



General Assembly

Distr.: General
15 June 2023

Original: English

Human Rights Council

Fifty-third session

19 June–14 July 2023

Agenda item 3

**Promotion and protection of all human rights,
civil, political, economic, social and cultural rights,
including the right to development**

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*

Summary

In the present report, the Special Rapporteur on the situation of human rights in Afghanistan and the Working Group on discrimination against women and girls describe the widespread and systematic discrimination to which women and girls in Afghanistan are subjected, particularly since the fall of the Islamic Republic of Afghanistan on 15 August 2021. They also highlight the resilience and strength of Afghan women in the face of such repressive conditions.

* The present report was submitted after the deadline in order to include the most recent information.



I. Introduction

1. In its resolution 51/20, the Human Rights Council requested the Special Rapporteur on human rights in Afghanistan and the Working Group on discrimination against women and girls to prepare a joint report on the situation of women and girls in Afghanistan. The present report is submitted to the Council pursuant to that request.

2. The Special Rapporteur and the Working Group interviewed a total of 79 Afghans (67 women and 12 men), of whom 63 (51 women and 12 men) were inside Afghanistan. They included human rights defenders, journalists, lawyers, academics, entrepreneurs, teachers, students, social service providers and businesswomen. In addition, they conducted a survey of 2,112 Afghan women across 18 provinces in March 2023, and drew on the insights of a further 159 women focus group participants on the survey results in 11 provinces.¹

3. The Special Rapporteur and the Chair of the Working Group visited Afghanistan from 27 April to 4 May 2023. The experts visited Kabul and Mazar-e-Sharif, conducted site visits and met with representatives of the de facto authorities, civil society, women's groups, entrepreneurs, religious leaders, teachers, journalists, victims of individual human rights violations, United Nations entities and the diplomatic community. The information they gathered during their visit is reflected below.

II. Background

A. Historical context

4. Women's and girls' rights in Afghanistan have had a tumultuous history, and their progress has been neither steady nor linear. The diversity and size of the country, combined with the significantly different political ideologies of ruling regimes, have had a profound impact on the speed and spread of progress. Women gained suffrage in 1919. Women's rights, and ultimately gender equality before the law, were progressively enshrined in the constitutions of 1923, 1964 and 1976. These progressive changes were, however, challenged by conservatives. In practice, progress was not uniform across the country, varying from one region to another and with women in rural areas unable to enjoy the same rights as women in cities. Nonetheless, Afghan women's movements and their allies in leadership challenged the deeply patriarchal society throughout most of the twentieth century, and women increasingly enjoyed their rights, particularly to education and employment.

5. The invasion by foreign forces in 1979 plunged Afghanistan into war. Progress 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. During this period, women were subjected to gross human rights abuses and violations.

6. After the withdrawal of foreign forces in 1989, a civil war broke out between various mujahidin factions. During 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. The civil war contributed to the emergence of the Taliban – proclaiming an Islamic emirate in line with an extreme interpretation of sharia law – which took control over much of Afghanistan in 1996.

7. Women's rights regressed further under the first Taliban regime of 1996–2001. Under the pretexts of religion and concern for their "safety", the Taliban effectively imprisoned women and girls in their homes by preventing them from obtaining education, leaving their home without a male relative (*maharam*), working, speaking publicly and access to health-care services delivered by men (thereby rendering them inaccessible), among other measures.

¹ See <https://www.bishnaw.com/surveys/en>.

8. After the removal of the Taliban from power by foreign intervention in 2001, the Islamic Republic of Afghanistan was established and some progress on women's rights was resumed under the stewardship of determined Afghan women. Progress was not uniform across the country; marginalized women, mostly in rural areas, continued to face disproportionate challenges. Nonetheless, much was achieved by 2021: women's rights and gender equality were enshrined in the 2004 Constitution and other laws, including the Law on the Elimination of Violence against Women; the ratification of the Convention on the Elimination of All Forms of Discrimination against Women; and the establishment of the Ministry of Women's Affairs, the Afghanistan Independent Human Rights Commission, specialized victim support services and accountability mechanisms for gender-based violence. Women were able to hold parliamentary seats, ministerial and diplomatic posts and senior offices, including as judges and chairs of independent commissions. Legislative, structural and representational changes inspired immense hope for women and girls. Other laws, however, undermined women's access to their rights, such as the Shia Personal Status Law (2009) and the National Stability and Reconciliation Law (2008) – an amnesty law that hampered women's access to justice. Women and girls also continued to experience deep inequality and the effects of persistent armed conflict.

9. Women were prevented from meaningful participation in the various peace discussions, despite the fact that Afghanistan and other relevant States had adopted Security Council resolution 1325 (2000) on women and peace and security and developed a relevant national action plan in 2015.

10. The Agreement for Bringing Peace to Afghanistan between the United States of America and the Taliban (Doha Agreement) of 2020 exemplified the willingness of all actors to disregard women's rights for the sake of political expedience. The process was neither transparent nor inclusive, and largely excluded women. The agreement, which paved the way for the return of the Taliban, did not contain a single reference to, or safeguard for, women's rights. Since the Taliban secured effective control of the country in August 2021, there have been egregious systematic violations of women's rights. In the words of a woman inside Afghanistan, "we are alive, but not living".

B. Political and economic context

11. The Taliban took control of Kabul on 15 August 2021; by 30 August, international forces had left the country. The Taliban declared the "Islamic Emirate of Afghanistan", the title used from 1996 to 2001. Mullah Haibatullah Akhundzada, also known as Amir-ul-Momineen, is the head of the de facto authorities, and has absolute authority. On 7 September 2021, the Taliban announced an exclusively male, predominantly Pashtun interim cabinet and other key positions at the national and provincial levels. The legislative bodies and other democratic institutions were dissolved. Since assuming power, the de facto authorities have repeatedly, both publicly and privately, stated their commitment to upholding women's rights in accordance with their view of Islam and Afghan culture. On 17 August 2021, in a press conference, the Taliban spokesperson, Zabihullah Mujahid, stressed "We are going to allow women to work and study[.] Women will be very active in society, but within the framework of Islam". On 10 September 2021, in a letter to the United Nations, the de facto authorities reiterated this commitment and vowed to gradually take concrete steps with the help of the international community.²

12. The country's economy currently faces critical challenges, including the freezing of State assets in foreign banks, a decline in public spending, lower household incomes, high unemployment and reduced consumption, as well as disruptions to the payment system and supply constraints. Despite the stabilization of the afghani, lower inflation and increasing exports and tax collection, Afghanistan is afflicted by poverty and food insecurity, with more than two thirds of its people in need of urgent humanitarian assistance. Sustained restrictive policies on women's education and work, persistent instability in the banking sector and any potential reduction in aid from the international community will further harm the economy and people's survival, with a particular impact on women, who have already suffered from

² A/HRC/49/24, para. 34.

restrictions on and violations of their rights, further compounding their lack of economic freedom and their vulnerability to downside risks.³

C. Legal framework

13. In assessing the situation of women's and girls' human rights in Afghanistan, the Special Rapporteur and the Working Group took into consideration the Universal Declaration of Human Rights, human rights treaties⁴ and the Rome Statute of the International Criminal Court, to which Afghanistan is a State party.

