to interrupt structural drivers of abuse.⁹⁵⁶ Addressing structural and underlying causes of harm remains essential.⁹⁵⁷ Effective accountability must therefore go beyond documenting violations and abuses to actively shaping conditions that reduce the risk of their repetition.⁹⁵⁸ The IIM-A should also go further than adopting a gender-responsive approach, and adopt a gender transformative approach, “designed around a fundamental aim of addressing root causes of gender inequality within [Afghanistan’s] society.”⁹⁵⁹

This vision is directly aligned with the transformative and preventive aims of the IIM-A, as reflected in Resolution 60/2, which established the IIM-A. Specifically, it “[r]eiterates that delivering justice and redress to victims, and accountability to perpetrators, of gross human rights violations and abuses and serious violations of international humanitarian law through all available processes is an essential pillar needed for long-term sustainable peace, development and reconciliation in Afghanistan and is necessary for re-establishing the rule of law, strengthening the institutional protection of human rights and preventing the continued recurrence of grave violations and abuses, as well as restoring human dignity and rebuilding trust among the full range of members of Afghan society.”⁹⁶⁰

Therefore, the IIM-A should expand beyond a mechanism’s “typical set of activities,”⁹⁶¹ and instead ground itself in “a transformative and preventive project that contributes to building national human rights protection systems.”⁹⁶²

- *In implementing a comprehensive victim- and survivor-centred approach, treat survivor engagement as part of a broader strategy aimed at restoring dignity, strengthening agency, and supporting survivors as active participants in processes of accountability, prevention, and*

⁹⁵⁴ Ilze Brands-Kehris, statement delivered on behalf of Michelle Bachelet, “The Role of UN-Created Accountability Mechanisms in the Global Fight Against Impunity.”

⁹⁵⁵ Ilze Brands-Kehris, statement delivered on behalf of Michelle Bachelet, “The Role of UN-Created Accountability Mechanisms in the Global Fight Against Impunity.”

⁹⁵⁶ Ilze Brands-Kehris, statement delivered on behalf of Michelle Bachelet, “The Role of UN-Created Accountability Mechanisms in the Global Fight Against Impunity.”

⁹⁵⁷ UN Secretary-General, The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies: Report of the Secretary-General, S/2004/616, 4.

⁹⁵⁸ Ilze Brands-Kehris, statement delivered on behalf of Michelle Bachelet, “The Role of UN-Created Accountability Mechanisms in the Global Fight Against Impunity.”

⁹⁵⁹ A/HRC/RES/60/2, para. 26(d).

⁹⁶⁰ Resolution 60/2, para. 23.

⁹⁶¹ Ilze Brands-Kehris, statement delivered on behalf of Michelle Bachelet, “The Role of UN-Created Accountability Mechanisms in the Global Fight Against Impunity.”

⁹⁶² Ilze Brands Kehris, opening remarks, Accountability Roundtable Series, OHCHR, August 31, 2021,

<https://www.ohchr.org/en/statements-and-speeches/2021/10/role-un-mandated-investigative-mechanisms-securing-accountability>.

social transformation.

Transformative justice cannot be realised if the structural conditions that produced vulnerability to violence in the first place remain unaddressed.⁹⁶³ Women survivors have consistently described justice not in terms of courtroom outcomes or monetary compensation, but in terms of concrete socioeconomic change - access to education, fair wages, housing, and psychosocial support.⁹⁶⁴ As one activist described, the most meaningful form of redress she received was not financial compensation but securing her daughter's access to university education: "that is the best reparation I can get; I will have that for life."⁹⁶⁵ Approaches aiming to restore survivors to conditions existing prior to violations may inadvertently reinstate the same structural inequalities that originally rendered them vulnerable.⁹⁶⁶

A successful transformative approach must take into account the diverse realities and socio-economic conditions of women in Afghanistan.⁹⁶⁷ Practitioners within the IIM-A must therefore be positioned to facilitate referrals to community-level services, ensuring that survivors are not left without assistance simply because their needs fall outside what the Mechanism itself can directly provide.⁹⁶⁸

