

RESOURCE PAPER

**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**



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER



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INTRODUCTION

The Office of the United Nations High Commissioner for Human Rights (OHCHR) and the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) reviewed the compliance of measures introduced by Afghanistan’s *de facto* authorities since August 2021 – including laws and directives – with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).¹

This legal review is intended as a resource for national and international actors seeking to understand whether the measures introduced by the *de facto* authorities² comply with Afghanistan’s obligations under CEDAW. It also establishes a baseline from which Afghanistan’s progressive compliance with CEDAW provisions could be assessed in the future.

Rationale for a CEDAW legal review

CEDAW was adopted by the United Nations General Assembly in 1979 and entered into force in 1981. It

aims to eliminate discrimination against women³ in all facets of their lives – political, social, economic, cultural and civic.⁴ States that have ratified CEDAW are legally required to condemn all forms of discrimination against women.⁵ They are obliged to “*pursue by all appropriate means and without delay*”⁶ policies to eliminate discrimination against women. CEDAW, often referred to as the “*international bill of rights for women*”,⁷ sets out a comprehensive framework for States Parties to eliminate discrimination against women and achieve gender equality.

1 United Nations (UN), Convention on the Elimination of All Forms of Discrimination against Women, General Assembly Resolution 34/180, 18 December 1979 (entered into force on 3 September 1981, in accordance with Article 27(1)). Hereafter: UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979.

2 In this review, unless indicated otherwise, all references to Afghanistan’s *de facto* authorities are noted as the “*de facto* authorities”.

3 References to women in this document are intended to cover girls as well, unless otherwise stated. Girls are female children under the age of 18.

4 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979.

5 UN, Committee on the Elimination of Discrimination Against Women (2010), [General Recommendation No. 28](#) on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, 16 December. CEDAW/C/GC/28, para. 5.

6 UN, Committee on the Elimination of Discrimination Against Women (2010), [General Recommendation No. 28](#) on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, 16 December. CEDAW/C/GC/28, para. 24.

7 See the UN Women report on the [Convention on the Elimination of all Forms of Discrimination Against Women \(CEDAW\) for Youth](#). See also the OHCHR webpage on the [Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979](#)”.

Afghanistan is a State Party to numerous international treaties,⁸ including seven of the nine core international human rights conventions. CEDAW is one of these treaties, which Afghanistan ratified without reservations in 2003.⁹ The *de facto* authorities, as the current governing body of Afghanistan, are obliged to ensure that the State complies with CEDAW as with all international treaties that it has ratified. Even in the absence of *de jure* legitimacy, the *de facto* authorities are legally required to comply with CEDAW by upholding non-discrimination, substantive equality, and State obligations to protect and promote women's full enjoyment of their human rights.

Methodology

OHCHR and UNWOMEN undertook the legal review by mapping each measure in relation to the provisions of CEDAW and its foundational principles of non-discrimination and State obligations. Where applicable, General Recommendations and Concluding Observations adopted by the CEDAW Committee are included to supplement the legal review of each selected measure.¹⁰

8 The importance of these responsibilities has been reiterated in international policy platforms as the *de facto* authorities' efforts to engage with the international community continue. The [Special Coordinator's assessment](#) delivered in November 2023, pursuant to resolution 2679 (2023), described the importance of the *de facto* authorities' adherence to their obligations under international treaties in developing a pathway to international engagement and recognition.

9 See the [UN Treaty Body Database](#) for the ratification status by country or by treaty.

10 [General Recommendations](#) are soft law instruments under CEDAW Article 21(1). They are based on the examination of reports and information received from States and submitted in annual reports to the General Assembly through the Economic and Social Council. They serve as interpretive documents to keep the convention dynamic, as treaty texts are seldom amended. The 40 general recommendations adopted to date by the CEDAW Committee have, *inter alia*, provided authoritative guidance on rights that persistently come up in dialogues; filled gaps in the convention; expounded on issues fundamental to the operation of the convention; and updated jurisprudence on emerging issues.



BAN ON WOMEN USING PARKS AND GYMS

(10 NOVEMBER 2022)

SYNTHESIS OF THE DIRECTIVE

On 10 November 2022, the *de facto* Ministry for the Propagation of Virtue and Prevention of Vice and Hearing of Complaints, known more commonly and hereinafter referred to as the *de facto* Ministry for the Propagation of Virtue and Prevention of Vice announced through social media¹¹ that women were prohibited from the use of parks, gyms and public baths.

ANALYSIS

The directive is in violation of Afghanistan’s obligations under several articles of CEDAW.

It is directly discriminatory against women, restricting them from accessing outdoor public places, making these places only accessible to men. Article 1 defines discrimination against women as “...*any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field*”.

Article 2 directs States parties “*to refrain from engaging in any act or practice of discrimination against women*”.¹²

Given the indivisibility of rights, denying women access to parks, gyms and public parks infringes on several other rights guaranteed by CEDAW, specifically, women’s participation in recreational activities, sports and all aspects of cultural life,¹³ freedom of movement,¹⁴ and their full social development and advancement.¹⁵ Banning women from using parks, gyms and public baths also infringes on their right to health, particularly physical and mental health.¹⁶

11 See the [posting](#) at MPVPV [@MOPVPE], X (formerly Twitter), 10 November 2022, 10:40pm, Accessed on 11 November 2022.

12 United Nations (UN), Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 2(d).

13 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 13(c).

14 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 15(4).

15 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 3.

16 See UN, Committee on the Elimination of Discrimination against Women (1999), General Recommendation No. 24: Article 12 of the Convention (women and health), 4 May, A/54/38 (Part I), para 4, where the Committee notes the emphasis that other United Nations instruments place on the right to health and to the conditions that enable good health to be achieved, including the Convention on the Rights of the Child that states in article 31 that (1) States Parties recognise the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts, and that (2) States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.



BAN ON WOMEN'S TRAVEL BEYOND 78 KILOMETRES

(31 DECEMBER 2021)

SYNTHESIS OF THE DIRECTIVE

On 31 December 2021, the *de facto* Ministry for the Propagation of Virtue and Prevention of Vice posted on its Twitter account (now X): “A woman who believes in Allah and the Last Day is not permitted to travel alone for more than three days and nights. This is the journey period of 45 miles or 78 km.” Subsequently, on 27 February 2022, the *de facto* Ministry issued an advisory instructing that drivers must not carry women without a *hijab* in their cars and must not transport women who travel more than 45 miles (78 kilometres) without a *mahram*.¹⁷

ANALYSIS

The directive directly discriminates against women as they alone are affected by the requirement of a *mahram* and a *hijab*, not men; thus, without a *hijab*, women cannot be transported, and without a *mahram*, women cannot travel beyond 45 miles (78 kilometres).

Article 1 of CEDAW defines discrimination against women as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”. This renders the directives discriminatory as they interfere with women’s right to freedom of movement and freedom of expression, the latter particularly with regard to choice of dress.

The directives also violate Article 15.4 of CEDAW as they directly discriminate against women by infringing on their rights to freedom of movement¹⁸ and freedom of expression.¹⁹ Article 15.4 of CEDAW stipulates: “States

Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons....”

Further, the travel limitation discriminates against women in their pursuit of livelihoods and recreational activities, and indirectly excludes education and career choices in fields that involve distance travel. Using protectionism,²⁰ the directives impair women’s rights to education²¹ and employment.²²

With these directives, the *de facto* authorities have, contrary to CEDAW, explicitly reneged on Afghanistan’s obligation under Article 2(e), which requires “taking all appropriate measures to eliminate discrimination against women by any person, organization, or enterprise”.

Given the indivisibility of rights, prohibiting and limiting women’s freedom of movement as per these directives potentially infringes on other rights of women, such as those related to access to health-care²³ where health facilities are located beyond the 78-kilometre radial distance, participation in public and political life,²⁴ and mental health.

17 A *mahram* is defined as a woman’s husband or her immediate male relative (i.e., father, brother, paternal and maternal uncles, and her nephews) with whom marriage is proscribed for her under sharia law.

18 United Nations (UN), Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 15(4).

19 In 2018, the Committee on the Elimination of Discrimination against Women recommended that Saudi Arabia ensure women’s right to choose their dress, “including by taking effective measures to protect them from violence, threats or coercion by the religious police and male guardians”. See the concluding observations on the combined third and fourth periodic reports of Saudi Arabia, CEDAW/C/SAU/CO/3-4, para. 30(b).

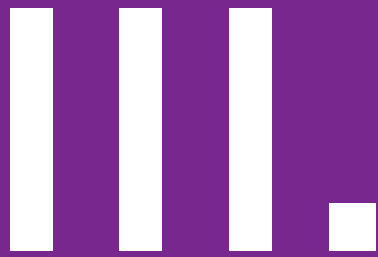
20 A protectionist approach to equality assumes that women are weaker than men, therefore require protection. Women’s choices are restricted and their rights are ignored to keep them safe. See UN Women. 2019. [CEDAW-based Legal Review: Brief Guide](#), p.8.

21 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 10.

22 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 11.

23 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 12(1).

24 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 7. See also UN, Committee on the Elimination of Discrimination Against Women (1997). [General Recommendation No. 23: Political and Public Life](#). 12 August. A/52/38/Rev.1, pp. 61–70.



HIJAB DIRECTIVE

(7 MAY 2022)

SYNTHESIS OF THE DIRECTIVE

On 7 May 2022, the *de facto* Ministry for the Propagation of Virtue and the Prevention of Vice, through its Twitter account (now X),²⁵ issued a directive defining the proper *hijab* for women. It includes provisions to deal with non-compliant women, among other issues. According to the directive, 99 per cent of Afghan women already observed the *hijab* based on “Sharia Law and their culture”. The directive calls on the “rest of the women to also observe Sharia rules regarding the *hijab*...”.