14. Upon assuming power, the de facto authorities suspended the 2004 Constitution and all domestic legislation, notably the Law on the Elimination of Violence against Women, and abolished institutions and mechanisms that promoted gender equality and provided protection against gender-based violence, such as the Afghanistan Independent Human Rights Commission and the Ministry of Women's Affairs. The de facto authorities claim they are reviewing all laws for their compliance with sharia law. As at May 2023, the outcome of that review is unknown. Consequently, it is not clear whether during the past 21 months any domestic laws are in place to protect women's and girls' rights.

III. Systemic gender-based discrimination

15. Core multilateral human rights instruments, including the Universal Declaration of Human Rights, guarantee every person's fundamental right to equality and non-discrimination, including the right not to experience any distinction on the basis of sex and/or gender. Article 5 (a) of the Convention on the Elimination of All Forms of Discrimination against Women specifically calls upon State parties to modify the social and cultural patterns of conduct of men and women with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

16. The de facto authorities claim that they respect the treaties ratified by Afghanistan in accordance with sharia law, a vague statement that does not clarify what, if any, reservations they hold in relation to international human rights law. Far from "protecting" women and girls as they claim, they perpetuate the most extreme forms of gender-based discrimination and generalized censorship through restrictive edicts targeting women and girls, the abolition of legal protections and accountability mechanisms for gender-based violence, and the ongoing denial of rights.

A. Restrictions

17. One of the most illustrative examples of the systematic discrimination against women and girls in Afghanistan today is the relentless issuance of edicts, decrees, declarations and directives restricting their rights, including their freedom of movement, attire and behaviour, and their access to education, work, health and justice. Between September 2021 and May 2023, more than 50 edicts were issued, including:

- 18 September 2021: education restricted for girls beyond grade six
- 23 December 2021: instructing drivers (men) not to accept to drive women without "proper hijab" or to women without a *maharam* for travel more than 72 kilometres

³ World Bank, Afghanistan Development Update, "Adjusting to the new realities", October 2022.

⁴ Including the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the three Optional Protocols thereto, the Convention on the Political Rights of Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol thereto, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto.

- 27 March 2022: limiting access of women and girls to parks, banning women from boarding domestic and international flights without a *maharam*
- 7 May 2022: requiring women to observe “proper hijab”, preferably by wearing a *chadari* (a non-fitted black garment with face covering) or not leaving the home without a reason (“the first and best form of observing hijab”)
- 21 May 2022: female television presenters required to cover their face
- 1 June 2022: all girls in fourth to sixth grades required to cover face while commuting to school
- 23 August 2022: women government workers asked to stay home from work
- 10 November 2022: women prohibited from using gyms
- 11 November 2022: women prohibited from entering parks in Kabul; a written announcement later published in Faryab banned access of women to public baths, gyms, sports clubs and amusement parks
- 20 December 2022: right of women to attend university “suspended”
- 22 December 2022: all forms of education beyond grade 6 banned for girls
- 24 December 2022: right of women to work with national and international non-government organizations “suspended”
- 4 April 2023: Afghan women banned from working in the United Nations

18. In addition to the numerous restrictive edicts, an edict with more positive intent, issued in December 2021, forbids forced marriage but maintains discriminatory inheritance provisions regarding widows, in accordance with sharia law.

19. The edicts are believed to be primarily issued by Amir-ul-Momineen to relevant administrative entities, who then issue them to the public. They are announced to the public in a multitude of ways: in official instructions issued by central and provincial authorities, in speeches by officials and via social and mainstream media. During the 1990s, no edict was reversed, including the “temporary” ban on girls’ education. The de facto authorities have tasked a modified Attorney General’s Office and the de facto Ministry for the Propagation of Virtue and Prevention of Vice to monitor the implementation of the edicts. The General Directorate of Intelligence operates as an enforcer of restrictions: arresting, detaining, interrogating and in some cases reportedly torturing individuals suspected of contravening the edicts, such as education advocates and protesters.

20. While restricting women’s and girls’ rights is the primary intended outcome of the edicts, several edicts are directed at men; for example, a civil servant faces suspension from work if his wife or daughter does not wear “proper hijab”. The experts are deeply concerned that the enforcement of punishment on men for the conduct of women and girls is intended to normalize discrimination and violence against women and girls and obliterate women’s agency.

21. When announced, some edicts were described as temporary until certain measures could be completed; for example, when announcing during a press conference on 23 August 2022 that women government workers were to stay home, the Taliban spokesperson explained that security forces had not been “trained in how to speak with women. Until complete security measures [were] taken, we want women [female government employees] to stay home”. Under international law, rights may be legitimately restricted; the restrictions must, however, be necessary, proportionate, non-discriminatory, transparent, subject to scrutiny and review, and taken to protect life, health or safety. In this case, the experts find that each restriction is neither reasonable nor justifiable.

22. In their totality, the edicts significantly limit women’s and girls’ ability to engage in society, have access to basic services and to earn a living. Women have described the continual announcement of restrictions as “day by day, the walls close in”, feeling “suffocated”, and the cumulative effect leaving them “without hope”. A journalist monitoring the announcement and implementation of restrictions since the Taliban came to power explained that “at early press conferences, we asked ‘what is your intention for women and

girls?’ We were told, ‘wait, wait, you will understand our position on women.’ Initially, we thought this meant that a few small things would be changed, and we could continue to work, go to school, etc. But over time, we have come to the realization it was their intention to slowly erase women.”

23. The edicts often lack specifics, such as definitions or details about implementation and punishment for contraventions, leading to a climate of legal uncertainty and fear, in which people self-censor to avoid punishment by individual Taliban officers who have their own understanding of the restrictions and punishments for perceived transgression. Implementation is not consistent, especially at local levels; and although ad hoc solutions have sometimes been found to mitigate the considerable damage of the edicts, they are not sustainable.

B. Women’s participation in political and public life

1. Representation

24. On 31 August 2021, the acting deputy Minister of Foreign Affairs announced that no women would occupy top leadership positions in a Taliban government. Women are now wholly excluded from political and public life in Afghanistan. There is not a single woman holding public or political office, and a limited number remains in the civil service.

25. Prior to August 2021, women comprised 27 per cent of members in the lower house of parliament, 22 per cent in the upper house, and 30 per cent in the civil service, and held key roles in the Government, independent commissions and the judiciary. While many of these officials have since left the country, many others live in fear of retribution for having worked with the former regime, despite the declaration of a “general amnesty”. The experts are deeply concerned about the continuing reprisal attacks on former officials.

26. On 18 September 2021, the offices of the Ministry for Women’s Affairs were converted into the offices of the Ministry for the Propagation of Virtue and Prevention of Vice, known for its notorious record of suppressing women’s rights. The abolition of legislative bodies and the Ministry for Women’s Affairs eliminated women’s representation and their access to decision-making, and effectively their right to political participation.