Socioeconomic support must be built into the mechanism's operational design as a core commitment.⁹⁶⁹ This requires mapping organisations that work with survivors as well as developing and continuously updating referral networks that connect survivors to services addressing their health, psychosocial, economic, and legal needs.⁹⁷⁰ It also entails ensuring that practitioners are adequately trained and resourced to activate these referral pathways at every stage of survivor engagement.⁹⁷¹ Beyond formal institutional partnerships, the Mechanism must also recognise the role that trusted community-based groups and support services play in survivor rehabilitation and long-term wellbeing.⁹⁷² These networks often reach survivors in ways that formal organisations cannot, and their involvement can be integral to recovery.⁹⁷³

- *Operationalise inclusivity from the beginning, including by recruiting a significant portion of staff from diverse regions, ethnicities, genders, and expertise across Afghanistan, ensuring all affected communities are fairly represented within the mechanism's staff.*

⁹⁶³ Monroy-Santander and Otálora-Gallego, "Disrupting the Transitional Justice Circuit, 661.

⁹⁶⁴ Monroy-Santander and Otálora-Gallego, "Disrupting the Transitional Justice Circuit, 668-669.

⁹⁶⁵ Monroy-Santander and Otálora-Gallego, "Disrupting the Transitional Justice Circuit, 669.

⁹⁶⁶ Monroy-Santander and Otálora-Gallego, "Disrupting the Transitional Justice Circuit, 669.

⁹⁶⁷ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

⁹⁶⁸ IAPB, Survivor-Centred Approach to Documentation, 18.

⁹⁶⁹ IAPB, Survivor-Centred Approach to Documentation, 18.

⁹⁷⁰ IAPB, Survivor-Centred Approach to Documentation, 18.

⁹⁷¹ IAPB, Survivor-Centred Approach to Documentation, 17.

⁹⁷² IAPB, Survivor-Centred Approach to Documentation, 7.

⁹⁷³ IAPB, Survivor-Centred Approach to Documentation, 18.

The Terms of Reference requires the IIM-A to “adopt an inclusive ... approach ... throughout its operations.”⁹⁷⁴ To avoid the challenges that afflicted the former transitional justice efforts, while paving the way for the IIM-A’s contribution to meaningful transformation, inclusivity must be operationalized early in the mechanism’s journey.⁹⁷⁵

Local knowledge in Afghanistan is diverse and shaped by, to name a few, region, ethnicity, religion, gender, language, and displacement experience.⁹⁷⁶ Recruiting diverse staff and advisors who can navigate its complexity - is essential to ensuring that the mechanism's work reaches the full range of affected communities.⁹⁷⁷

The IIM-A's ability to build trust with affected communities, access contextually relevant evidence, and produce analytical products of sufficient depth and accuracy to support criminal proceedings will depend significantly on having staff who bring linguistic, cultural, and experiential knowledge of the specific communities whose experiences are under investigation.⁹⁷⁸

Therefore, the IIM-A should also recruit a significant portion of its staff from a diverse range of individuals from Afghanistan, including diaspora experts. The IIMM offers a compelling precedent: with approximately 30 per cent of staff drawn from Myanmar,⁹⁷⁹ the mechanism enhanced both the quality and the credibility of its investigative work.⁹⁸⁰ A comparable commitment by the IIM-A would ensure that investigations reflect the lived experiences of victims and survivors and extend beyond the urban or elite networks that too often shape accountability processes, while also meaningfully contributing to lasting transformation.⁹⁸¹

c. To UN Entities and International Human Rights Mechanisms

- *In the implementation of each respective mandate, ensure a focus on the underlying social, political, institutional, and economic systems that enable and sustain oppression.*⁹⁸²

Traditional transitional justice measures are increasingly criticized for addressing the symptoms

⁹⁷⁴ A/HRC/61/CRP.6, para. 28.

⁹⁷⁵ Expert interviews with two practitioners involved in international investigative mechanisms, conducted by the authors, 23rd February 2026 and 9th March 2026, confidential.