According to the directive:

- It is obligatory and necessary for Muslim adult women to observe the Shariah *hijab*.
- Women who are not old or young in terms of age must cover their faces, except their eyes, while confronting non-*mahram* men in accordance with the Shariah guidelines to avoid *fitnah* (seduction).
- Not leaving [the] home without any reason is the first and best form of observance of the Shariah *hijab*.
- Veiled women will be saved from disobedience and sin.
- *Hijab* is the privilege of Muslim and honourable women.
- [The *hijab*] will protect them [i.e., women] from the evil and corruption of corrupt people.
- It [i.e., the *hijab*] will not let women easily fall prey to the conspiracies of seducers.

To ensure compliance, the directive includes the following enforcement provisions:

- If a woman does not wear a *hijab*, for the first time, relevant authorities will find her house, and will inform her guardian, and should admonish her.
- The second time, her guardian will be summoned to come to the relevant directorate.
- The third time, her guardian will be imprisoned for three days.
- The fourth time, her guardian will be referred to court and will be punished accordingly.
- Those women who work with relevant institutions of the Emirate and do not wear *hijab* will be dismissed from their jobs.
- If the wife and daughters of male [*de facto*] government workers or staff did not wear *hijab*, they would be suspended from their jobs.

25 See the [posting](#) at MPVPV [@MOPVPE], X (formerly Twitter), 7 May 2022, 2:43pm, Accessed on 7 May 2022.

ANALYSIS

The directive is inherently discriminatory against women as only women are affected, not men. Article 1 of CEDAW defines discrimination against women as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”.

The directive nullifies women’s enjoyment of freedom of expression²⁶ and freedom of religion²⁷ by making the wearing of the *hijab* “obligatory” and by requiring women to “cover their faces, except their eyes, while confronting non-mahram men in accordance with the Shariah guidelines...”. Thus, women are denied the choice of dress and forced to be attired in a *hijab* and to cover their faces in the presence of non-mahram men – whether they wish to or not – as it is deemed by the *de facto* authorities as “obligatory and necessary for Muslim adult women” and in line with “Shariah guidelines”, respectively. This is contrary to Afghanistan’s obligations under Article 2 of CEDAW, which requires States Parties “[t]o take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women”.²⁸

The directive also encourages the curtailment of women’s freedom of movement stating that “[n]ot leaving home without any reason is the first and best form of

observance of the Shariah hijab”. Article 15.4 of CEDAW states that: “States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons...”. Restricting women to the home also has far-reaching consequences and affects several other rights, including the rights to work,²⁹ health and well-being,³⁰ education,³¹ participation in political and public life,³² and recreation.³³

The directive perpetuates and legitimises gender stereotypes against women in Afghanistan, particularly in relation to what is perceived to constitute an “honourable wom[a]n”. This contravenes Article 5(a) of CEDAW, which requires that “States Parties...take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women”.

Furthermore, Article 5 of CEDAW is violated when discriminatory sex-role stereotypes ascribe “appropriate” roles and behaviour for women as encapsulated in the provision of the directive that “[n]ot leaving home without any reason is the first and best form of observance of the Shariah hijab”. This provision encourages domesticity and fixed gender roles as the primary choice for women. The rationale and stated benefits of the *hijab* take agency, voice and volitional ability away from women and situate it in the dress code, within sex-based stereotypes.

26 United Nations (UN), Committee on the Elimination of Discrimination Against Women (2018). [Concluding observations on the combined third and fourth periodic reports of Saudi Arabia](#). 14 March. CEDAW/C/SAU/CO/3-4, para 30(b).

27 UN, Committee on the Elimination of Discrimination Against Women (2021). [Concluding observations on the sixth periodic report of Maldives. 23 November](#). CEDAW/C/MDV/CO/6, para 26 (d).

28 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 2(f).

29 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 11.

30 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 12.

31 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 10.

32 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 7.

33 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 13.

Insofar as the directive requires men to be women’s “guardians” as part of its enforcement provisions, the personal agency of women is effectively limited and denied. This projected perception of the inferiority of women and superiority of men also contravenes Articles 5(a) and 15.1 of CEDAW, which require that States accord to women equality with men before the law. Further, transferring the sanctions of an “offending” woman onto her male relatives – making men the first-line enforcers at the domestic level – infantilises women and does not recognise them before the law, reinforcing patriarchal structures.

With guardians (i.e., male family members) designated as enforcers of the directive, the *de facto* authorities are enabling and empowering male family members to use controlling behaviour and honour-induced discipline. The *de facto* authorities have also failed to comply with Afghanistan’s CEDAW obligations “[t]o embody the principle of the equality of men and women in their...legislation...and to ensure, through law and other appropriate means, the practical realization of this principle”,³⁴ “refrain from engaging in any act or practice of discrimination against women”,³⁵ and “take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise”.³⁶

34 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 2(a).

35 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 2(d).

36 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 2(e).

IV.

'LAW ON THE PROMOTION OF VIRTUE AND PREVENTION OF VICE'

(21 AUGUST 2024)

SYNTHESIS OF THE LAW

On 21 August 2024, the *de facto* authorities made public by gazette³⁷ a “Law on the Promotion of Virtue and Prevention of Vice” (hereinafter termed “the Law”), approved by the Taliban leader on 9 July 2024,³⁸ also the date of its entry into force. The “Law” contains four chapters and 35 articles. It designated the *de facto* Ministry for the Propagation of Virtue and the Prevention of Vice (MPVPV) as the executive authority for its implementation. The “Law” codified and broadened some pre-existing restrictions against women (such as women’s dress and the *hijab*) and added new ones. The most notable new or broadened restrictions were the prohibition of drivers and transport companies from transporting women who are not accompanied by a *mahram* (Article 20 (5)) and the requirement for women to conceal their voices in public (Article 22 (10)). The voices of women is described as *awrah* (something that is intimate and should be concealed) in the “Law” (Article 13 (3)).

The following provisions of the “Law” directly relate to or impact women:

Article 13:

- (1) Covering the entire body of a woman is mandatory.
- (2) Hiding a woman’s face due to the fear of causing seduction³⁹ is necessary.
- (3) The voice of women (singing songs loudly, reciting praises, and reading in public) is considered “*awrah*”.⁴⁰
- (4) Women’s clothing should not be thin, short, or tight.
- (5) Muslim women are required to cover their bodies and faces from unrelated men.
- (6) It is obligatory for Muslim and righteous women to cover themselves from non-believing women due to the fear of causing temptation.
- (7) It is forbidden for unrelated adult men to look at the bodies and faces of women, and for unrelated adult women to look at men.
- (8) When an adult woman leaves her home for a necessary need, she is required to conceal her voice, face, and body.

Article 15:

Inspector is obliged to promote virtue and prevent vice regarding men’s and women’s coverings.

Article 20 on Responsibility of PVPV Inspector Regarding Buses, Trucks, Motor-bikes and Other Vehicles:

The inspector has the responsibility to oblige the vehicle in-charges and drivers to comply with the following:

- (3) Obliging to refrain from offering transportation to women without *hijab*.
- (4) Obliging to prevent from sitting and intermingling of women with non-*mahram* men.
- (5) Avoid offering transportation to women without a sane adult Sharia *mahram*.

Article 22:

The inspector is responsible for preventing the following specific prohibitions.

- (10) The sound of a woman’s voice or music being heard outside the home or gathering.

37 See the [posting](#) at MoJ [@MojAfghanistan], X (formerly Twitter), 21 August 2024, 4:06pm. Accessed on 21 August 2024.

38 9 July 2024 is the date the Taliban leader approved the law as stated in the Official Gazette. The Official Gazette is dated 31 July 2024, and it was made public on 21 August 2024.

39 The word used in the Law is “*fitna*” which, in Dari, means tempting a person/people to do something wrong or sedition when used in a political sense..

40 *Awrah* means intimate parts that should be covered.

ANALYSIS

The imposition on women to cover their entire bodies, including as a way to prevent “seduction”⁴¹ and as an “obligation for Muslim and righteous women...”,⁴² is discriminatory and prejudicial against women. It runs contrary to the *de facto* authorities’ obligations under Articles 2(f) and 5(a) of CEDAW “to take appropriate measures to modify or abolish existing laws, regulations, customs, and practices that constitute discrimination against women”⁴³ and to “...modify 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 of either of the sexes or on the stereotyped roles for men and women”.⁴⁴

The imposition on women to cover their entire bodies also infringes on women’s right to freedom of expression and the right to freedom of religion, as it denies them the right to choose their dress as an obligation of “Muslim woman”.⁴⁵

- In 2018, the Committee on the Elimination of Discrimination against Women recommended that another State under review ensure women’s right to choose their dress, “including by taking effective measures to protect them from violence, threats or coercion by the religious police and male guardians”.⁴⁶
- In 2021, the Committee recommended that a further State “[c]ombat all forms of violence and coercion perpetrated against women and girls ‘justified’ with reference to religious practice or

*belief, ensure the personal safety and liberty of women and girls, hold accountable perpetrators of such violence and ensure that victims obtain redress”.*⁴⁷

Further, requiring that women conceal their voices, faces and bodies when they leave “...their home for a necessary need”⁴⁸ is not only inherently discriminatory against women but potentially limits their freedom of movement. This contravenes Article 15.4 of CEDAW, which requires that “States Parties accord to men and women the same rights with regard to the law relating to the movement of persons...”.

By requiring women to conceal their voices, the law contravenes Article 7 of CEDAW, particularly in relation to “discrimination against women in the political and public life of the country”, as women are limited to speaking only in the private sphere. Further, the restriction has serious consequences on women’s ability to report gender-based violence, seek protection and redress, as they are proscribed from speaking and intermingling with non-*mahram* men, including medical personnel and the *de facto* Police.

This restriction also infringes on women’s enjoyment of numerous other rights, including discrimination in the enjoyment of the right to freedom of expression, access to education,⁴⁹ and the opportunity to share ideas and knowledge as well as to work,⁵⁰ as women cannot engage in academic conversations or vocations where they are required to speak in public.