27. Since women civil servants were instructed to stay home, their participation in the civil service has dropped significantly. They continue working in some roles, such as at airports and in security, as well as in the education and health sectors. The Taliban affirm that women civil servants are still being paid, as confirmed by the experts in at least some cases, albeit at a reduced salary. This is, however, no justification for preventing them from realizing their right to work.

2. Participation

28. Women participated in the 2002 emergency assembly (Loya Jirga), played an active role in the 2003 constitutional Loya Jirga, and participated as voters and candidates in the subsequent presidential and parliamentary elections. Women accounted for more than 30 per cent of voters between 2004 and 2019.⁵ Today they are excluded from all forms of participation in political and public life.

29. Since August 2021, women have led peaceful public demonstrations demanding in particular their rights to education, work, participation in public life and freedom of movement and expression. These protests have often been met with excessive use of force, intimidation, arrest, arbitrary detention (on occasion possibly amounting to enforced disappearance) and ill-treatment. In September 2021, the Taliban issued an edict banning unapproved demonstrations, and since then the environment in which protests are held is increasingly hostile. Public demonstrations are routinely shut down forcefully, even when the organizers have received permission to hold them; for example, in October 2022, Zarifa Yaqubi was arrested together with four men at an approved press conference about a

⁵ Submission by the Women’s International League for Peace and Freedom to the Committee on the Elimination of Discrimination against Women, 2020.

women's protest movement. Ms. Yaqubi was held in incommunicado detention for 40 days, as were her male associates, despite no charges being brought against her.

30. The experts have received numerous credible reports of Taliban officers brutally beating, arbitrarily arresting and detaining women protesters, many of whom have been later released upon guarantees to cease their activism and remain silent about their treatment, as well as payments. Victims report having been subjected to gender-based violence, including sexual violence, often amounting to torture, by Taliban officers seeking information about demonstration organizers. Men making public statements in support of women's rights have also been arrested, detained and ill-treated. Matiullah Wesa, the founder of a local non-governmental organization (NGO) that champions education rights, especially for girls, was arrested on 27 March 2023 and remains detained on unspecified charges.

31. Despite ongoing threats, intimidation and fear of arrest, torture and detention, women continue to be the primary advocates for their rights, demonstrating in adaptive, creative and courageous ways.

32. At the international level, while Afghan women have been able periodically to address the Human Rights Council and the Security Council, they have been excluded from important international meetings deliberating on the situation in Afghanistan. This runs contrary to the spirit of the women and peace and security framework, article 8 of the Convention on the Elimination of Discrimination against Women and the general recommendation No. 30 (2013).

C. Economic and social life

1. Education

33. The Taliban are denying girls and women their right to education beyond primary level as they did between 1996 and 2001, in contravention of their obligations as the de facto authorities under article 13 of the International Covenant on Economic, Social and Cultural Rights, article 10 of the Convention on the Elimination of All Forms of Discrimination against Women and articles 28 and 29 of the Convention on the Rights of the Child. The ban on girls' education makes Afghanistan the only country in the world where girls and young women are forbidden from attending secondary school and higher education institutions.

34. Decades of conflict had already significantly hindered the education system in Afghanistan. During the Republic, despite strong constitutional, legal and policy commitments to women's and girls' right to education, access was challenging, especially in rural areas, owing to insecurity, poverty, displacement, distance to education institutions, inadequate hygiene facilities and gender inequality. Children residing in Taliban-controlled areas were particularly disadvantaged. Owing to supply and demand barriers for education, an estimated 3.7 million children (approximately 43.7 per cent of the primary-aged population) were out of school in 2015; girls were most affected, especially in the southern provinces.⁶

35. Notwithstanding the above challenges, significant progress was made in girls' education. According to the United Nations Educational, Scientific and Cultural Organization (UNESCO) Institute for Statistics, every year between 2001 and 2018, the enrolment of girls increased at every level of education. By 2018, girls represented 39 per cent of primary students, 35.7 per cent of lower secondary students and 34 per cent of upper secondary students (compared to 0 per cent at all levels in 2001). The literacy rate among women increased from 17 per cent in 2011 to 30 per cent in 2018;⁷ according to the World Bank, by 2020, 6 per cent of tertiary-age women were enrolled in tertiary education.

36. Just days after the Taliban took power, incremental temporary bans began to be announced. On 29 August 2021, the de facto Minister for Higher Education announced a ban

⁶ Ministry of Education, Islamic Republic of Afghanistan, United Nations Children's Fund (UNICEF) and Samuel Hall, *Global Initiative on Out-Of-School Children: Afghanistan Country Study*, Ministry of Education, UNICEF, Samuel Hall and USAID, Kabul, 2018.

⁷ "The right to education: What's a stake in Afghanistan? A 20-year review", UNESCO, 2021.

on co-education at universities. On 12 September, he confirmed that girls and boys were to be segregated at all levels, and women and girls must observe hijab.⁸ Four days later, the de facto Ministry of Education announced that only boys could attend secondary school from 18 September, and only male teachers could teach. While secondary schools in at least 13 provinces remained open to girls during the 2021–2022 school year, most have since closed their doors to girls.

37. In October 2022, young women were permitted to take entrance exams to university for a limited number of subjects and were instructed only to attend public universities near their homes. On 20 December 2022, however, the acting Minister for Higher Education announced the immediate suspension of tertiary education for women and girls until further notice. Furthermore, since November 2022, young women with tertiary study scholarships abroad have been prevented from leaving the country unaccompanied due to the mandatory *maharam* policy.⁹

38. Educational institutions have also suffered from terrorist attacks, affecting women and girls; for instance, the attack against the Kaaj Educational Centre on 30 September 2022 in Kabul claimed the lives of 54 individuals and injured another 114. Most of the victims were young Hazara women and girls who were preparing for the university entrance examination.

39. The denial of education is having a crushing effect on women and girls and is a significant driver for Afghans to leave the country, as parents want to provide education opportunities for their daughters. Some female university students told the experts:

- “It has been five months and 10 days since we were barred from university... I am a prisoner of my gender.”
- “All girls and women in this country live under house arrest. We feel depressed and hopeless. We have no future.”

While some school students informed them:

- “We want to go back to school.”
- “I want to become a doctor.”

40. In the survey conducted in March 2023 (see para. 2 above), 2,112 women were asked which of the restrictions they were most concerned about: the ban on education; the ban on women’s mobility; the lack of access to contraception; none of the above; or all of the above. Tellingly, 908 (43 per cent) responded “all of the above”, closely followed by 784 (36 per cent) who selected the ban on education, an issue of particular concern for younger women.

41. Most Afghans, including some members of the Taliban, do not support the exclusion of girls and women from the education system, and are seriously concerned about the consequences for the whole country. Prominent Afghan religious scholars have spoken in support of girls’ education since there is no religious or cultural justification for the ban. The blatant violations to the fundamental right to have access to quality education will have lifelong consequences regarding not only employment opportunities but also access to basic services such as health care.

42. Although many adaptive and creative methods have been implemented to support girls and young women in continuing their studies, including online, they are not equally accessible or sustainable. The experts were repeatedly asked for support to help to reinforce and restore girls’ right to education in person, and were told that “our place for learning is in regular classes” and “girls belong in school!”

