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Gender-Based Atrocities under Taliban Rule in Afghanistan: Crime against Women or Cultural Practice?

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ABSTRACT

“Violence against women is perhaps the most shameful human rights violation, and it is perhaps the most pervasive. It knows no boundaries of geography, culture or wealth.”

- Kofi Annan, former UN Secretary-General

This paper investigates whether the gender-based atrocities committed under Taliban rule in Afghanistan constitute cultural practices or crimes against humanity. Using a multidisciplinary approach—drawing from international human rights law, feminist theory, and ethnographic testimony—the paper evaluates Taliban policies such as education bans, mobility restrictions, forced confinement, and punitive violence against women. These practices are analyzed through the lens of gender-based persecution under Article 7 of the Rome Statute and the emerging legal category of gender apartheid.

The paper argues that these acts, far from being legitimate cultural expressions, represent a systemic apparatus of gender oppression that meets the legal threshold for crimes against humanity. It challenges the cultural relativism often invoked to justify such policies and highlights the internal plurality within Afghan society, where many women and religious scholars reject the Taliban’s interpretation of Islamic and cultural norms.

By centering the testimonies and resistance strategies of Afghan women—including underground education, digital activism, and transnational advocacy—the study emphasizes their role as active agents of change. It concludes by calling for the formal recognition of gender apartheid in international law, stronger ICC engagement, and policies that amplify Afghan women’s voices in shaping global human rights frameworks.

This research contributes to expanding legal accountability, ethical scholarship, and global feminist solidarity in confronting institutionalized gender-based violence under authoritarian regimes.

Keywords: Taliban, Afghanistan, atrocities, violence, women, humanity

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I. INTRODUCTION

History has proven that women had been the greatest sufferer in any international humanitarian crisis, be it war crimes or crime against women. The resurgence of the Taliban in Afghanistan in August 2021 signaled a dramatic reversal in the country's human rights landscape, with women and girls bearing the brunt of the regression. Almost immediately, the Taliban reimposed a rigid gender regime: girls were barred from attending secondary and higher education, women were expelled from most public-sector jobs, and severe mobility restrictions were enforced—including mandates on dress, behavior, and the requirement of a male guardian for travel. These policies have not only marginalized women socially and economically, but have also structurally erased them from public life.

The Taliban's justification rests on a claim of fidelity to Islamic jurisprudence and Afghan cultural tradition. Yet, international legal and human rights institutions have widely interpreted these acts as forms of gender-based persecution, in violation of multiple international treaties and customary law. This clash between cultural relativism and universal human rights standards revives a long-standing and deeply contested debate which poses pertinent questions:

- *Should the systemic subjugation of women under religious or cultural pretexts be respected as sovereign tradition, or prosecuted as a crime against humanity?*
- *Do all the Islamic Nations have a common conservative outlook rooted in gender apartheid and oppression against women in the name of religious culture and practice?*
- *Is the gender-based atrocities under Taliban rule to be understood as culturally sanctioned practices or crimes against women under international law?*

The above three questions are addressed in this research paper through a multidisciplinary approach drawing from international human rights law, feminist theory, and ethnographic testimony, analyzed through the lens of gender-based persecution under Article 7 of the Rome Statute.

This research Paper examines the historical and legal evolution of women's rights in Afghanistan. It also analyses the legal definitions and applicability of gender persecution and apartheid. The paper further investigate how cultural relativism is invoked and contested in the context of systemic gender oppression in some Islamic Counries. The paper also addresses voices of Afghan's women and their lived experiences and resistance under Taliban rule.

Scope and Significance: This study focuses primarily on the two periods of Taliban governance (1996–2001 and 2021–present) to explore the continuity and escalation of gender-based

restrictions. It draws on feminist legal theory, international human rights law, and ethnographic testimonies to evaluate how gender oppression is rationalized, resisted, and reported. By navigating the intersection of legal accountability and cultural interpretation, this paper aims to contribute to the evolving discourse on gender-based crimes and the urgent need to recognize gender apartheid as a distinct legal violation.

II. HISTORICAL CONTEXT OF WOMEN'S RIGHTS IN AFGHANISTAN

Afghanistan a Central Asian Country of Asia, bordered by Pakistan, Iran, Turkmenistan, Uzbekistan, Tajikistan and China is an Islamic state with domination of Pashtun along with Tajik, Hazara, Uzbek, Baloch and other minorities. It is one of the youngest countries with nearly 60% of the population under the age of 25 years. Owing to the difficult terrain the infrastructural development of Afghanistan is at a slow pace. Nearly 70% of the inhabitants lives in rural area which is secluded from the wave of development, modernized and liberal thoughts. The present Afghanistan is engrossed in gender apartheid.

To comprehend the scale and nature of the gender-based repression currently enforced by the Taliban, it is essential to examine the historical shifts in women's rights across Afghanistan's political landscape. The status of women has not followed a uniform trajectory but has been shaped by alternating periods of progress, restriction, and active resistance. This section explores three critical phases: the pre-Taliban era, the two Taliban regimes, and the evolving legal and political frameworks that have defined women's roles in Afghan society.