41 Article 13(2) of the Law on the Propagation of Virtue and Prevention of Vice, 21 August 2024.

42 Article 13(6) of the Law on the Propagation of Virtue and Prevention of Vice, 21 August 2024.

43 United Nations, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 2(f).

44 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 5(a).

45 Article 13(5) of the Law on the Propagation of Virtue and Prevention of Vice, 21 August 2024.

46 United Nations (UN), Committee on the Elimination of Discrimination Against Women (2018). [Concluding observations on the combined third and fourth periodic reports of Saudi Arabia](#). 14 March. CEDAW/C/SAU/CO/3-4, para 30(b).

47 UN, Committee on the Elimination of Discrimination Against Women (2021). [Concluding observations on the sixth periodic report of Maldives, 23 November](#). CEDAW/C/MDV/CO/6, para 26 (d).

48 Article 13(8) of the Law on the Propagation of Virtue and Prevention of Vice, 21 August 2024.

49 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 10.

50 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 11.

Requiring women to conceal their voices in public also infringes on their right to “*participate in all community activities*”.⁵¹ It also impairs their ability to assemble in public and raise their views on matters of public concern. It also restricts them from participating in recreational activities, sports and all aspects of cultural life.⁵²

The “Law” directly contravenes women’s freedom of movement by obliging drivers to refrain from transporting women without a *hijab*⁵³ and offering transport to “*women without a sane adult Sharia mahram*”.⁵⁴

- Limiting women’s freedom of movement potentially infringes on women’s enjoyment of a wide range of other rights protected under CEDAW, such as access to healthcare services,⁵⁵ as women may be stopped if found without a *hijab* and *mahram*.

- Further, requiring that women be accompanied by men infantilizes them, in clear violation of the object of CEDAW, i.e., the enjoyment of human rights and fundamental rights by women on an equal basis with men.⁵⁶

The “Law” is explicitly incompatible with Afghanistan’s obligations under Article 2(b)⁵⁷ of CEDAW given that it allows discrimination against women.

51 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 14(f).

52 UN, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, art. 13(c).

53 Article 20(3) of the Law on the Propagation of Virtue and Prevention of Vice, 21 August 2024.

54 Article 20(5) of the Law on the Propagation of Virtue and Prevention of Vice, 21 August 2024.

55 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 12. 1.

56 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 1.

57 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 2(b). It stipulates that States Parties “adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women”.



V.

BAN ON GIRLS' EDUCA-
TION BEYOND SIXTH
GRADE

(23 MARCH 2022)



SYNTHESIS OF THE DIRECTIVE

On 23 March 2022, the *de facto* Ministry of Education in Afghanistan announced⁵⁸ that secondary schools for girls, which had been closed since the Taliban takeover in August 2021, would remain closed, pending a plan for their reopening in line with sharia and Afghan tradition and culture. Boys' schools were reopened.⁵⁹

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.

ANALYSIS

The directive constitutes direct discrimination against girls⁶⁰ as they alone are affected by it, not boys. It entails a clear distinction, exclusion and restriction based on sex.

It also purposefully nullifies girls' enjoyment of their right to education⁶¹ beyond sixth grade, precluding girls from secondary and higher education. This imposes a discriminatory barrier to girls' transition into academic disciplines. Ultimately, it severely narrows their career choices and undermines any opportunities of economic independence, putting them at risk of additional rights violations.

Education is often considered a "gateway right"⁶² given its multiplier effect on other rights. It leads to socioeconomic benefits for girls, their families, communities and society. It facilitates economic growth and poverty reduction; contributes to healthy lives, personal autonomy and choices, including control over health and sexual and reproductive decisions; and supports participation in private and public domains on an equal basis with boys and men.⁶³

Prohibiting girls from education beyond sixth grade, thus, has a cumulative and continuing discriminatory effect. Discrimination in one area, education, builds on or results in a continuum of deprivations and rights violations, including the rights to equality and non-discrimination,

equal participation and empowerment, health and well-being, work and economic opportunities.

The directive is silent on alternative forms of education for girls, such as vocational education or skills training, contrary to rights guaranteed in Articles 10(a) and 10(b) of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which stipulates: "*States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women: (a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training; (b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality*".

Per Article 2(d) of CEDAW, the *de facto* authorities, as the entity issuing the directive, has a duty to refrain from engaging in any act or practice of discrimination against women and girls and to ensure that public authorities and institutions act in conformity with such an obligation.

58 See the [posting](#) at Bakhtar News Agency [@bnapashto], X (formerly Twitter), 23 March 2022, 8:27am. Accessed on 23 March 2022. See also United Nations, General Assembly (2022). [The Situation in Afghanistan and Its Implication for International Peace and Security Report of the Secretary-General](#). 15 June. A/76/862-S/2022/485, para. 7.

59 As of 19 May 2025, no steps to develop such a plan had been publicly announced.

60 United Nations (UN), Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 1.

61 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 10.

62 United Nations Educational, Scientific and Cultural Organisation (UNESCO). [Bringing into Focus the Future of the Right to Education](#), p. 32.

63 United Nations (UN), Committee on the Elimination of Discrimination against Women (2017). [General Recommendation No. 36 \(2017\) on the Right of Girls and Women to Education](#). 27 November. CEDAW/C/GC/36, para. 9.

VI.

**BAN ON HIGHER EDUCA-
TION FOR
WOMEN AND GIRLS**

(20 DECEMBER 2022)

SYNTHESIS OF THE DIRECTIVE

On 20 December 2022, the *de facto* Minister of Higher Education issued a written directive, via letter,⁶⁴ instructing public and private educational institutes and universities to refuse admission to women and girls. The letter stated: “...in accordance with Cabinet Enactment No. 28, dated 1443 *Hijri* [lunar Islamic calendar], the said order (which suspends women’s education until further notice) is immediately enforced, and you should assure the Ministry about your actions in this regard”. The directive did not indicate any reason for the ban.

On 21 December 2022, the *de facto* Minister of Higher Education posted on social media that “... girls’ higher education will be put on hold until a suitable environment that complies with Shariah is created”.⁶⁵

ANALYSIS

The directive constitutes direct discrimination against women and girls⁶⁶ as they alone are affected by the ban, not men and boys. It entails a clear distinction, exclusion and restriction based on sex.

The directive purposefully nullifies women’s and girls’ enjoyment of their right to higher education,⁶⁷ imposing discriminatory impacts and ultimately severely narrowing their career choices.

Education is often considered a “gateway right”⁶⁸ given its multiplier effect on other rights. It leads to socioeconomic benefits for girls, their families, communities and society. It facilitates economic growth and poverty reduction; contributes to healthy lives, personal autonomy and choices, including control over health and sexual and reproductive decisions; and supports participation in private and public domains on an equal basis with boys and men.⁶⁹

Banning women from accessing education opportunities thus has a cumulative and continuing discriminatory

effect. Discrimination in one area, education, builds on or results in a continuum of deprivations and rights violations, including the rights to equality and non-discrimination, participation and empowerment, health and well-being, work and economic opportunities.

In the medium to long term, the directive preventing women’s and girls’ access to higher education will contribute to a reduction or the complete unavailability of trained women professionals and specialists in a myriad of fields across socioeconomic sectors. It will impede the availability of women-to-women services, both general and specialised, which is particularly concerning as women can only benefit from healthcare provided by women health workers. This systemic gender-based discrimination, if not reversed, will lead to increased maternal deaths, among other health risks. Trained women professionals and specialists are necessary for women and girls to realise their human rights, including through access to female healthcare providers for reproductive healthcare and counselling.

64 See the [copy of the letter](#) at Ziaullah [@HafizZeiya], X (formerly Twitter) handle of the spokesperson of the *de facto* Ministry of Higher Education, 20 December 2022, 8:12pm, Accessed on 21 December 2022.

65 Quote from Neda Mohammad Nadim [@NedaMohammadNad]: “According to His Highness Amirul Momineen’s instructions, girls’ higher education will be put on hold until a suitable environment that complies with Shariah is created.” 21 December 2022, Twitter. (Account suspended as of 30 June 2025).

66 United Nations (UN), Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 1.

67 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 10.

68 United Nations Educational, Scientific and Cultural Organization (UNESCO). [Bringing into Focus the Future of the Right to Education](#), p. 32.

69 UN, Committee on the Elimination of Discrimination against Women (2017). [General Recommendation No. 36 \(2017\) on the Right of Girls and Women to Education](#). 27 November. CEDAW/C/GC/36, para. 9.

By denying women and girls a higher education, the directive violates Article 11 of CEDAW. It limits women's career choices and their right to the same employment opportunities as men,⁷⁰ as well as the right to freely choose a profession and employment.⁷¹ It will also limit their right to participate in and benefit from rural development⁷², and likely to limit their equal legal capacity⁷³, equality in marriage⁷⁴, and to financial resources⁷⁵.

The directive also runs counter to CEDAW's developmental imperatives, noted in Article 3, where States Parties are enjoined to *"take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men"*.

Per Article 2(d), the *de facto* authorities, as the entity issuing the directive, has a duty to refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions act in conformity with such an obligation.

70 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 11(b).

71 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 11(c).

72 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 14.

73 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 15.

74 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 16.

75 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 13 (b).

VII.

BAN ON WOMEN AND GIRLS FROM MEDICAL IN- STITUTES

(2 DECEMBER 2024)

SYNTHESIS OF THE DIRECTIVE

On 2 December 2024, the *de facto* Deputy Minister of the Ministry of Public Health verbally informed representatives of medical institutes across Afghanistan that from 3 December 2024, female students would not be permitted to attend classes in medical institutes. These provide courses in a range of disciplines, including midwifery, nursing, dentistry, anaesthesiology, medical laboratory sciences and nutrition.

Women were already prevented from studying medicine at universities by the ban on them attending university or higher education, introduced on 20 December 2022.