43. While many women and girls in the country stated that reopening secondary schools and universities to girls and women was their immediate priority, others expressed serious concerns about significant changes to the curriculum, as reflected in a draft seen by the experts that outlines a much more conservative and religious orientation, albeit with some other subjects (but with human rights specifically excluded) to be taught only by women observing *hijab*, with the goal of producing devout, chaste young women. Even though the

⁸ “Afghanistan: Taliban announce new rules for female students”, BBC news, 12 September 2021.

⁹ “Women without male companions barred from leaving Afghan airports”, Amu TV, 8 November 2022.

experts respect the call for reopening schools to girls as a priority, they consider that if such a curriculum were to be implemented, it would not fulfil the right to education, which includes quality and comprehensive education, and respects fundamental rights and gender equality.

2. Employment

44. The de facto authorities are violating women's rights to work¹⁰ through the imposition of bans on women registering organizations, working in non-governmental and foreign organizations (such as in embassies and with the United Nations), instructing women civil servants in most sectors not to report to work, restricting physical access to employment sites without a *maharam*, and preventing women from pursuing professional training.

45. According to World Bank figures, women's participation in the labour force has stagnated at around 16 per cent in the past two decades (with an exceptional rise to 22 per cent between 2013 and 2019), ranking Afghanistan among the countries with the lowest levels of female labour force participation. Women's employment dropped 25 per cent between the second quarter of 2021 and the fourth quarter of 2022, compared to a 7 per cent decline for men.¹¹

46. Women working in journalism and the media were subjected to one of the first restrictions on women's right to work. Before August 2021, more than 1,700 women media workers (including 1,139 journalists) were active in the country. Following the fall of Kabul, 80 per cent of women journalists lost their jobs. Women journalists have seen their access to information limited, they are no longer given access to press conferences, and are required to wear masks on television programmes.

47. On 24 December 2022, the acting Minister for the Economy issued a letter barring woman from working in international and national NGOs, seriously affecting their ability to deliver vital services, including non-humanitarian services, such as disability rehabilitation services and legal aid. Some major humanitarian organizations subsequently suspended or reduced their operations, as their services depend on their female workers, and as a principle of human rights. In a deeply conservative and patriarchal society, the role of women aid workers is critical in the delivery of humanitarian assistance; the ban therefore puts at risk the lives of millions of Afghans in need of assistance, especially women-headed households.

48. On 5 April 2023, the de facto authorities issued a countrywide ban on Afghan women working in the United Nations. Most foreign embassies were also informed that Afghan women could no longer work in their offices. On 28 April 2023, in response to widespread condemnation of these decisions to the adoption of Security Council resolution 2681 (2023), the Taliban leadership stated that "this is an internal social matter of Afghanistan that does not affect outside States. We remain committed to ensuring all rights of Afghan women while emphasizing that diversity must be respected and not politicized."

49. Owing to the numerous bans, home-based self-employment has become the predominant form of women's participation in the labour market. Testimonies collected during the visit demonstrated that women's businesses have been severely affected by the extremely restrictive socioeconomic policies introduced. The incomes of businesswomen and women entrepreneurs incomes have plummeted, often preventing them from paying their employees. Some women entrepreneurs have reported that certain suppliers refuse to sell them materials on the grounds that a woman should not be heading a business and that, at a minimum, they should be accompanied by a *maharam*. The experts were informed of the existence of women's markets and factories where women are employed, but were not in a position to assess their impact.

50. In the March 2023 survey, women were asked what they most needed to improve their economic situation. The most selected response overall was "ability to pursue your career outside of the home" (37.8 per cent). The restrictions on women working outside the home

¹⁰ International Covenant on Economic, Social and Cultural Rights, art. 6; Convention on the Elimination of All Forms of Discrimination against Women, arts. 8, 11 and 13.

¹¹ "Employment in Afghanistan in 2022: a rapid impact assessment", ILO Brief, 7 March 2023.

in their professions are having a profound impact on the country's economy. According to a recent report by the United Nations Development Programme (UNDP), the number of families living in poverty has nearly doubled in two years, with 34 million people – 90 per cent of the population – now living below the poverty line. It stressed that the economy could not be reignited if women are not allowed to work, and that future economic growth will be constrained by underinvestment in girls' and women's education.¹²

3. Freedom of movement

51. Banning the access of women and girls to *hammams* (public baths), parks and gyms have, together with the *maharam* and *hijab* policies, created an environment in which it is difficult for women and girls to leave their homes. In the words of a former student, "women are imprisoned, they cannot work, study or go out. We are depressed".

52. The mandatory requirements of *maharam* and "proper hijab", which violate women's right to freedom of movement and human dignity, are inherently discriminatory, humiliating and derogatory. A sign erected by the Ministry for the Propagation of Virtue and Prevention of Vice in Kandahar likened women without hijab to animals.

53. These requirements are the manifestations of stereotypical notions of men's superiority and are a blatant violation of women's and girls' right to equality as guaranteed under international law. The experts emphasize the importance of respecting women's and girls' bodily autonomy and agency as well as their free, informed choices, while firmly rejecting any form of coercion or imposed modesty codes stemming from patriarchal oppression.

54. The de facto authorities have increasingly scrutinized and questioned women moving in the public space or travelling alone, preventing them from leaving their home unless accompanied by a *maharam*. Men travelling with women are required to prove that they are related to the woman by showing the couple's marriage certificate, or an identification card if the man and woman are otherwise related. On 29 January 2023, Propagation of Virtue and Prevention of Vice officers in Kandahar requested the Department of Public Health to instruct female health personnel in the province to report to work only if they were accompanied by a *maharam*. The experts received reports of women threatened with imprisonment if they left their home without a *maharam*. The *maharam* requirement is enforced at checkpoints; harassment is commonly reported, while women without a *maharam* are refused passage regardless of how urgent their travel is or of whether they are travelling with other women. Reportedly, these restrictions are increasingly enforced. Many women do not have a *maharam* who can accompany them, a fact that the de facto authorities do not apparently accept, despite their shared experience of four decades of conflict and loss of life.

55. The ban on access to hammams, parks and gyms is a serious health concern for many, including women and girls who do not have access to adequate bathing facilities, which also has a negative impact on their menstrual hygiene and health. As noted, women and girls have been banned from participating in sports; access to parks and gyms is however necessary for physical exercise and mental health, and the ban violates several rights, including to recreation and leisure.

56. Women and girls face difficulty in meeting their friends or colleagues in groups. Reportedly, groups of more than three or four women are routinely dispersed by officials, arguing the need to prevent protests. An interviewee explained that, "even if a small group of girls sit together, the Taliban ask what they are doing". Women requested the experts to convey their deep need to meet with friends and family members inside and outside of the home for their well-being.

D. Right and access to health care

57. The strained health system, the economic crisis, the limitations on movement and the restrictions placed on male health-care professionals treating women and girls complicates

¹² UNDP, Afghanistan Socio-economic outlook, April 2023.

the access of Afghan women and girls to critical and routine health care. These problems will only be further exacerbated if restrictions on women and girls are not reversed.