⁹⁷⁶ Expert interview, expert in transformative justice and peacebuilding efforts, conducted by the authors, 18th March 2026, confidential; Expert interview, expert in gender-sensitive strategies and transitional justice processes conducted by the authors, 21st April 2026, confidential.

⁹⁷⁷ IIMM, Gender Strategy and Implementation Plan, 4.

⁹⁷⁸ IIMM, Gender Strategy and Implementation Plan, 7.

⁹⁷⁹ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 9th March 2026, confidential.

⁹⁸⁰ Expert interview, with practitioner involved in international investigative mechanisms conducted by the authors, 9th March 2026, confidential.

⁹⁸¹ Expert interview, expert in transformative justice and peacebuilding efforts, conducted by the authors, 18th March 2026, confidential.

⁹⁸² Ní Aoláin, “Transformative Gender Justice?”

of the problem over the root causes of violations and abuses.⁹⁸³ Individual violations and abuses do not occur in a social vacuum, but are embedded in social, cultural, political and economic structures and relations.⁹⁸⁴ These structures, often inherited from the past and subsisting in the present, are preventing real, long-lasting change from happening in transitional societies, if left unaddressed.⁹⁸⁵

In Afghanistan, as highlighted in previous sections of this report, oppression against women and girls is deeply embedded in institutional and socio-economic structures.⁹⁸⁶ There is therefore an urgent need to focus on structural dimensions of harms, so that they can be properly addressed.⁹⁸⁷ UN entities and international human rights mechanisms have a great potential to carry out such activities. They should focus their efforts on identifying the social, political, and economic structures that allow oppression to subsist, so that future transformative justice efforts can effectively address the root cause of harms and optimize the prevention of such violations and abuses from recurring in the future.⁹⁸⁸

- *Support the integration of accountability efforts and measures to prevent the recurrence of new violations and abuses to enable meaningful transformation.*

Accountability processes are often implemented in isolation, limiting their transformative impact.⁹⁸⁹ A transformative approach requires a connection of accountability efforts to broader reforms, including “constitutional, legal, and institutional,” to be able to prevent violations and abuses from happening in the future.⁹⁹⁰ The United Nations “must focus on making a sustainable and transformative impact for people and communities. This requires connecting transitional justice support to a broader peacebuilding and preventive agenda that addresses the structural causes and contributors to conflict and violations.”⁹⁹¹ Therefore, UN entities and international human rights mechanisms should support transformative justice processes linking justice efforts to broader reforms.⁹⁹²

⁹⁸³ Eric T. Hoddy and Paul Gready, ‘From Agency to Root Causes: Addressing Structural Barriers to Transformative Justice in Transitional and Post-Conflict Settings’, *Contemporary Social Science* 15, no. 5 (2020): 561–576, <https://doi.org/10.1080/21582041.2020.1812706>, 561.

⁹⁸⁴ Hoddy and Gready, ‘From Agency to Root Causes’, 561, 563.

⁹⁸⁵ Gready, ‘Introduction,’ 23; Hoddy and Gready, ‘From Agency to Root Causes,’ 561.

⁹⁸⁶ A/HRC/56/25, 2, 5.

⁹⁸⁷ UNICEF Office of Strategy and Evidence – Innocenti, *The Costs of Inaction on Girls’ Education and Women’s Labour Force Participation in Afghanistan* (UNICEF Innocenti, 2026), <https://www.unicef.org/innocenti/media/12866/file/UNICEF-Innocenti-Cost-of-Inaction-Afghanistan-brief-2026.pdf>, 1-2, 11-12; Hoddy and Gready, ‘From Agency to Root Causes’, 561.

⁹⁸⁸ Hoddy and Gready, ‘From Agency to Root Causes,’ 561.

⁹⁸⁹ UN Women, *Advancing Gender Equality through Legislative Reform in Transitional Justice Contexts* (UN Women, 2026), <https://www.unwomen.org/sites/default/files/2026-03/advancing-gender-equality-through-legislative-reform-in-transitional-justice-contexts-en.pdf>, 24.