ANALYSIS

The directive constitutes direct discrimination against women⁷⁶ as they alone are affected by the ban, not men. It entails a clear distinction, exclusion and restriction based on sex.

It also purposefully nullifies women's enjoyment of their right to higher education,⁷⁷ imposing a discriminatory impact and ultimately severely narrowing their career choices.

Education is often considered a "gateway right"⁷⁸ given its multiplier effect on other rights. It leads to socioeconomic benefits for girls, their families, communities and society. It facilitates economic growth and poverty reduction; contributes to healthy lives, personal autonomy and choices, including control over health and sexual and reproductive decisions; and supports participation in private and public domains on an equal basis with boys and men.⁷⁹

Banning women from accessing higher education opportunities thus has a cumulative and continuing discriminatory effect. Discrimination in one area, education, builds on or results in a continuum of deprivations and rights violations, including the rights to equality and non-discrimination, participation and empowerment, health and well-being, work and economic opportunities.

The ban on women and girls in higher education at medical institutes will have a broader impact on healthcare availability and quality in the medium to long term, particularly for women. Having women medical

professionals and specialists is critical for women to obtain quality healthcare, including women's reproductive health, particularly as the *de facto* authorities do not allow men to women medical services. This systemic gender-based discrimination, if not reversed, will lead to increased maternal deaths, among other health risks. The lack of such professionals and specialists contravenes Article 12(1) of CEDAW, where the State's failure to ensure women's access to the same quality of services⁸⁰ available to men results in discrimination against women in healthcare.

The directive also violates Article 11 of CEDAW. It limits women's career choices and their right to the same employment opportunities as men⁸¹ as well as the right to freely choose a profession and employment.⁸²

As noted in Article 3, the directive runs counter to CEDAW's developmental imperatives, where States Parties are enjoined to "*take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men*".

Per Article 2(d), the *de facto* authorities, as the entity issuing the directive, has a duty to refrain from any act or practice of discrimination against women and to ensure that public authorities and institutions act in conformity with such an obligation.

76 United Nations (UN), Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 1.

77 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 10.

78 United Nations Educational, Scientific and Cultural Organization (UNESCO), [Bringing into Focus the Future of the Right to Education](#), p. 32.

79 UN, Committee on the Elimination of Discrimination against Women (2017). [General Recommendation No. 36 \(2017\) on the Right of Girls and Women to Education](#). 27 November. CEDAW/C/GC/36, para. 9.

80 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 12(1). Also see, for example, UN, Committee on the Elimination of Discrimination against Women (2020). [Concluding Observations on the Third Periodic Report of Afghanistan](#). 10 March. CEDAW/C/AFG/CO/3, para. 52(b).

81 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 11(b).

82 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 11(c).

VIII.

BAN ON WOMEN
CIVIL SERVANTS

(24 AUGUST 2021)

SYNTHESIS OF THE DIRECTIVE

After 15 August 2021, the *de facto* authorities informed most women civil servants not to return to their civil service jobs, outside some roles in education, health and security, although these exceptions varied slightly by province.

In a press conference on 24 August 2021, the spokesperson for the *de facto* authorities stated that the ban was temporary. He asserted that it was for women's safety as the *de facto* authorities had concerns about their security forces, which "may not be well trained" and might pose a risk to women of "inappropriate behaviour". He further stated that the *de facto* authorities had told women to stay home until "the security situation in the offices improved". He asserted that "no one will be dismissed, [and] their salaries will continue to be paid while they are at home, and they will not be considered absent".⁸³

ANALYSIS

The directive constitutes direct discrimination against women, in violation of Article 1 of CEDAW, as it excludes only women civil servants from the public workforce, not men. This clear distinction entails exclusion and restriction based on sex and gender.⁸⁴

The requirement for women to remain at home for their own "safety" is also contrary to Article 1 of CEDAW as the definition of discrimination, according to the CEDAW Committee's General Recommendation No. 19, "includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty",⁸⁵ regardless of whether these acts are perpetrated by State or non-state actors.

Requiring women civil servants to stay home to protect them from possible "inappropriate behaviour" by *de facto* security forces seriously impairs women's equal

access to employment, and forces women to suffer the consequence of the *de facto* authorities' inability to appropriately ensure the physical security of women and girls, as half of the country's population, against gendered violence, harassment and abuse. Potential subjection to gender-specific violence, such as sexual harassment in the workplace, constitutes a health and safety breach⁸⁶ and a further violation of their rights.

The requirement for women to remain at home not only restricts their economic participation and freedom of movement – contrary to Articles 1 and 15(4) of CEDAW, respectively – but also shifts responsibility for potential violence onto women themselves. This is inconsistent with the obligations of the State, as prescribed in Article 11(f), which requires States Parties to ensure women's right to protection of health and to safety in working conditions, including freedom from gender-based violence in or on the way to the workplace.

83 See the press statement at [Neo News](#), 24 August 2021.

84 The CEDAW Committee in its [General Recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women](#), notes that although the CEDAW Convention only refers to sex-based discrimination, interpreting article 1 together with articles 2 (f) and 5 (a) indicates that the Convention covers gender-based discrimination against women. The term "sex" here refers to biological differences between men and women. The term "gender" refers to socially constructed identities, attributes and roles for women and men and society's social and cultural meaning for these biological differences resulting in hierarchical relationships between women and men and in the distribution of power and rights favouring men and disadvantaging women. This social positioning of women and men is affected by political, economic, cultural, social, religious, ideological and environmental factors and can be changed by culture, society and community.

85 United Nations (UN), Committee on the Elimination of Discrimination against Women (1992). [General Recommendations No. 19 on Violence against Women](#). 30 January. A/47/38, para. 6. See also UN, Committee on the Elimination of Discrimination against Women (2017). [General recommendation No. 35 on gender-based violence against women](#), updating general recommendation No. 19. 26 July, para 1.

86 *Ibid.*, paras. 17–18.

Also, contrary to Articles 11(a), 11(b) and 11(c), the directive purposefully nullifies women’s enjoyment of their right to work given that State Parties are required to “take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) *the right to work as an inalienable right of all human beings,*
- (b) *the right to the same employment opportunities...*
- (c) *the right to free choice of profession and employment...*”.

Requiring women civil servants to stay at home undermines other work-related rights that the State should uphold for women workers, such as “the right to promotion, job security and all benefits and conditions of service...”⁸⁷

The directive also violates Article 7(b) of CEDAW on women civil servants’ participation – on equal terms with men – in the political and public life of the country. Having women civil servants stay at home removes them from directly participating in government policy

formulation and implementation. It prevents them from holding public office and precludes opportunities to perform all public functions at all levels of government. Women’s absence from the civil service further affects women’s and girls’ access to services, including those related to gender-based violence,⁸⁸ where women-to-women assistance can make it easier or more culturally acceptable for women to reach support. The directive additionally violates Article 8 of CEDAW by denying women the opportunity to represent their governments at the international level.

Further, the exclusion of women from the public service also affects their right to equal and inclusive representation in public service decision making systems and “seriously hampers” the implementation of all other rights covered by the Convention on the Elimination of All Forms of Discrimination against Women as noted in the CEDAW Committee’s General Recommendation No. 40.⁸⁹

Per Article 2(d) of CEDAW, the *de facto* authorities, as the entity issuing the directive, has a duty to refrain from engaging in any act or practice of discrimination against women, and to ensure that public authorities and institutions act in conformity with such an obligation.

87 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 11(c).

88 See, for example, UN, Committee on the Elimination of Discrimination against Women (2020). [Concluding Observations on the Third Periodic Report of Afghanistan](#). 10 March. CEDAW/C/AFG/CO/3, para. 52(b).

89 UN, Committee on the Elimination of Discrimination Against Women (2024), [General Recommendation No. 40 on the equal and inclusive representation of women in decision-making systems](#). 25 October. CEDAW/C/GC/40, para. 1.

IX.

BAN ON WOMEN WORK- ING WITH NATIONAL AND INTERNATIONAL NON- GOVERNMENTAL ORGANI- ZATIONS AND THE UNITED NATIONS

(24 DECEMBER 2022)

SYNTHESIS OF THE DIRECTIVE

On 24 December 2022, the *de facto* Ministry of Economy issued a letter to the Agency Coordinating Body for Afghan Relief and Development directing that “all...non-governmental organisations... stop the work of all female employees who perform duties in their respective departments”. The letter further stated: “In case of delay regarding the above direction, the...permit issued to the non-governmental organisation through this Ministry will be cancelled.” The letter noted that “serious complaints based on non-observance of the Islamic hijab and other applicable laws and regulations of the Emirate by female staff of domestic and foreign non-governmental organisations have been observed” and the Ministry was giving the directive to “fulfil its responsibility...regarding the implementation of the laws and regulations of the Emirate...”.⁹⁰

On 5 April 2023, this ban was extended to include Afghan female staff working for the United Nations, communicated verbally to the United Nations by the *de facto* Ministry of Foreign Affairs.⁹¹

On 26 December 2024, the *de facto* Ministry of Economy disseminated a letter reminding non-governmental organisations (NGOs) of the directive issued on 24 December 2022 and advising them to “work accordingly”.

ANALYSIS

The directive is inherently discriminatory against women. It only excludes women – not men – from working for national and international NGOs as well as the United Nations. As such, it entails a clear distinction, exclusion and restriction based on sex and gender⁹², in violation of Article 1 of CEDAW.