58. In present-day Afghanistan, the health system, much like the education system, has been devastated by decades of conflict and insufficient investment. The health-care system established during the Republic era relied on subcontracts to NGOs and private health facilities. The short duration of most subcontracts did not promote long-term investment or planning in the system. Although the system was far from adequate, between 2001 and 2021 it helped to improve health outcomes, particularly for women and girls, who during the previous Taliban period of control were not permitted to be treated by male medical professionals.

59. When the Taliban took power, foreign assistance to Afghanistan was disrupted for a period, with a significant impact on the delivery of critical services. The ongoing economic crisis has created additional strain on government and NGO facilities, as private clinics are no longer affordable for many. Taliban-imposed restrictions on health-care professionals seeing patients of the opposite sex and restrictions on women undermine women's ability to work in the health sector, despite the health sector exemption from the bans on women working in NGOs and for the United Nations.

1. Sexual and reproductive rights

60. In the early 2000s, Afghanistan had the highest maternal mortality rate in the world. According to the World Bank, the maternal mortality ratio improved from 1,460 per 100,000 live births in 2000 to 638 in 2017, with the ratio of births attended by skilled health personnel increasing from 12 per cent in 2000 to 59 per cent in 2018. Access to family planning increased from 10 per cent in 2003 to 22 per cent in 2010. Conflict, insecurity, poverty, discriminatory traditional practices, inadequate health facilities and lack of education continued, however, to contribute to unequal access to and provision of health care for women and girls.¹³

61. The experts heard of women unable to give birth in clinics owing to the costs involved or because of insufficient resources in the clinics. Women are reportedly routinely faced with delivering their babies without professional assistance or incurring significant debt to deliver at private health-care facilities. In one case, a rickshaw driver was required to provide his rickshaw as surety to a private clinic for the \$1,500 bill for the birth of his child. The driver has been unable to pay and is now without an income. Access to contraceptives is limited, and women seeking to enter pharmacies alone have reportedly been denied access. Some members of the Taliban message that contraception is contrary to sharia while others have prevented the distribution of contraceptives by humanitarian actors. Access to abortion care is generally also limited and does not reach international standards.¹⁴

62. While visiting a maternity hospital in Kabul, the experts noticed the absence of first-year interns. It was a stark reminder of the longer-term prospects for women's health care if the ban on education for girls continues. As girls and women can be provided care only by female doctors, unless the restrictions are reversed rapidly, there is a real risk of multiple preventable deaths, which could amount to femicide.

2. Mental health

63. Counter to Taliban claims that suicides have decreased and mental health have improved since August 2021,¹⁵ reports of depression and suicide are widespread, especially among adolescent girls prevented from pursuing education. In the March 2023 survey, 1,005 respondents (47.6 per cent) knew at least one woman or girl who had suffered from anxiety or depression since August 2021. Alarming, 7.8 per cent of respondents (164) knew a woman or girl who had attempted suicide. Every woman the experts spoke with expressed

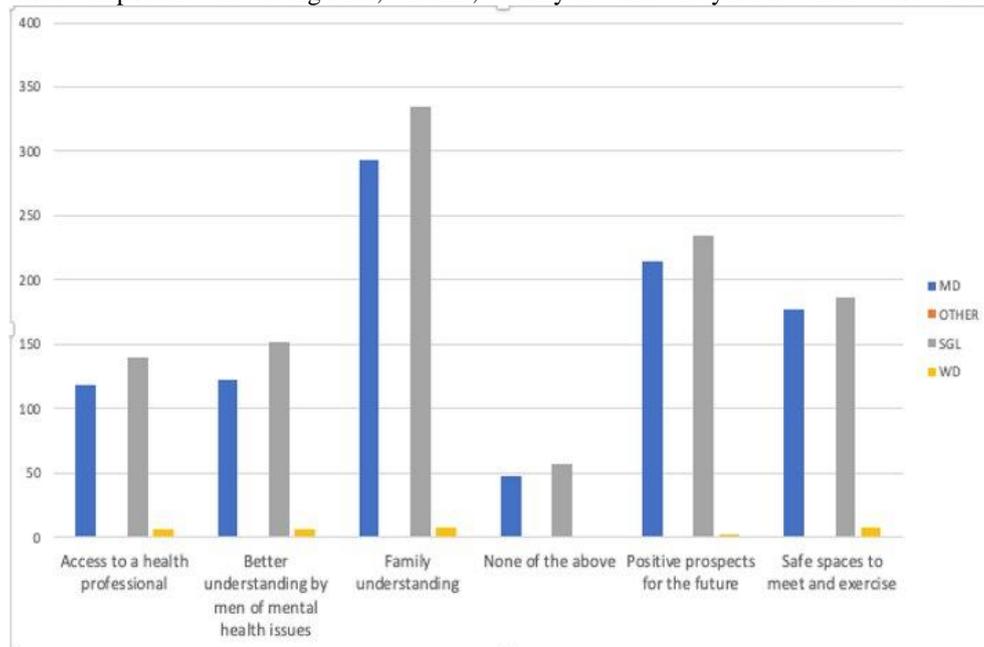
¹³ Zainab Ezadi, Nesa Mohammadi, Roqia Sarwari and Shakardokht M. Jafari, "Afghan women and access to health care in the past 25 years", *The Lancet*, 13 December 2021.

¹⁴ See A/HRC/32/44 and A/HRC/47/38. See also World Health Organization (WHO), Abortion care guideline, March 2022 (available from www.who.int/publications/i/item/9789240039483).

¹⁵ [20230522-CEDAW-info-from-Afghanistan](https://www.ohchr.org/en/press-releases/2023/05/20230522-CEDAW-info-from-Afghanistan), p. 1.

serious concern about the mental health of women and girls. The experts spoke with a mental health practitioner, who estimated that 90 per cent of students, young women and girls suffer from poor mental health. She pointed out that the restrictive environment limited her ability to support these girls and young women since she did not have a *maharam*.

64. The experts asked Afghan women about ways to improve the mental health of women and girls in their community (see replies to the question asked in the survey “What would help improve the mental health of women and girls in your community?” in the table below). Overall, the top three suggestions from the survey were family understanding (30.1 per cent); positive prospects for the future (21.4 per cent); and safe spaces to meet and exercise (18 per cent). Family understanding was seen as particularly important to improving mental health for single women between the ages of 25 and 35 years. Safe spaces to meet and exercise were more important in Nangarhar, Balkh, Bamyan and Daykundi than elsewhere.



65. Focus group participants were asked how family understanding could be developed. Key suggestions included involving religious scholars and leaders to provide mental health awareness-raising programmes through mosques for men; training for teachers to support boys to play a positive role inside the home and to respect women; local support groups for women; and access to professional mental health services in person and online. Caution was urged about media campaign, which could potentially exacerbate the issues women and girls face by stigmatizing them or portraying them as weak.