⁹⁹⁰ See e.g., International Center for Transitional Justice, *Input from the International Center for Transitional Justice (ICTJ) To the Office of the United Nations High Commissioner for Human Rights (OHCHR) for the Preparation of the Report on Lessons Learned and Good Practices of Transitional Justice That Contribute to Peace and Development (Pursuant to Human Rights Council Resolution 51/23)* (2024), <https://www.ohchr.org/sites/default/files/documents/issues/transitionaljustice/cfis/2024-sdg16/subm-ohchr-lessons-learned-cso-international-center-transitional-justice.pdf>; <https://www.ohchr.org/en/transitional-justice/>

⁹⁹¹ United Nations Secretary-General, *Guidance Note of the Secretary-General: Transitional Justice*, P. 11.

⁹⁹² OHCHR, *Transitional Justice and Human Rights*, <https://www.ohchr.org/en/transitional-justice/>: “We aim to address the causes, structural drivers and enablers of human rights violations, contributing to prevention, sustaining peace, development and reconciliation.”

According to a recent report by UN Women: “[b]y dismantling discriminatory legal frameworks, embedding principles of equality and non-discrimination and enshrining rights that are enforceable within functioning justice systems, legislative reform can help disrupt the self-reinforcing cycle of gender inequality and conflict, address structural drivers of violence and lay the groundwork for more inclusive and resilient societies. When undertaken through inclusive, transparent and participatory processes, legislative reform has the potential to not only prevent the recurrence of violations, but also contribute to the longer-term transformation of social norms and power relations.”⁹⁹³

Legislative reform, “can support progress towards gender equality in transitional contexts when it is embedded within broader transitional justice processes and supported by sustained implementation.”⁹⁹⁴ This ensures that accountability processes actively contribute to transforming the conditions that enabled violations and abuses.⁹⁹⁵

d. To the ICC’s Office of the Prosecutor and National Authorities

- *Investigate unaddressed violations and abuses, including those that occurred before the military takeover by the Taliban de facto authorities, to the extent possible.*

Afghanistan’s recent history is marked by overlapping conflicts and successive regimes, resulting in multiple layers of victimisation.⁹⁹⁶ A nation-wide report revealed the priorities of the people of Afghanistan, demanding truth, accountability, and redress for violations and abuses across decades.⁹⁹⁷ “Amnesty laws”, such as the one passed in Afghanistan in 2007, can deepen significant impunity gaps and risk destabilising societies if left unresolved.⁹⁹⁸

Given the lack of an independent, legitimate, and functioning judicial system in Afghanistan, the ICC’s Office of the Prosecutor or national authorities outside Afghanistan should therefore investigate violations or abuses that have so far been left unaddressed, including those committed prior to the military takeover by the Taliban *de facto* authorities.⁹⁹⁹ Although investigations and prosecutions often face significant constraints in practice, pursuing accountability remains key for prevention and strengthening prospects for sustainable

⁹⁹³ UN Women, *Advancing Gender Equality through Legislative Reform in Transitional Justice Contexts* (UN Women, 2026), <https://www.unwomen.org/sites/default/files/2026-03/advancing-gender-equality-through-legislative-reform-in-transitional-justice-contexts-en.pdf>, 24.

⁹⁹⁴ UN Women, *Advancing Gender Equality through Legislative Reform in Transitional Justice Contexts*.

⁹⁹⁵ Expert interview, expert in gender-sensitive strategies and transitional justice processes conducted by the authors, 21st April 2026, confidential.

⁹⁹⁶ Expert interview, expert in transformative justice and peacebuilding efforts, conducted by the authors, 18th March 2026, confidential; ABILA, “Webinar: Towards an Effective and Universal Convention on Crimes Against Humanity”.

⁹⁹⁷ Afghanistan Independent Human Rights Commission, *A Call for Justice*.

⁹⁹⁸ United Nations Secretary-General, *Guidance Note of the Secretary-General: Transitional Justice*, 17.