By denying women the opportunity to work with national and non-governmental organisations, women are effectively denied of the opportunity to earn a salary in these institutions. The directive, therefore, nullifies women’s economic autonomy, which is key for accessing their rights and the pathway to economic growth.⁹³

The directive also contravenes Article 7(c) of CEDAW, which requires States Parties to “take all appropriate measures to eliminate discrimination against women in the political and public life of the country and... ensure to women, on equal terms with men, the right to participate in non-governmental organisations and associations concerned with the public and political life of the country”.⁹⁴ The exclusion of women from participating in NGOs and associations impedes women and girls from reaching gender-sensitive services – including women-to-women services, such as those responding to gender-based violence.⁹⁵

90 The [letter](#) was widely circulated on social media and by various media houses.

91 United Nations (UN), General Assembly (2023). [The Situation in Afghanistan and its Implication for International Peace and Security – Report of the Secretary-General](#). 20 June. A/77/914-5/2023/453, para. 4. See also [UN Protests Order from Taliban De Facto Authorities Prohibiting Afghan Women from Working with the United Nations in Afghanistan](#), 5 April 2023.

92 The CEDAW Committee in its General Recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, notes that although the CEDAW Convention only refers to sex-based discrimination, interpreting article 1 together with articles 2 (f) and 5 (a) indicates that the Convention covers gender-based discrimination against women. The term “sex” here refers to biological differences between men and women. The term “gender” refers to socially constructed identities, attributes and roles for women and men and society’s social and cultural meaning for these biological differences resulting in hierarchical relationships between women and men and in the distribution of power and rights favouring men and disadvantaging women. This social positioning of women and men is affected by political, economic, cultural, social, religious, ideological and environmental factors and can be changed by culture, society and community.

93 UN, Committee on the Elimination of Discrimination Against Women (2024). [General Recommendation No. 40 on the equal and inclusive representation of women in decision-making systems](#). 25 October. CEDAW/C/GC/40, para. 7.

94 UN, Committee on the Elimination of Discrimination Against Women (2024). [General Recommendation No. 40 on the equal and inclusive representation of women in decision-making systems](#). 25 October. CEDAW/C/GC/40, para. 50.

95 See, for example, UN, Committee on the Elimination of Discrimination against Women (2020). [Concluding Observations on the Third Periodic Report of Afghanistan](#). 10 March. CEDAW/C/AFG/CO/3, para. 52(b).

Further, the directive is in breach of Article 8 of CEDAW because it limits women's opportunities for employment, as States Parties are obliged to *"take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity...to participate in the work of international organizations"*.

Additionally, the directive discriminates against women in employment, directly impeding their rights to work, to free choice of profession and employment, and to the same employment opportunities as men, in violation of Articles 11(a), 11(b) and 11(c).

The directive violates Article 14(1), which obliges States Parties to take into account the particular challenges of rural women and to ensure the full application of CEDAW's provisions to them. By prohibiting women from engaging in NGO and United Nations work – including in volunteer roles and through non-monetized contributions to the rural economy and community – the ban disregards rural women's economic participation. It denies their right to free choice of profession and employment, and the opportunity to participate in NGOs and associations concerned with the public and political life of the country and in the work of international organisations. The directive also limits rural women's access to essential aid services in geographic areas where women-to-women assistance is necessary.

Per Article 2(d) of CEDAW, the State, as the entity issuing the directive, has a duty to refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions act in conformity with such an obligation.

X.

BAN OF BEAUTY
SALONS

(25 JUNE 2023)

SYNTHESIS OF THE DIRECTIVE

On 25 June 2023, the *de facto* Ministry for the Propagation of Virtue and the Prevention of Vice issued a letter to the *de facto* Directorate of Kabul Municipality, directing the closure of women’s beauty salons throughout the country as of 25 July 2023. The letter stated that “...all women’s beauty salons in Kabul and all provinces...after 25 July 2023, their licenses and contracts are invalid”. The letter did not provide a reason for the ban, but enforcement targeted salons patronised by women.

ANALYSIS

By targeting women’s beauty salons only – and not businesses for men – the directive constitutes direct discrimination against women based on sex, violating Article 1 of CEDAW.

The directive affects women’s entrepreneurship in the beauty salon industry and employment in beauty salons, infringing on their right to freely choose a profession, per Article 11(c), noting that these salons were operated by and employed by large numbers of women.

It deprives women of the opportunity to engage in economic activity, contravening Article 13 of CEDAW, which obligates States Parties to “...take all appropriate measures to eliminate discrimination in other areas of economic and social life, based on equality between men and women...”.

For women who patronise beauty salons, the directive infringes on their equal enjoyment of freedom of expression, as it indirectly dictates and controls how they present their physical appearance. Further, denying women access to such professional services is contrary to Article 13 (c) of CEDAW on the equal right to *participate in recreational activities and all aspects of cultural life*.

Per Article 2(d), the *de facto* authorities, as the entity issuing the order, has a duty to refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions act in conformity with such an obligation.

XI.

STANDARDISATION OF WOMEN CIVIL SERVANTS' SALARIES

(2 JUNE 2024)

SYNTHESIS OF THE DIRECTIVE

After 15 August 2021, the *de facto* authorities informed most women civil servants not to return to their civil service jobs, outside some roles in education, health and security, although these exceptions varied slightly by province.

On 2 June 2024, the *de facto* Directorate General of Administrative Affairs issued a letter “standardising” the salaries of women civil servants hired by the administration of the former Islamic Republic of Afghanistan to 5,000 Afghanis (approximately US\$72) per month, regardless of grade, pegging women’s salaries to the lowest level.⁹⁶

On 7 July 2024, the *de facto* Ministry of Finance issued a letter clarifying that the directive would be applied to women civil servants “who do not attend work daily or do not perform their duties according to their job description” and does not apply to women reporting to work and performing their duties in line with their job descriptions.

ANALYSIS

The directive “standardising” the salaries of women civil servants hired by the previous administration of the Islamic Republic of Afghanistan only applies to women civil servants, not men. This constitutes direct discrimination against women. It entails a clear distinction, exclusion and restriction based on sex, contrary to Article 1 of CEDAW.

Further, as clarified in the letter of 7 July 2024, women civil servants affected by the directive include those who, following the Taliban takeover on 15 August 2021, were told by the *de facto* authorities to stay home even if they did not choose to do so. The directive, therefore, effectively decreases their salaries unfairly through no fault of their own, discriminating against them, as they are not ensured the same right to work as men. Article 11(a) of CEDAW requires the State to eliminate this disparity.

Additionally, the directive discriminates against affected women civil servants because it unfairly violates their right to equality with men in remuneration and benefits, treatment for work of equal value and the evaluation of the quality of work.⁹⁷

The directive discounts job evaluations based on task assessments and demands on workers in carrying them out – such as knowledge, skills, effort and responsibility – that went into the salary structure.⁹⁸

Per Article 2(d) of CEDAW, the *de facto* authorities, as the entity issuing the order, has a duty to refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions act in conformity with such an obligation.

96 Based on [Annex Number One of the Afghanistan Civil Service Law](#) published on 6 July 2008 in Official Gazette Number 951, the lowest salary for civil servants was AFN 5,000.00 and the highest was AFN 32,500.00 – about \$72 and \$464 – as of 5 May 2025.

97 United Nations (UN), Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 11(d).

98 In [General Recommendation 13 on Equal Remuneration for Work of Equal Value](#), 13 February 1990, A/44/38, para. 1, the Committee on the Elimination of Discrimination against Women recommends that State Parties ratify ILO Convention 100 on Equal Remuneration for Men and Women Workers for Work of Equal Value (1951) to be able to fully implement CEDAW (para. 1).

XII.

MANUAL ON ADMINIS- TRATION OF LEGAL PRO- CEDURES OF JUDICIAL COURTS

(2014)

SYNTHESIS OF THE MANUAL

In 2014, the Taliban, prior to taking over Afghanistan, issued the “Manual on Administration of Legal Procedures of Judicial Courts”. At the time, it was addressed to and applied by *de facto* courts in areas under their control. Today, the manual is used by *de facto* courts across Afghanistan.

The manual includes the following articles that relate to women and girls:

Article 53:

In marriage-related lawsuits of a married woman, the presence of her husband before the judge is mandatory.

Article 54:

In the marriage case of a woman who is an adult, and it has been proved that her marriage was based on her father’s decision, her father’s presence in the case is not necessary.

Article 55:

If two persons have a marriage claim regarding a woman and the woman acknowledges [the marriage]

to one of them while denying [the marriage] to the other, the two mentioned persons are recognised as the plaintiff and the defendant.

Article 95:

In a marriage lawsuit involving a married woman who is in her husband’s house, she cannot be taken away from her husband unless the other party provides witnesses.

Article 140(b):

If a girl has reached puberty and requested the judge to annul her marriage, the judge can order the annulment of her marriage, provided that she takes an oath that she immediately requested the annulment of her marriage after learning of her puberty.

ANALYSIS

Article 140(b) of the manual states that a girl, upon reaching puberty, can request a judge to annul her marriage if she makes an oath before the judge that she immediately requested the annulment after learning of her puberty. This provision implies that the marriage was entered into while the individual was still a child (that is, under the age of 18 years, per international human rights law) and without her consent, notwithstanding having reached puberty.

Article 140(b) also suggests that if a girl, upon reaching puberty, does not request the annulment of her marriage from a judge, she forfeits the right to annul the marriage later. This implies that a pubescent girl, irrespective of whether she has reached the age of 18 or not, can consent to marriage, know her rights and be capable of legal action. Its inadvertent effect is the failure to protect girls from marriage.

Article 140(b) of the manual contravenes Article 16(2) of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which states that the betrothal and marriage of a child shall have no legal effect. CEDAW further mandates that all necessary actions by State Parties to the Convention, including legislation, must be taken to establish a minimum age for marriage and to make the registration of marriages in an official registry compulsory. Article 140(b) is also inconsistent with CEDAW Article 16(1)(b), which affirms that women, on an equal basis with men, have the right to freely choose a spouse and to enter marriage only with their full and free consent.

Article 53 of the manual impairs women’s legal capacity and perpetuates patriarchal structures by requiring that in marriage lawsuits involving married women, the presence of her husband shall be necessary at the

time of judgment. This is contrary to CEDAW Article 15(1) and (2), which requires State Parties to accord women equality with men before the law and a legal capacity identical to that of men.