E. Family and cultural life

66. Women and girls do not enjoy equal rights within the family in Afghanistan. Harmful practices and persisting forms of inequalities include 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. Women and girls have generally not been treated equally in families in relation to the division of rights and responsibilities. Discrimination against women and girls in the family, including in marriage, affects all aspects of their lives.¹⁶

67. In December 2021, the Taliban issued an edict mandating girls’ consent to marriage, prohibiting *baad* marriages (marrying a woman or girl to someone as blood price or to achieve peace with another family), stipulating widow’s inheritance rights and freedom of

¹⁶ See A/HRC/29/40 and A/HRC/38/46.

choice on remarriage under sharia law, and specifying that wives have a right to be supported by their husbands. While some of these rulings may have a positive intent, they fall short of respecting and protecting girls' rights and ensuring equality in marriage or family life, as required under Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women. Moreover, public statements of senior Taliban officials give rise to concerns that Taliban ideology posits women as second-class citizens who are the property of their husbands, raised to be married, to serve their husband, to bear children and to raise them to follow the same ideology.

68. Fallacious interpretations of religion are often invoked by the Taliban to justify discrimination and violent practices against women and girls. According to several interlocutors, women are not viewed as equal with men in the interpretation of cultural values or how they may be expressed. When culture and religion are invoked to justify different forms of discrimination against women, women are seen not as victims or survivors, but as persons who "violate" cultural rules and norms.

69. While reaffirming their commitment to the principle of upholding freedom of religion or belief as human rights to be protected, the experts reiterate that freedom of religion or belief should never be misused to discriminate against women and girls. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.

70. The de facto authorities have also limited women's and girls' participation in cultural life and in sports, in contravention of article 15 of the International Covenant on Economic, Social and Cultural Rights and article 31 of the Convention on the Rights of the Child. During the Republic, Afghan women were able to participate in individual and team sports, including at the international level, such as the Olympics. Women are also noted artists and members of the national orchestra and music academy. In September 2021, the deputy head of the Taliban cultural commission said in an interview that women would not be allowed to participate in sport since their participation was considered neither appropriate nor necessary. Since then, women have been deprived of their right to participate in cultural life and sports. Many women involved in sports, art and music have fled to exile.

71. Beyond their obvious discriminatory nature, all curtailments of rights that were already enjoyed by girls and women amount to deliberately retrogressive measures, prohibited by article 2.1 of the International Covenant on Economic, Social and Cultural Rights.

72. The restrictive environment coupled with the economic crisis increasing poverty and the general uncertainty about the future place enormous pressure on women and their families. Interlocutors repeatedly stressed the interlinkages between women and girls being at home, and women and men losing their jobs with increasing tensions in the home and domestic violence. Economic pressures, particularly, are driving harmful, discriminatory and/or violent practices, such as forced and child marriage, sale of children and body organs, child labour (including begging), trafficking and unsafe migration.

73. As at 2021, approximately one girl in three (35 per cent) married before the age of 18, and one in five (17 per cent) before 15.¹⁷ There is notable evidence of a significant increase in child and forced marriage of girls, highlighting the continued prevalence of this specific form of gender-based violence to cope with the worsening livelihood situation. Between December 2022 and February 2023 alone, the International Organization for Migration (IOM) received 578 separate reports of forced marriage, of which 361 were child marriages. In the words of one interlocutor, "many families feel it is better to sell a child into marriage than for her to die of starvation". A secondary school teacher informed the experts that early and forced marriages were common among her former pupils, since school had been closed to them.

¹⁷ UNESCO, "The right to education: what's at stake in Afghanistan?". A 20-year review, 2021.

74. Children, especially young girls, are being sold due to discriminatory social constructs compounded by economic pressure and the lack of any form of hope for them and their family. Between December and February 2023, IOM received 118 reports of undocumented returnees selling their children to service debt. The experts are also profoundly concerned about the sale of children, which may constitute contemporary forms of slavery under the Worst Forms of Child Labour Convention, 1999 (No. 182) of the International Labour Organization (ILO) and is in violation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

F. Gender-based violence

1. Domestic violence

75. Violence in the family sphere continues to disproportionately affect women and girls. In 2017, the Central Statistics Organization in Kabul estimated that 50.8 per cent of women between the ages of 15 and 49 had experienced intimate partner physical and/or sexual violence at least once in their lifetime.¹⁸ Accounts heard by the experts, also reflecting the suspension of services to detect and respond to gender-based violence in the private sphere, point to a significant increase in spousal and intrafamily violence against women and girls.

76. Women in Afghanistan stressed that the current restrictive environment outside the home and economic pressures are resulting in significant tensions within the home, leading to domestic violence. The experts are also concerned that the systemic discrimination against women and girls is normalizing gender-based violence against them, both inside and outside the home. Inadequate funding and disruptions in aid have significantly reduced protective, preventative and support services for women and girls, and the accessibility of safe spaces or shelters for them to escape violence. Safe space providers report having to consistently adapt to local challenges and suspicion of Taliban officials about the services they provide.

2. Gender-related killings (femicide)

77. The experts are deeply concerned about reports of gender-related killings, or femicide, stemming from the systematic enforcement of discriminatory gender roles and punishments for what the de facto authorities deem as inappropriate female behaviour. The impunity surrounding reported incidents of femicide, or the unlawful deaths of women and girls in a range of situations, whether in their own homes, in public spaces or in Taliban-run detention facilities, is exacerbated by a lack of documentation and the unavailability of legal protection and recourse.

78. The experts moreover heard testimony and found strong evidence of the prevalence of an environment of “gender-related motivation” as reflected in the Taliban’s edicts, recommendations and practices, which underlies the statistical definition of femicide adopted by the United Nations,¹⁹ which refers not to the subjective motive of an individual perpetrator of femicide but to the normative and societal prevalence of “root causes”, such as stereotyped gender roles, discrimination against women and girls, and inequality and unequal power relations between women and men in society that characterize the specific context and serve as the triggers for such killings.

3. Lack of access to legal remedies and justice

79. The lack of a clear and uniform, coherent and predictable legal system in Afghanistan under Taliban-rule contributes to the perpetuation of violence against women and an absence of accountability for perpetrators. Without an adequate legal framework, there can be no prevention of, protection against or prosecution for gender-based violence, in contravention of the Convention on the Elimination of All Forms of Discrimination against Women, the

¹⁸ <https://evaw-global-database.unwomen.org/en/countries/asia/afghanistan#1>.

¹⁹ United Nations Office on Drugs and Crime (UNODC), United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) et al, “Statistical framework for measuring the gender-related killing of women and girls”, 2022.

International Covenant on Civil and Political Rights and the Convention against Torture, and due diligence principles.

80. Since assuming power, the de facto authorities have abolished the Law on the Elimination of Violence against Women, related specialized courts and family response units of the national police, and removed most Republic-era judges, including all women judges from the bench (approximately 250, namely, 10 per cent of all judges), replacing them with non-legally qualified mullahs, and have effectively suspended the legal practice licences of all women lawyers after issuing a directive for lawyers to renew their licences but opening the process only to men. In sum, these actions have effectively removed any possibility for women to seek justice through the judicial system, especially for victims of domestic and family violence.