⁹⁹⁹ United Nations Secretary-General, *Guidance Note of the Secretary-General: Transitional Justice*, 16.

peace.¹⁰⁰⁰

e. To Civil Society

- *Empower the people of Afghanistan, particularly women, recognising them as active agents of change, organisers, and sources of expertise, to advocate for and shape the transformative justice processes they envision, including by systematically consulting a diverse range of communities (both within the country and in the diaspora), conducting a large-scale, systematic mapping of priorities, and supporting the paths for their realisation.*

During the post-2001 transitional justice process, local demands for justice were repeatedly sidelined by political considerations.¹⁰⁰¹ As a result, many justice initiatives failed to resonate with the lived realities and expectations of affected communities, undermining their legitimacy and limiting their long-term impact on peace and reconciliation processes.¹⁰⁰² This gap between local demands and the design of transitional justice measures has been a common issue in many transitional justice processes.¹⁰⁰³

Transformative justice processes must therefore be systematically grounded in the perspectives of those most affected, including diverse committees both within Afghanistan and in the diaspora. This requires meaningful, continuous and inclusive consultations that prioritise the representations, experiences and demands of victims and survivors, while ensuring those most marginalised or oppressed are heard and contribute to shaping justice priorities.¹⁰⁰⁴ The UN Secretary-General recommends “having victims initiate, drive and participate ... taking their rights, needs and aspirations into account at every step of the way.”¹⁰⁰⁵ Such an approach is key to ensuring that transformative justice processes answer to local realities and are more likely to be viewed as legitimate to affected communities.¹⁰⁰⁶

As a woman of Afghanistan we interviewed emphasised: “Transformative justice must begin by listening to Afghanistan’s women themselves.”¹⁰⁰⁷ A key aspect of transformative justice approaches is that they are built from the bottom-up, grounded in “local agency and

¹⁰⁰⁰ United Nations Secretary-General, *Guidance Note of the Secretary-General: Transitional Justice*, 16-17.

¹⁰⁰¹ Expert interview, conducted by the authors, March 2026, confidential; Saeed, ‘The Failure of Transitional Justice in Afghanistan.’

¹⁰⁰² Saeed, ‘The Failure of Transitional Justice in Afghanistan.’

¹⁰⁰³ Paul Gready, ‘Introduction’, in *From Transitional to Transformative Justice*, ed. Paul Gready and Simon Robins (Cambridge University Press, 2019), 6.

¹⁰⁰⁴ OHCHR, *OHCHR Internal Technical Guidance: Supporting Meaningful National Consultations on Transitional Justice*, 4; United Nations Secretary-General, *Guidance Note of the Secretary-General: Transitional Justice*, 8.

¹⁰⁰⁵ United Nations Secretary-General, *Guidance Note of the Secretary-General: Transitional Justice - A Strategic Tool for People, Prevention and Peace* (United Nations, 2023), <https://peacemaker.un.org/sites/default/files/document/files/2024/03/202307guidancenotetransitionaljusticeen.pdf>, 8.

¹⁰⁰⁶ United Nations Secretary-General, *Guidance Note of the Secretary-General: Transitional Justice*, 6; OHCHR, *OHCHR Internal Technical Guidance: Meaningful National Consultations*, 1.

¹⁰⁰⁷ Interview.

resources,”¹⁰⁰⁸ and “driven by the local and particular understanding of rights.”¹⁰⁰⁹ This is especially important in Afghanistan, where past transitional justice efforts often reflected the political priorities and agendas of external stakeholders.¹⁰¹⁰ A bottom-up approach to building the justice process would allow policies and institutions to be able to better address the actual needs and demands of the affected population.¹⁰¹¹

For the justice process to be built from the bottom-up, so that laws, policies and institutions directly respond to the needs and demands of affected communities, transformative justice measures should be grounded in evidence (as opposed to purely normative approaches).¹⁰¹² This would allow for “a practice more in tune with the pulse of local, everyday needs beyond global fads and priorities.”¹⁰¹³