While Article 54 of the manual does not explicitly deny a woman's consent to marriage, it heavily implies that the father's decision is sufficient to establish or validate the marriage. This violates Article 16(1)(a) and (b) of CEDAW, which requires State Parties to "take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular ensure, on a basis of equality of men and women, the same right to enter into marriage and the same right [to] freely choose a spouse". Article 54 of the manual suggests that the father's decision is central to the marriage of an adult women, denying her the right to freely choose a spouse.

Further, while Article 54 addresses a marriage dispute or case involving an adult woman, the focus is on the father's role and presence. It is not on the woman's legal standing or her voice in the proceedings, thereby denying her "equality with men before the law" and, "in civil matters, a legal capacity identical to that of men.....and [equal treatment] in all stages of procedure in courts and tribunals", contrary to Article 15(1) and (2) of CEDAW.

Article 55 of the manual frames men's competing marriage claims as a legal dispute between them, without giving legal weight to the woman's full and free consent, beyond her acknowledgment of one of them. The legal procedure refers to the men as one being a plaintiff and the other a defendant, placing the focus entirely on resolving the issue between them

rather than on upholding the woman's rights. Per Article 15(1) and (2) of CEDAW, Article 55 discriminates against women by not according to them equality with men before the law and a legal capacity identical to that of men.

Article 95 of the manual identifies a woman primarily in relation to her husband rather than in her own capacity. This once again undermines her legal capacity, contrary to Article 15(2) of CEDAW. Article 95 states that in a marriage lawsuit involving a married woman who is in her husband's house, she cannot be taken away from her husband unless the other party provides witnesses. Presenting a woman as someone who may be "taken away from her husband" and requiring proof to extract a woman from her marital home reinforces male guardianship norms and diminishes women's right and legal capacity to decide on exiting the marriage or seeking protection. The provision also contravenes Article 15(4) of CEDAW on freedom of movement and choice of residence and domicile.

Article 2(f) of CEDAW requires that the State "...take[s] all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women". The manual is silent on evidence in relation to gender-based offences, including protections for women and children, as required by CEDAW General Recommendation No. 33 on women's access to justice.⁹⁹ In its Concluding Observations following its review of Afghanistan, the CEDAW Committee noted that the manual would require significant amendments to ensure the substantive equality of women and men as parties and witnesses, especially for gender-based crimes, and to guarantee the availability of legal aid and assistance to women.¹⁰⁰

99 For example, see United Nations (UN), Committee on the Elimination of Discrimination against Women (2015). [General recommendation No. 33 On Women's Access To Justice](#). 3 August. CEDAW/C/GC/33, para. 51 (h).

100 UN, Committee on the Elimination of Discrimination against Women (2025). [Concluding Observations On The Fourth Periodic Report of Afghanistan](#). 7 July. CEDAW/C/AFG/CO/4, para. 15.

XIII.

SPECIAL DECREE BY THE TALIBAN LEADER ON WOMEN'S RIGHTS, DE- CREEE NUMBER 395

(3 DECEMBER 2021)

SYNTHESIS OF THE DECREE

On 3 December 2021, the Taliban leader, Haibatullah Akhundzada, issued a 10-article decree¹⁰¹ on women's rights. It:

- Granted “adult women” the right to consent to marriage (Article 1). Article 1 further states that “if a marriage is between *kufu*,¹⁰² the risk of corruption and cheating is removed. No one can force [an adult woman] into marriage by pressure or compulsion”.
- Prohibited giving a woman in restitution (*ba'ad*) (Article 2).
- Prohibited forcing a widow into marriage (Article 3).
- Granted the right to *mahar*¹⁰³ to a widow, from her husband-to-be (Article 4).
- Granted a widow the right to inheritance in the property of her husband, children, father and relatives (Article 5).
- Called for equal treatment of women in the context of sharia, where there are multiple wives (Article 6).

The decree also provides instructions to several *de facto* authority institutions, as follows:

- The *de facto* Ministry of Hajj and Religious Affairs to encourage scholars to raise awareness on women's rights through sermons and letters (Article A).
- The *de facto* Ministry of Information and Culture to publish articles (audio and written) on women's rights and to encourage authors and activists to create content that promotes women's rights (Article B).
- The *de facto* Supreme Court to issue instructions to all courts to consider applications for women's rights, especially widows' rights and their oppression, in a proper and principled manner, as guaranteed by sharia (Article C).
- All governors at the provincial and district levels must cooperate with the aforementioned entities in implementing the decree (Article D).

ANALYSIS

Article 1 of the decree provides “adult women” with the right to consent to marriage. Article 3 prohibits forcing a “widow” into marriage. But the decree does not define who is an “adult woman” or specify the minimum age for marriage. This implies room for the exploitation and abuse of children through the betrothal and marriage of a child, contrary to Article 16(2) of CEDAW. It states that “the betrothal and marriage of a child shall have no legal effect” and requires State Parties to take all necessary action, including legislation, to specify a minimum age for marriage. Further, Article 1 of the decree states a preference for marriage between *kufu*, as this removes the risk of “corruption and cheating”, but it does not specify

which factors determine who can be considered *kufu* to make the betrothal of a child illegal.

Article 4 of the decree grants a widow the right to *mahar* and Article 5 the right to inheritance. The decree is silent, however, on equal rights to property ownership by both a wife and husband during the marriage and an equitable sharing of marital property in a divorce. Thus, there is a gap in the decree regarding spouses' equal rights to property, as prescribed in Article 16(1) (h) of CEDAW, “in respect to ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration”. This sentiment is echoed by the CEDAW Committee in General Recommendation

101 [Special Decree Issued by the Taliban Leader on Women's Rights](#), Decree Number 395, 3 December 2021. See also the English version of the [Special Decree Issued by Amir al-Momenin on Women's Rights](#).

102 *Kufu* is the concept of compatibility or equality between a man and a woman in marriage.

103 *Mahar* is a mandatory gift from a husband-to-be to his wife-to-be as part of the marriage contract.

No. 29 on Article 16 (Economic Consequences of Marriage, Family Relations and Their Dissolution), which requires State Parties to “provide for equal formal and *de facto* legal capacity [to both women and men] to own and manage property”. It also articulates how State Parties are to achieve both formal and substantive equality in the context of divorce.¹⁰⁴

Article 6 of the decree acknowledges that men practise polygamy and calls on them to “give rights to all women [in the polygamous union] in accordance with sharia and maintain justice between them”. The article and decree are silent, however, on what constitutes “rights” to be afforded by men to women in such a context. Further, by calling on men to “give rights” to women in a polygamous union, the decree explicitly discriminates against women by making them unequal to men. Men are positioned as the givers of rights, while women must depend on their benevolence. This implicitly elevates men, entrenching patriarchal structures or male dominance over key aspects of society and gender power imbalances, reinforcing male authority and female subordination. In taking such a position, the *de facto* authorities abdicate their responsibility “[t]o take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women”.¹⁰⁵

The practice of polygamous marriage contravenes Article 5(a) of CEDAW, which stipulates that “States Parties shall take all appropriate measures: (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women...”.¹⁰⁶ The CEDAW Committee has stated that polygamy is contrary to the dignity of women and infringes on their human rights, including to equality and protection within the family.¹⁰⁷ It has adverse emotional and economic consequences, particularly for women and their children. The *de facto* authorities, therefore, have an explicit obligation to discourage and prohibit polygamy as contrary to the Convention.¹⁰⁸ In situations where women are in existing polygamous marriages, the *de facto* authorities should adopt appropriate measures to safeguard their economic rights.¹⁰⁹

As a so-called women’s rights decree, the decree falls short and is silent on the wider rights of women and girls in equality with men, such as their rights to property in general, including immovable property, as well as education,¹¹⁰ employment,¹¹¹ freedom of movement,¹¹² and participation in political and public life.¹¹³ The decree does not provide special measures¹¹⁴

104 United Nations (UN), Committee on the Elimination of Discrimination against Women (2013). [General Recommendation No. 29](#) on Article 16 of the Convention on the Elimination of All Forms of Discrimination against Women (Economic consequences of marriage, family relations and their dissolution). 30 October. CEDAW/C/GC/29, para. 47.

105 Article 2(f), Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979.

106 UN, Committee on the Elimination of Discrimination against Women (1994). [General Recommendation No. 21](#): Equality in marriage and family relations. 12 April. A/49/38, para. 14.

107 UN, Committee on the Elimination of Discrimination against Women and Committee on the Rights of the Child (2019). [Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General Comment No. 18 of the Committee on the Rights of the Child \(2019\) on Harmful Practices](#). 8 May. CEDAW/C/GC/31/Rev.1–CRC/C/GC/18/Rev.1, para. 25.

108 *Ibid.*, para. 28.

109 UN, Committee on the Elimination of Discrimination against Women (2013). [General Recommendation No. 29](#) on article 16 of the Convention on the Elimination of All Forms of Discrimination against Women (Economic Consequences of Marriage, Family Relations and Their Dissolution), 30 October. CEDAW/C/GC/29, paras. 27 and 28.

110 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 10.

111 UN, Convention on the Elimination of All Forms of Discrimination against Women. 18 December 1979, art. 11.

112 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 15.

113 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 7.

114 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 2. The term “measures” encompasses a wide variety of legislative, executive, administrative and other regulatory instruments, policies and practices, such as outreach or support programmes; allocation and/or reallocation of resources; preferential treatment; targeted recruitment, hiring and promotion; numerical goals connected with time frames; and quota systems. See also UN, Committee on the Elimination of Discrimination against Women (2004). [General Recommendation No. 25](#) on Article 4, Paragraph 1, of the Convention (Temporary Special Measures), August, para. 22.

aimed at advancing equality between women and men, or measures to facilitate access to and provide for the full realisation of women's rights.¹¹⁵

Moreover, prioritising widows over other women in all their diversity, including intersectionally marginalised groups, perpetuates sex roles and gender stereotypes.¹¹⁶ These include the male breadwinner model and the notion that marriage confers a protectionist status, which the decree only restores for widows upon a husband's death, while not mentioning divorcees in "post-marriage" situations. Furthermore, the decree affords married women only limited protection, reinforcing the gender stereotype that marriage confers protection, subordinating married women to their husbands in the exercise of their rights and failing to protect women from abuse within marriage. Any formal measure must equally protect the rights of all.