81. Despite instructions and restrictions in education and medical fields requiring women and girls having access only to women education and medical professionals, they have no access to women legal professionals. This renders courts and lawyers' offices physically inaccessible in most of the country, a fact compounded by the requirement of *maharam* and safety concerns. Although some women lawyers continue to provide legal services from their homes, assisting in the preparation of applications and submissions to the court, they are prohibited from entering courtrooms in most locations, and are generally afraid for their safety if they do so.

82. Women seeking a divorce or fleeing abusive domestic situations are most seriously affected, as they are routinely forced to return to violent relationships. The experts heard from lawyers managing cases in which women who had gone to court seeking a divorce have been admonished by the judge with remarks such as "your hand is not broken, your leg is not broken, why do you want a divorce?", "get your husband's consent first", and flatly "you cannot divorce". The experts also heard from women who reported domestic violence to the police that they "should not complain", that they probably "deserved being beaten" and that "such matters are private and should remain in the family". Preventing women from fleeing violent relationships and forcing them to return to perpetrators of violence is a failure of due diligence to protect against such violence. The legitimization of domestic violence and the failure to exercise due diligence to protect women from violence and torture or ill-treatment generate the international responsibility of concerned actors.²⁰

83. The forced return of women to violent and abusive partners has been further exacerbated by an edict that any divorce cases settled during the Republic era may be reviewed by a judge of the Islamic Emirate of Afghanistan judge. In one district alone, some 50 instances of men bringing such cases to the court to be annulled have been reported. In one extreme case, a woman was ordered by a de facto court to marry a man from whom she had officially separated under the Republic. Upon refusing, her current husband was imprisoned, her father was imprisoned for blessing the marriage, and the woman was imprisoned for continuing to refuse the marriage. Her young daughter (with her current husband) was then forcibly married to a member of the former fiancé's family in *baad*.

84. Limited access to formal justice institutions, especially in rural areas, had historically increased people's reliance on traditional dispute-resolution mechanisms, such as jirgas and shuras. This dependency increased during the Republic because the formal justice system was often considered ineffective and corrupt, and had failed to investigate and prosecute violence against women perpetrators. Coupled with the conservative norms of Afghan society, social stigma and poor chance of obtaining justice through the formal system, families attempted to resolve cases privately or at the community level, through a jirga or shura. Informal justice systems give little space for women's voice and choice and often result in the revictimization of female victims. In the absence of women specialized courts, female judges, prosecutors and defence lawyers, dependency on traditional dispute mechanisms is expected to increase, exacerbating women's lack of access to justice.

85. Women lawyers and judges are currently in danger; their livelihoods have largely vanished, and many are in hiding. Others are in exile because of threats received, especially

²⁰ A/74/148, para. 14.

from men that have been released from prison by the Taliban and see women in the justice system as responsible for their conviction and imprisonment.

G. Women and girls in situations of heightened disadvantage or marginalization

86. Women and girls experience multiple and intersecting forms of discrimination that reinforce and sustain each other. All women are affected by gender-based discrimination with differing levels of intensity and disparate consequences.

87. Some women and girls are disproportionately affected by lack of access to services and means to navigate the restrictive environment, particularly those who are members of marginalized ethnic and religious groups (such as the Hazara Shias) or who are living in poverty, in rural areas, have no male family members. Certain groups may be targeted by the crackdown on activism, such as women human rights defenders, and those with political views differing from those of the Taliban.

88. Women and girls with disabilities face additional challenges in their access to services, have no legal protection from discrimination, and limited viable alternatives to classroom education, employment and support services. Before August 2021, legal protection under the Constitution and legislation enabled students with disabilities to attend mainstream schools. With the abandonment of that legal framework, there is no basis on which to advocate for inclusive education. The ban on women working in NGOs has drastically reduced the capacity of women-led organizations providing rehabilitation and disability support services to continue to provide them, as it has their own income-earning capacity.

89. Girls and young women, in particular those affected by poverty, face greater vulnerability to forced and child marriage and to experiencing malnutrition and the intergenerational impact of conflict. The impact of a loss of all hope for their future on mental health cannot be underestimated.

90. Undocumented returnee and migrant women and girls face significant barriers to sustaining themselves on return, as a lack of documents compounds the impact of the economic crisis. More than 75 per cent of undocumented returnees (men and women) have no access to basic services, and 88 per cent have no employment options. For undocumented women, the restrictions imposed by the Taliban considerably reduce employment options.

91. Women and girls assigned female at birth who are lesbian, bisexual, transgender or gender diverse face significant discrimination and challenges over their lifetime that are largely due to societal expectations. They live in fear of being identified as queer persons, which can result in extreme violence and death. Trans and gender-diverse persons are unable to obtain the documentation that affirms their gender identity and that could mitigate their exposure to risk.

IV. Gender persecution and apartheid

A. Gender persecution

92. The experts are deeply concerned that gender persecution is occurring in Afghanistan under the rule of the de facto authorities. The Taliban are severely depriving women and girls of their fundamental rights, including their rights to substantive equality, quality education, equal participation in economic, social and political life, equality before the law, freedom from torture and other inhumane acts, freedom from discrimination and freedom of movement, peaceful assembly, and of association and expression. The Taliban is punishing those who transgress its rights-violating edicts, enforcing severe deprivation of fundamental rights through acts or crimes of violence, such as arbitrary detention, torture, or inhuman or degrading treatment. Under article 7.2 (g) of the Rome Statute, “persecution” is the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity. While the scope of the present report does

not extend to making final determinations of individual criminal responsibility, the information received, including substantial first-hand accounts, gives rise to a critical concern that women and girls are being targeted for gender persecution because of their sex characteristics and because of the social constructs and criteria used to define gender roles, behaviour, activities and attributes.

93. Gender persecution constitutes a crime against humanity under article 7.1 (h) of the Rome Statute, as well as being a serious violation of the rights to equality and non-discrimination of women and girls, besides several other rights as identified by the experts in their analysis of Taliban edicts. All persons may be targeted for gender persecution: women and girls, men and boys, gender-diverse and non-binary persons.

94. Gender persecution can also be deemed as grounds for women to apply for or to be granted refugee status by host States under the Convention relating to the Status of Refugees, the Protocol thereto and applicable regional and national legislation.

B. Gender apartheid

95. Apartheid framing was first used in 1999 to characterize the situation of women under Taliban rule.²¹ Although not currently a crime under the Rome Statute, there are proposals for the application of the definition of the crime against humanity of apartheid in the Statute to gender. Adapting the definition of article 7.2 (h), gender apartheid could be understood as inhumane acts committed in the context of an institutionalized regime of systematic oppression and domination by one gender group over any other gender group or groups and committed with the intention of maintaining that regime. This is an accurate description of the situation documented in the present report, in which systematic discrimination against women and girls is at the heart of Taliban ideology and rule.

96. Gender apartheid framing emphasizes that exclusion of and discrimination against women and girls is institutionalized and, as such, is a grave and systematic human rights violation that breaches the Charter of the United Nations, the principle of equality and non-discrimination and the fundamental spirit and norms of international human rights law. The International Court of Justice has also made clear that claimed valid motives for apartheid – such as cultural or religious justifications for [gender] apartheid – are unacceptable and irrelevant under the purposes and principles of the Charter, and thus contrary to international law.²² Apartheid framing also highlights that other States and actors and the international community at large, have a duty to take effective action to end the practice, as was done to end racial apartheid in southern Africa.