Afghanistan’s women should not be seen only as beneficiaries of international protection but as key political actors, organisers, and sources of knowledge and empowered as such.¹⁰¹⁴ As a woman of Afghanistan we interviewed made clear: “Even if the exact forms of justice remain unclear today, the principle is simple, justice must be built with us.”¹⁰¹⁵

Empowering the people of Afghanistan, including its women, and as central agents of change requires creating spaces where they can debate and shape their own representations of justice, peace and reconciliation.¹⁰¹⁶ However, in the current context, such spaces are severely constrained by the Taliban *de facto* authorities, who restrict civic life and public participation.¹⁰¹⁷

Civil society organisations, particularly women-led or diaspora-led initiatives, are nevertheless particularly well placed to help navigate. Because they are often locally-rooted and maintain close connections with affected communities, they can facilitate consultations, dialogue initiatives, forums, and other community-based spaces that allow Afghanistan’s women to participate meaningfully in shaping the design of transformative justice processes.¹⁰¹⁸

Afghanistan’s scholars and CSOs, potentially with the support of international organisations,

¹⁰⁰⁸ Gready, ‘Introduction’, 2.

¹⁰⁰⁹ Gready and Robins, ‘From Transitional to Transformative Justice’, 36.

¹⁰¹⁰ Badloot, ‘The Failure of Transitional Justice in Afghanistan’, 44.

¹⁰¹¹ Expert interview, expert in transformative justice and peacebuilding efforts, conducted by the authors, 18th March 2026, confidential.

¹⁰¹² Expert interview in peacebuilding efforts and transformative justice, conducted by the authors, 18th March 2026, confidential; Gready and Robins, ‘From Transitional to Transformative Justice’, 36.

¹⁰¹³ Gready, ‘Introduction’, 1-2; Gready and Robins, ‘From Transitional to Transformative Justice’, 36.

¹⁰¹⁴ UN Women and UNDP, *Women’s Meaningful Participation in Transitional Justice: Advancing Gender Equality and Building Sustainable Peace* (New York, 2022), <https://www.undp.org/sites/g/files/zskgke326/files/2022-03/UNDP-UNWomen-Womens-Meaningful-Participation-in-Transitional-Justice.pdf>, 47.

¹⁰¹⁵ Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

¹⁰¹⁶ Gready and Robins, ‘From Transitional to Transformative Justice’, 51.

¹⁰¹⁷ A/80/432, 8-9.

¹⁰¹⁸ UN Women and UNDP, *Women’s Meaningful Participation*, 26.

human rights mechanisms and States, should carry out surveys among the populations, striving to the largest extent possible, to find out about justice priorities among diverse communities across Afghanistan. They should include not only perspectives of diaspora communities, but also account for differences across rural, urban, and minority communities inside Afghanistan. Such an assessment should go beyond "... narrowly framed surveys of what kinds of transitional justice interventions,"¹⁰¹⁹ but rather "provide a more open-ended assessment of priorities ... and extend ... to societal and social responses."¹⁰²⁰ This would allow for the production of evidence-based reports that should be used to shape transformative justice processes, which can accurately reflect diverse and context-specific expectations.¹⁰²¹

- *Foster and support innovative forms of women-led resistance and encourage creative solutions.*

Transformative justice demands innovative approaches that are tailored to the specific context to which they are implemented.¹⁰²² The UN Secretary-General recognised the need to "encourag[e] innovative solutions that are tailored to the context and fit for purpose."¹⁰²³ Transformative justice efforts for Afghanistan must be innovative to be able to adapt to ongoing challenges.

Women in Afghanistan have been and are continuing to use innovative strategies to navigate the repression they face, through initiatives such as underground schools providing informal education for women and girls, social media platforms-based actions (including organising themselves and building community), and more.¹⁰²⁴ These experiences should be supported by CSOs and NGOs and inform how justice initiatives build trust, communicate with affected communities, and encourage meaningful leadership and engagement.