Article A of the decree requires the *de facto* Ministry of Hajj and Religious Affairs "to encourage scholars to give awareness to the people about women's rights through letters..." and preach in favour of the non-oppression of women by giving them their rights. Article B instructs the *de facto* Ministry of Information and Culture "to publish articles related to women's rights... in writing and audio, as well as encourage writers and activists to publish useful articles on women's rights" for the "attention of the Ulema and people about women's sharia rights", to prevent their oppression. Article C obliges the *de facto* Supreme Court to "issue instructions to all courts to consider applications for women's rights, especially widows' rights and their oppression, in a proper and principled manner, in order not to disappoint women of getting rid of oppression and obtaining their sharia rights".¹¹⁷ The decree, however, does not elaborate on "women's rights"

beyond the context of inheritance and forced marriage, as noted earlier. Article D directs governors and district leaders to "fully cooperate with the mentioned Ministries and the Supreme Court in implementing [the] decree", but without elaborating their role.

These instructions to the mentioned *de facto* ministries, governors and district leaders, although generally positive, fall short of Afghanistan's obligation to respect, protect and fulfil human rights, and of the standards set by CEDAW Article 2, which places responsibility on the State to pursue, by all appropriate means and without delay, a policy of eliminating discrimination against women. General Recommendation 28 of the CEDAW Committee on the core obligations of State Parties under Article 2 requires an action- and results-oriented policy with indicators, benchmarks and timelines, and adequate resourcing for all relevant actors.¹¹⁸ Additionally, the emphasis on sharia-based rights over the CEDAW framework risks narrowing the scope of protections for women. Mention of the *de facto* Supreme Court recalls the requirement for "competent tribunals", as stated in Article 2(c) of CEDAW.

The decree makes no mention of legal sanctions, remedies and/or reparations¹¹⁹ for acts that are in breach of its articles; nor does it identify institutions (and their roles) that should receive and process complaints from women. These gaps are a violation of women's right to an effective remedy, as they can result in impunity for perpetrators and the denial of justice for women, in turn undermining the rule of law and perpetuating gender inequality. Such shortfalls are both a procedural failure and a substantive form of discrimination against women. Further, per Article 2 of CEDAW, States are obliged to ensure women have access to

115 UN, Committee on the Elimination of Discrimination against Women (2010). [General Recommendation No. 28](#) on the Core Obligations of States Parties Under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, 16 December. CEDAW/C/GC/28, para. 20.

116 CEDAW Article 5(a) asks States to eliminate stereotypes.

117 [Special Decree Issued by the Taliban Leader on Women's Rights](#), Decree Number 395, 3 December 2021.

118 UN, Committee on the Elimination of Discrimination against Women (2010). [General Recommendation No. 28](#) on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, 16 December. CEDAW/C/GC/28, para 28.

119 Article 2 (b), Convention on the Elimination of All Forms of Discrimination against Women, December 1979, art. 2(b). See also UN, Committee on the Elimination of Discrimination against Women (2010). [General Recommendation No. 28](#) on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, 16 December. CEDAW/C/GC/28, paras. 17, 32, 34 and 37(b).

effective legal protection and remedies in pursuance of eliminating discrimination against women. In General Recommendation No. 19 on Violence Against Women and General Recommendation No. 35, updating General Recommendation No. 19, the Committee went further and emphasised that discrimination against women is not restricted to action or inaction by or on behalf of Governments but also by any person, organisation or enterprise, as noted in Article 2(e) of CEDAW. Thus, the *de facto* authorities are accountable where they fail to prevent discrimination against women or hold perpetrators of such discrimination to account, and are required to provide appropriate compensation.¹²⁰

The decree does not refer to the role of non-governmental organisations (NGOs) but explicitly mentions the roles of writers, activists and the Ulema. In its 2010 statement on NGOs, the CEDAW Committee recommended that governments involve them in promoting and implementing CEDAW, its General Recommendations, its views under the CEDAW Optional Protocol and its Concluding Observations. It further recommended that State Parties encourage and, to the extent possible, fund NGO activities to promote and monitor the implementation of CEDAW, its Optional Protocol and the Concluding Observations.¹²¹

120 UN, Committee on the Elimination of Discrimination against Women (1992). [General Recommendation No. 19](#) on Violence Against Women. 30 January. A/47/38, para 9. See also UN, Committee on the Elimination of Discrimination against Women (2017). [General Recommendation No. 35 On Gender-Based Violence Against Women, Updating General Recommendation No. 19](#). 26 July. CEDAW/C/GC/35, para III.B.2.

121 UN, Commission on the Status of Women, 2010, Results of the Forty-Fourth and Forty-Fifth Sessions of the Committee on the Elimination of Discrimination Against Women: Note by the Secretariat. 12 February. E/CN.6/2010/CRP. [Annex 7, Statement by the Committee on the Elimination of Discrimination against Women on its relationship with non-governmental organizations](#), para. 4 added a caveat that this should not compromise State Parties' legal obligations to be solely accountable for the implementation of the Convention.

XIV.

DECREE...REGARDING PRE-
VENTION OF IMPROPER
CUSTOMS DURING WED-
DINGS, CALAMITIES AND
UPON RETURN FROM HAJJ
AND UMRAH

(19 MARCH 2025)

SYNTHESIS OF THE DECREE

On 19 March 2025, the *de facto* authorities made public the [Decree...Regarding Prevention of Improper Customs During Weddings, Calamities and Upon Return from Hajj and Umrah](#).¹²² It identifies practices that are obligatory as well as discouraged and prohibited in relation to marriage, funeral ceremonies and return from the Hajj¹²³ and Umrah.¹²⁴ Articles 1 and 2 of the decree make specific references to women, as follows:

Guidelines for Marriage Matters, Article 1:

- (1) The legal guardian of an adult woman, typically her father or brother, is obligated to uphold her legal rights.
- (2) The guardian must seek the woman's input and consent in matters concerning her upbringing.
- (3) It is unlawful for the guardian to compel the woman into marriage without her explicit agreement.
- (4) If a guardian forcibly marries off a woman without her consent, she has the right to file a complaint with the courts and relevant authorities. In such cases, the decree on women's rights issued by the esteemed Amir al-Momineen (may Allah protect him) on 27/4/1443 Hijri (No. 83J1) must be observed.
- (5) In the Islamic perspective, a woman holds equal independence to a man in marriage matters. She remains independent and cannot be coerced

into marriage by her in-laws or father-in-law post the death or divorce of her husband.

- (6) The mahar¹²⁵ given in marriage belongs solely to the woman, and it cannot be taken from her without her consent.
- (7) Unlawful acts such as shooting, forcibly marrying or violating a woman's rights should be prosecuted in the courts of the Islamic Emirate....
- (24) The practice of exchange [marriage]/mukhi is discouraged due to its negative implications and should be avoided whenever possible. If exchange/mukhi does occur, it is essential to establish and provide mahar/a dowry¹²⁶. Scholars are urged to educate the public on the disapproval of exchange/mukhi.

Guidelines for Funeral Ceremonies, Article 2

- (4) The practice of transferring a woman to her ancestral cemetery after death is not legally mandated. It is preferable to bury her in her husband's or children's cemetery.

ANALYSIS

Article 1(1) of the decree states that “[t]he legal guardian of an adult woman, typically her father or brother, is obligated to uphold her legal rights”. The assignment of a male legal guardian over an adult woman directly violates her right to legal capacity and equal standing before the law, contrary to Articles 1 and 15

of CEDAW. The latter requires that “States Parties ... accord to women equality with men before the law”.

Further, the obligation for a father or brother to uphold an adult woman's rights codifies patriarchal gender roles, customs and practices, contrary to Article 2(f) of CEDAW, which requires State Parties to “...take all

122 [Decree of the Esteemed Amir-ul-Momineen \(May Allah Protect Him\) Regarding Prevention of Improper Customs During Weddings, Calamities and Upon Return from Hajj and Umrah](#).

123 The Hajj, in [Islam](#), is the [pilgrimage](#) to the holy city of [Mecca](#) in [Saudi Arabia](#), which every adult Muslim must make at least once in his or her lifetime. See the [Britannica](#) definition.

124 The Umrah or “minor pilgrimage” is undertaken by Muslims whenever they enter [Mecca](#). It is also meritorious, though optional, for Muslims residing in Mecca. See the [Britannica](#) definition.

125 Please note that though the original English version of the decree from the *de facto* authorities mentions ‘dowry’, in the Dari and Pashto versions, the term used is ‘mahar’ which is a mandatory gift from a husband-to-be to his wife-to-be as part of the marriage contract.

126 Ibid.

appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women". In General Recommendation No. 25, the CEDAW Committee stated that "States parties' obligation is to address prevailing gender relations and the persistence of gender-based stereotypes that affect women not only through individual acts by individuals but also in law, and legal and societal structures and institutions".¹²⁷ The model in Article 1(1) of the decree reinforces stereotypical notions of women as dependent, passive or subordinate, and men as protectors or controllers. CEDAW requires States to eliminate such roles, not to codify them.