V. Conclusions and recommendations

A. Conclusions

97. While the backlash against women's and girls' rights has unfolded in different countries and regions in recent years, nowhere else in the world has there been an attack as widespread, systematic and all-encompassing on the rights of women and girls as in Afghanistan. Every aspect of their lives is being restricted under the guise of morality and through the instrumentalization of religion. The discriminatory and restrictive environment, the climate of fear and the lack of accountability for the wide range of violations documented by the experts in the present report make it impossible for women and girls to exercise their rights, restrains all persons and organizations from defending them, and emboldens further abuses. The pattern of large-scale systematic violations of women's and girls' fundamental rights in Afghanistan, abetted by the

²¹ See E/CN.4/1999/58.

²² *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971, p. 16.*

Taliban's discriminatory and misogynistic policies and harsh enforcement methods, constitutes gender persecution and an institutionalized framework of gender apartheid.

98. At the same time, Afghan women and girls continue to resist and struggle for their human dignity, however exhausting it may be. Their strength and determination to continue to exercise their rights through creative, peaceful initiatives deserve to be nourished and supported. The international community should remain engaged on the situation in Afghanistan and take concrete steps to support accountability for serious human rights violations.

B. Recommendations

99. The experts recommend that the de facto authorities:

(a) Ensure the compliance of Afghanistan with its international human rights obligations by rescinding all discriminatory edicts and instructions issued since August 2021 that specifically target women and girls;

(b) Ensure equal representation and meaningful participation of women and girls, from all religious and ethnic groups, in all decision-making processes affecting their lives;

(c) Desist from committing threats of or acts of violence, including arbitrary detention, sexual abuse, or any form of torture, ill-treatment or punishment against women and girls for allegedly violating the edicts or for protesting peacefully;

(d) Investigate cases of violence against women, including women protesters and prisoners, bring perpetrators to justice, and provide reparations;

(e) Immediately restore equal access to quality education for girls and women at all levels, and allow schools and universities to unconditionally accept female students in all courses and to reinstate all female teachers;

(f) Remove all restrictions and barriers to women's rights, including repealing the imposition and enforcement of compulsory dress codes and *maharam*, both generally and specifically in relation to employment, education and freedom of movement;

(g) Immediately restore the right of women to work for the United Nations and international NGOs and in the civil service;

(h) Take steps to promote women's active participation in public life, the economic sector, humanitarian operations, development programmes and recovery efforts, and in the administration of justice;

(i) Restore legal protections and the fundamental rights of women and girls by respecting the legal framework in force prior to August 2021, including the Law on the Elimination of Violence against Women and the Civil Code;

(j) Reinstate the former judiciary, the specialized courts, and women's police units and shelters that were created to assist survivors of gender-based violence;

(k) Support free and independent media and civil society by opening up space for civil society activists, journalists and human rights defenders, especially women, to exercise their legitimate rights without intimidation, harassment, fear of detention or prosecution in accordance with international human rights protections and standards on freedom of expression, assembly and association;

(l) Ensure that women and girls have access to the full range of quality health services, including sexual and reproductive health services and information, paying specific attention to the additional barriers faced by rural women and to the mental health needs of all women and girls;

(m) Take steps to establish a gender-equal intra-Afghan reconciliation process to determine the country's future, fully inclusive of the country's ethnic and religious

diversity, including the drafting of a new constitution and legal framework reflecting the aspirations of the people, their historical, social and cultural context, and protecting all their rights, including the recognition of women's and girls' human rights and accountability for serious human rights violations and crimes;

(n) Continue to engage constructively and facilitate visits to the country by the Special Rapporteur and other United Nations human rights mechanisms, and also with the Committee on the Elimination of Discrimination against Women.

100. The experts recommend that States:

(a) Ensure that the situation of human rights of women and girls in Afghanistan is central to all policy decisions and engagement with the de facto authorities, in accordance with the recommendations for them in the previous paragraph;

(b) Ensure the representative, equal and meaningful participation of Afghan women in all deliberations concerning the country's future, including while defining the international community's policies towards the de facto authorities;

(c) Mandate a report on gender apartheid as an institutionalised system of discrimination, segregation, humiliation and exclusion of women and girls, with a view to developing further normative standards and tools, galvanizing international legal condemnation and action to end it and ensure its non-repetition;

(d) Support, inter alia, with long-term flexible funding, women-led organizations operating inside Afghanistan, including new businesses and civil society organisations, working on women's rights and gender equality;

(e) Take all possible steps to support access to education for all girls;

(f) Fulfil the calls made by the United Nations for support to address the humanitarian and human rights crises facing Afghanistan, while consistently maintaining a unified and principled approach, and ensuring that marginalized groups receive adequate attention;

(g) Consult Afghan women as equal partners to inform policy priorities and decision-making, amplify advocacy led by Afghan women inside the country, and ensure that their voices inform the work and decisions of the international community and humanitarian organizations;

(h) Grant support and protection to all Afghan women and girls who are outside Afghanistan, and take measures to ensure their long-term security, including by granting them refugee, protective or regular status, facilitating their safe resettlement and expanding the provision of educational scholarships and mental health services;

(i) Take 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;

(j) Support international and Afghan civil society justice-seeking efforts for Afghan women and girls for violations of their human rights, including through the International Criminal Court, the International Court of Justice, universal jurisdiction and all applicable human rights mechanisms;

(k) Keep the situation of women and girls high on the international agenda and continue to create opportunities for Afghan women to address the bodies of the United Nations;

(l) Support further collaboration among thematic special procedures and the Special Rapporteur, including joint follow-up by the Working Group on discrimination against women and girls on the recommendations made in the present report.

101. The experts recommend that the United Nations Organization:

- (a) **Ensure a unified and principled approach based on human rights when engaging with the de facto authorities and within all United Nations entities and agencies, fully recognizing the complementarity of international human rights law, international humanitarian law and international criminal law;**
 - (b) **Maintain a commitment to the secure employment of female Afghan staff and ensure ethnic diversity;**
 - (c) **Ensure women's equal and meaningful participation in different forms of dialogue with the de facto authorities, including through the establishment of a platform for women's direct engagement, and take measures to protect women human rights defenders from reprisals;**
 - (d) **Continue to take concrete steps towards supporting protection from and accountability for the grave and systematic violations of women's and girls' human rights;**
 - (e) **Continue to call for the reinstatement and enforcement of provisions that protect women and girls and criminalize numerous violations of their rights;**
 - (f) **Include women from Afghan civil society as equal partners to inform planning, programming, advocacy and policy priorities;**
 - (g) **Prioritize gender-sensitive assessments to understand the specific needs and obstacles that women and girls in situations of heightened vulnerability or disadvantage face, and duly address them;**
 - (h) **Ensure that Afghan women and girls have due access to United Nations spaces, and that their voices and realities, especially of those most marginalized, are duly considered.**
-