- *Pursue transformative justice initiatives aimed at prevention and societal transformation, including but not limited to, digital archives, memorialisation projects, community-led educational programmes, and cultural initiatives led by Afghanistan's women to preserve their experiences and resistance, challenge institutionalised systems of gender oppression, and contribute to reshaping collective narratives across generations.*

¹⁰¹⁹ Gready and Robins, 'From Transitional to Transformative Justice,' 36.

¹⁰²⁰ Gready and Robins, 'From Transitional to Transformative Justice,' 36.

¹⁰²¹ Gready and Robins, 'From Transitional to Transformative Justice,' 36.

¹⁰²² Gready, 'Introduction,' 24.

¹⁰²³ United Nations Secretary-General, *Guidance Note of the Secretary-General: Transitional Justice*, 6.

¹⁰²⁴ Shahira Shahir et al., 'Silenced Voices, Enduring Struggles: An Islamic Feminist Analysis of Afghan Female Academics under Taliban Rule', *Women's Studies International Forum* 113 (November 2025): 103193, <https://doi.org/10.1016/j.wsif.2025.103193>, 3.

While legal forms of accountability are essential, a broader approach is needed to address harms more fully and help rebuild social relations.¹⁰²⁵ Civil society actors should thus develop a conception of justice that includes and values measures such as truth-telling or memorialisation initiatives, or other complementary measures.¹⁰²⁶ “Sociopolitical interventions,” including “truth commissions, memorials and education reform have the greatest potential to take on a transformative agenda through urgently needed reframing of socioeconomic rights and communities of conflict.”¹⁰²⁷ Supporting digital archives, memorialisation initiatives, and narrative platforms led by Afghanistan’s women can contribute to enabling “shifts from narrow to broader understanding of human rights, from victims/perpetrators to active citizens, and from a focus on the past and the short term to a fuller temporal range and longer-term trajectories.”¹⁰²⁸ These initiatives contribute to collective memory, awareness, and long-term societal change.

- *Design or advocate for programmes addressing structural drivers of oppression, including through socio-economic empowerment.*

Overall, adopting a transformative justice approach requires a holistic intervention that addresses the structural drivers of oppression, including socio-economic exclusion.¹⁰²⁹ It must also be grounded in the demands and priorities of affected communities, so that they better answer to victims’ lived experiences.¹⁰³⁰ This is crucial because “victims and local populations tend to elevate physical security and economic livelihood over traditional transitional justice goals when asked to prioritize their concerns.”¹⁰³¹

In Afghanistan, this socio-economic dimension is especially important, as severe restrictions on girls’ education and women’s labour force participation are already weakening human capital and essential social systems, while creating long-term risks for future generations.¹⁰³²

Programmes to address socio-economic exclusion should therefore include economic measures that restore lost opportunities, including access to education, employment, income, and property.¹⁰³³ In practice, this could involve compensation for lost educational and professional opportunities, restoration of property or land rights, and sustained funding for women-led

¹⁰²⁵ Expert interview, expert in racial apartheid’s codification journey and justice efforts in previous ad hoc tribunals, conducted by the authors, 17th March 2026, confidential.

¹⁰²⁶ UN Women, *Advancing Gender Equality through Legislative Reform in Transitional Justice Contexts*, 12.

¹⁰²⁷ Gready and Robins, ‘From Transitional to Transformative Justice’, 49-50.

¹⁰²⁸ Gready, ‘Introduction’, 25.

¹⁰²⁹ Gready and Robins, ‘From Transitional to Transformative Justice’, 32.

¹⁰³⁰ OHCHR, *OHCHR Internal Technical Guidance: Supporting Meaningful National Consultations on Transitional Justice*, 1.

¹⁰³¹ Gready, ‘Introduction’, 1.

¹⁰³² UNICEF Office of Strategy and Evidence – Innocenti, *The Costs of Inaction on Girls’ Education and Women’s Labour Force Participation in Afghanistan*, 2-3, 11-12.

¹⁰³³ A/RES/60/147, para. 20 (b), (c), 7.

organisations and business, in order to support women's agency.¹⁰³⁴ CSOs, including women-led organisations should be closely involved in the design and implementation of such programmes, as they are often best placed to identify local needs and reach affected women and girls.