Article 1(2) to (5) of the decree re-emphasises a woman's right to consent to marriage in line with the *de facto* authorities' Women's Rights Decree of 3 December 2021.¹²⁸ It prohibits "in-laws or [the] father-in-law" from compelling a widow, following the death of her husband, into a marriage. Article 1(4) specifically empowers women forced into marriage "...to file a complaint with the court and relevant authorities", and where this happens, the State apparatus is obliged ("must") to observe the provisions of the Women's Rights Decree. This decree, however, is silent on legal sanctions, remedies or reparations for acts that are in violation of its articles, contrary to Article 2(b) of CEDAW.¹²⁹ In contrast, Article 1(7) of the Improper Customs Decree recommends ("should") prosecution in the *de facto* courts of persons who engage in unlawful acts (such as shooting at a girl/woman or cutting her hair, etc.) to force a woman into marriage.

Article 1(5) states that "[i]n Islamic perspective, a woman holds equal independence to a man in marriage

matters". Yet outside the right to consent to marriage and the prohibition for in-laws or a father-in-law to compel a widow into marriage following the death of her husband, the decree does not identify any other rights of women protected in the context of a marriage.

Article 1(24) of the decree acknowledges the "negative implications" of mukhi and explicitly expresses "disapproval of mukhi". The practice is only discouraged, however, rather than being outlawed altogether. This undermines women's right to freely choose a spouse, in violation of Article 16(1)(b) of CEDAW. It also inadvertently facilitates the harmful and illegal practice of the betrothal and marriage of children, in breach of Article 16(2) of CEDAW.¹³⁰

Regarding funeral ceremonies, Article 2(4) is discriminatory against women, per Article 1 of CEDAW, given that it states that "[i]t is preferable to bury ... [a woman] in her husband's or children's cemetery" rather than "transferring [her remains] to her ancestral cemetery after death...". This preference treats burial location as a gendered cultural norm that favours the cemetery of a woman's husband or children over her personal choice for her burial place. Furthermore, the decree implies that, even after death, a married woman's identity and affiliations are defined only through her relationship to her husband and/or children, begging the question as to what degree married women are autonomous, if at all. Article 2 and 2(f) of CEDAW requires that "States Parties condemn discrimination against women in all its forms...[and] take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women".

127 United Nations (UN), Committee on the Elimination of Discrimination against Women (2004). [General Recommendation No. 25](#) on Article 4, paragraph 1, of the Convention (Temporary Special Measures). August. para 7.

128 [Special Decree Issued by the Taliban Leader on Women's Rights](#), Decree Number 395, 3 December 2021. See the synthesis and analysis above.

129 UN, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, art. 2(b). See also UN, Committee on the Elimination of Discrimination against Women (2010). General Recommendation No. 28 on the Core Obligations of States Parties Under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women. 16 December, paras. 17, 32, 34 and 37(b). See also UN, Committee on the Elimination of Discrimination against Women (1992). [General Recommendation No. 19](#) on Violence Against Women. 30 January, A/47/38, para. 9, which states that "States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation", and para. 19, adding that "State parties to CEDAW have a due diligence obligation to prevent, investigate, prosecute and punish acts of gender-based violence".

130 Article 16 (2), Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979 stipulates that "[t]he betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory".



XV.

**GENDER MAINSTREAM-
ING ARCHITECTURE**

SYNTHESIS

Following the 7 September 2021 announcement of an all-men “caretaker” Cabinet and other key positions at the national and provincial levels, the *de facto* authorities made changes that quietly but visibly dismantled State institutions and mechanisms mandated to specifically address and advance gender equality. No formal decision was announced regarding the former Ministry of Women’s Affairs and its provincial departments of women’s affairs. The Ministry’s former premises were taken over, however, and now house offices of the *de facto* Ministry for the Promotion of Virtue and Prevention of Vice.¹³¹ Since 15 August 2021, no entity of the *de facto* authorities has been assigned the responsibility to lead efforts to promote gender equality. Further, the *de facto* authorities purported to abolish the Afghanistan Independent Human Rights Commission through an administrative decree dated 4 May 2022 (effective 21 March 2022).¹³² The Commission was a national institution mandated to protect and monitor human rights, including women’s rights,¹³³ established by Article 58 of the 2004 Constitution of the Islamic Republic of Afghanistan.¹³⁴

ANALYSIS

Article 2(c) of CEDAW obliges the *de facto* authorities to promote non-discrimination by legally protecting women’s rights on an equal basis with men and ensuring that competent national tribunals and other public institutions effectively protect women from discrimination. To this end, a national women’s machinery is a key measure to fully realise women’s rights under CEDAW.¹³⁵ In General Recommendation No. 6, the CEDAW Committee recommends that State Parties:

- (1) Establish and/or strengthen effective national machinery, institutions and procedures, at a high level of Government, and with adequate resources, commitment and authority to:
 - (a) Advise on the impact on women of all government policies;
 - (b) Monitor the situation of women comprehensively;
 - (c) Help formulate new policies and effectively carry out strategies and measures to eliminate discrimination.

131 United Nations (UN), General Assembly (UNGA 76th session) and Security Council (UNSC 76th year), [The Situation in Afghanistan and Its Implications for International Peace and Security: Report of the Secretary-General](#), A/76/667-S/2022/64, 28 January 2022, para. 7.

132 Decree No. 1012, Regarding the Dissolution of the Human Rights Commission, the Commission for the Supervision of the Implementation of the Constitution, the Senate (Meshrano Jirga), the House of Representatives (Wolesi Jirga), the High Council for National Reconciliation and the National Security Council, 4 May 2022.

133 Afghanistan Independent Human Rights Commission, 2021, [Statement on the Status of the Afghanistan Independent Human Rights Commission](#), 18 September.

134 Islamic Republic of Afghanistan, 2024, The Constitution of the Islamic Republic of Afghanistan, Article 58.

135 Article 24, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979.

Further, compliance with Articles 3¹³⁶ and 24¹³⁷ of CEDAW requires a ministerial-level institution with a cross-cutting mandate and competence on gender equality.¹³⁸ Some features stipulated for such institutions¹³⁹ comprise sufficient authority, decision-making power, and human and financial resources, including at the provincial and local levels. Where such offices have been downgraded, the State Party retains a responsibility, per CEDAW, to fully ensure the governing authority's accountability for gender equality and women's enjoyment of all human rights.¹⁴⁰

By effectively abolishing the Afghanistan Independent Human Rights Commission, the *de facto* authorities have reneged on their responsibility to pursue a policy of eliminating discrimination against women. In its General Recommendation No. 28, the CEDAW Committee stated that the main element of the introductory phrase of Article 2 of the CEDAW Convention is the obligation of States to adopt a policy of eliminating discrimination against women.¹⁴¹ The Committee further clarified that this policy should ensure the establishment of independent monitoring institutions, such as national human rights institutions or independent women's commissions. Alternatively, existing institutions may be given a mandate to promote and protect the rights guaranteed under the Convention.¹⁴²

136 Article 3 of CEDAW states that "States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men".

137 Article 24 of CEDAW states that "States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention".

138 The same is reiterated in CEDAW Committee, 2010, General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/GC/28, para. 28.

139 See, for example, the [Concluding Comments of the Committee on the Elimination of Discrimination against Women: Bolivia](#), 2008, para. 10.

140 See, for example, the Concluding Observations of the [Committee on the Elimination of Discrimination against Women: Uzbekistan](#), 2010, para. 16.

141 UN, Committee on the Elimination of Discrimination against Women (2010). General Recommendation No. 28 on the Core Obligations of States Parties Under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women. 16 December. CEDAW/C/GC/28, para. 24.

142 *Ibid.*, para. 28.

XVI.

PARTICIPATION IN PUBLIC AFFAIRS

SYNTHESIS

On 7 September 2021, an all-men *de facto* caretaker Cabinet was established. No women were included in any decision-making positions at either the national or subnational levels. Just before the 15 August 2021 Taliban takeover, 69 women members sat in Parliament.¹⁴³ The 2004 Constitution¹⁴⁴ enshrined gender equality.¹⁴⁵ It reserved two parliamentary seats per province for women in the Lower House and 17 seats in the Upper House.¹⁴⁶ Furthermore, Afghanistan's Electoral Law of 2016 allocated 25 per cent of seats in district and provincial councils to women.¹⁴⁷

ANALYSIS

The total absence of women from the *de facto* Cabinet, rendering it a male domain that excludes only women, constitutes discrimination against women in violation of Article 1 of CEDAW. Article 2(d) of CEDAW obliges the *de facto* authorities to refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions act in conformity with this obligation.

All-male governance structures also contravene Article 7 of CEDAW, which prohibits discrimination against

women in political and public life. It requires the equal participation of women and men in the formulation and implementation of policies, the holding of public office and the performance of all public functions at all levels of governance.¹⁴⁸ To facilitate State efforts to give full effect to Articles 7 and 8 of CEDAW, Article 4 encourages the use of temporary special measures.¹⁴⁹ These include quotas for appointments to public positions, as stipulated in the 2004 Constitution.

143 UN Women, 2023, [Women in Afghanistan: From Almost Everywhere to Almost Nowhere](#).

144 Islamic Republic of Afghanistan, 2004, [The Constitution of the Islamic Republic of Afghanistan](#), Article 83.

145 Article 22 states 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".

146 Islamic Republic of Afghanistan, 2004, [The Constitution of the Islamic Republic of Afghanistan](#), Articles 83 and 84.

147 Islamic Republic of Afghanistan, Ministry of Justice, 2016, [Election Law](#), Issue No. 1226, 25 September, Articles 61(2) and 64(2).

148 CEDAW Committee, 2024, [General Recommendation No. 40](#) on the Equal and Inclusive Representation of Women in Decision-Making Systems, CEDAW/C/GC/40, paras. 46-49.

149 CEDAW Committee, 1997, [General Recommendation No. 23](#) on Political and Public Life, CEDAW/GC/23 or CEDAW/GR/23, para. 15. See also CEDAW Committee, 2024, [General Recommendation No. 40](#) on the Equal and Inclusive Representation of Women in Decision-Making Systems, CEDAW/C/GC/40, paras. 24–26. See also Articles 7 and 8 of CEDAW, which require a State Party to take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their governments at the international level and to participate in the work of international organizations.



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