¹⁰³⁴ Knaute, *How and Why Truth and Justice Have Been Kept off the Agenda*, 49; for more information on how to strengthen women's economic participation despite severe restrictions from the Taliban *de facto* authorities, see Susanne Schmeidl et al., *Women-Led Organisations in Afghanistan: Where to Next?*, Policy Brief (Bonn International Centre for Conflict Studies, 2025), https://www.bicc.de/Publikationen/20250716_Women-led_organisations_Afghanistan_online.pdf~dr3765.

V. CONCLUSION



Since August 2021, the Taliban *de facto* authorities have expanded their construction of a comprehensive system of oppression designed to erase women and girls from public life.¹⁰³⁵ Existing legal concepts, such as gender persecution, this report, alongside Afghanistan's women, asserts, are too narrow to fully capture the scale, intent, and structural nature of this oppression.¹⁰³⁶ Consequently, there is an urgent need for the recognition and codification of *gender apartheid* as a crime under international law.

The establishment of the Independent Investigative Mechanism for Afghanistan (IIM-A) represents a crucial opportunity to prepare for a comprehensive approach to justice. By drawing on the experiences of the mechanisms in Syria (IIIM) and Myanmar (IIMM), our analysis shows a clear roadmap: establishing operational clarity from the outset; effectively adopting gender competent, victim- and survivor-centred, and trauma informed approaches; strengthening synergies with UN entities and international human rights mechanisms; as well as preparing for a range of accountability avenues are key to the Mechanisms' effectiveness.

A central theme running through our findings is the urgent need to shift the narrative from viewing Afghanistan's women solely as victims to recognizing them as central actors and leaders of their own resistance. Their dignity and agency must be centered in the pursuit of justice, accountability, and transformation.¹⁰³⁷ This report warns against "imperial feminism," the tendency of external actors to frame the crisis in paternalistic terms that silence local voices.¹⁰³⁸ Instead, the report emphasizes that any effective international response must ensure that the perspectives of women inside Afghanistan, as well as those from marginalised and vulnerable communities drive the agenda.¹⁰³⁹

Finally, the findings suggest that while steps towards the recognition and codification of *gender apartheid* and progress with the work of the IIM-A are vital, they are insufficient on their own.¹⁰⁴⁰ A comprehensive transformative approach is required to address the root causes of oppression, including economic inequality and patriarchal power structures.¹⁰⁴¹

Afghanistan's women have already demonstrated what resistance looks like: in underground classrooms, in documentation networks, in testimony given at personal risk, and in the

¹⁰³⁵ Bennoun, 'The International Obligation To Counter Gender Apartheid in Afghanistan.'

¹⁰³⁶ Bennoun, 'The International Obligation To Counter Gender Apartheid in Afghanistan.'

¹⁰³⁷ Expert interview with two practitioners involved in international investigative mechanisms, conducted by the authors, 23rd February 2026 and 9th March 2026, confidential.

¹⁰³⁸ Jaber, "Beyond International Human Rights: Islamic Feminism".

¹⁰³⁹ Expert interview, expert in transformative justice and peacebuilding efforts, conducted by the authors, 18th March 2026, confidential.

¹⁰⁴⁰ Expert interview, expert in transformative justice and peacebuilding efforts, conducted by the authors, 18th March 2026, confidential.

¹⁰⁴¹ David Knaute, How and Why Truth and Justice Have Been Kept Off the Agenda.

continued refusal to disappear from public life.¹⁰⁴² What remains is whether the international community is willing to respond with the seriousness and long-term commitment that the situation demands.

¹⁰⁴² Rostami-Povey, *Afghan Women's Resistance and Struggle in Afghanistan and Diasporic Communities*, 7–11; Shahir et al., "Silenced Voices, Enduring Struggles," 3; Expert interview, Afghanistan woman and activist inside Afghanistan, conducted by the authors, 8th May 2026, confidential.