A. Pre-Taliban Era: Women in Afghan Society

Before the Taliban's rise in the 1990s, Afghanistan, particularly in its urban hubs such as Kabul, Herat, and Mazar-i-Sharif, experienced intermittent yet meaningful strides in women's rights. Early efforts began in the 1920s under King Amanullah and Queen Soraya, who championed girls' education and challenged traditional dress norms, though these efforts were met with conservative resistance. Later decades saw additional reforms: the 1960s and 70s brought constitutional guarantees of suffrage and educational access for women, along with growing female participation in public and political life.

The 1980s, under a Soviet-supported government, expanded women's access to literacy, healthcare, and employment through state programs. However, these gains were primarily confined to urban areas; rural communities remained heavily influenced by tribal traditions and patriarchal structures, which often restricted women's mobility and education.³ Importantly,

³ Madina Xamdamova, Gender based Violence in Afghanistan: A distraught State in Denial, *International Journal of Human Rights and Constitutional Studies*, Vol. , p. 285.

this period illustrates that Afghan society has historically encompassed diverse gender norms—not all of which align with the restrictive model later imposed by the Taliban.

B. Taliban Regimes (1996–2001 and 2021–Present)

The Taliban's governance in both its initial rule (1996–2001) and its resurgence after 2021 has institutionalized a form of gender segregation akin to gender apartheid. Both periods have been characterized by the implementation of stringent interpretations of Sharia law that drastically curtailed women's freedoms. Women and girls were systematically excluded from education, denied employment, subjected to strict dress codes, and banned from traveling alone or participating in public life.

While the Taliban's first regime lacked international recognition and operated with relative isolation, the current leadership employs a more refined rhetoric—claiming to defend Afghan sovereignty and cultural integrity in the face of foreign influence. Nevertheless, the core mechanisms of control remain consistent: women's rights are sacrificed to enforce a political vision grounded in patriarchal dominance rather than authentic cultural heritage.⁴

C. Legal and Political Changes Affecting Women

Afghanistan's legal stance on gender equality has undergone significant shifts with each change in political authority. Under the 2004 Constitution, introduced after the fall of the first Taliban regime, women were formally guaranteed rights to education, work, and political representation. This era saw the creation of dedicated ministries, affirmative action policies like parliamentary quotas, and expanded female participation in public institutions.

However, these achievements were swiftly dismantled following the Taliban's return in 2021. The group has abandoned the constitution and now governs through decrees, eliminating any institutional safeguards for women. Females have been entirely removed from the judiciary, legislature, and most public offices. In the absence of a formal legal system to challenge discriminatory edicts, Afghan women have become effectively invisible within the state's legal and political frameworks.⁵

Afghanistan's history of women's rights is neither linear nor predetermined. Instead, it reflects a complex interplay of advancement, backlash, and resilience. The Taliban's current policies

⁴ A Windy Brown, Laura Grenfell, *The International Crime of Gender-based Persecution and the Taliban*, 01 Oct 2003, *Melbourne Journal of International Law*, Vol. 4, p. 347.

⁵ Nasratullah Akbari, *Violation of Women's Rights in Afghanistan under the Taliban Rule*, *International Journal of Science and Research*, 5th March, 2023.

are not a continuation of Afghan cultural traditions but represent a politicized and ideologically driven model of gender repression. Recognizing this historical diversity is crucial to challenging the Taliban's claims of cultural authenticity and to crafting just, informed responses rooted in both legal principle and ethical responsibility.

III. THE NATURE OF GENDER-BASED ATROCITIES UNDER TALIBAN RULE

The gender-based oppression implemented by the Taliban is not incidental or uncoordinated—it is a systemic and ideologically driven policy of domination, deliberately crafted to suppress the rights and autonomy of Afghan women and girls. These acts are emblematic of what many legal scholars and human rights bodies now refer to as gender apartheid—a form of state-sponsored segregation that enforces structural inequality based solely on sex. This section analyzes the various forms of these atrocities, the institutional mechanisms that enable them, and the regional dynamics that shape their enforcement.

A. Forms of Gender-Based Atrocities

a. Denial of Education: One of the most egregious violations under the Taliban's renewed rule has been the systematic exclusion of girls and women from formal education. Since March 2022, the regime has barred girls from secondary school and, by December 2022, extended the prohibition to universities. The stated justifications—ranging from inadequate facilities to dress code noncompliance—mask a deeper objective: the removal of women from intellectual and public life.⁶ This policy has denied millions of Afghan girls their basic right to education and gravely undermines the nation's future workforce, healthcare system, and civil society.

b. Restrictions on Employment: The Taliban has also enacted widespread prohibitions against women's participation in the labor force. Women have been dismissed from public institutions, including ministries, schools, and humanitarian organizations. In December 2022, the Taliban banned female employees from working in NGOs, citing alleged violations of Islamic dress codes. This measure not only eliminates women's economic independence but also disrupts essential services—particularly in health and education—that rely on female professionals.

c. Mobility and Public Visibility Constraints: Under the current regime, Afghan women's movement is severely restricted. They are prohibited from traveling long distances without a male guardian (mahram) and banned from public parks, gyms, and entertainment venues. The Taliban's Ministry for the Promotion of Virtue and Prevention of Vice has been reinstated to enforce these rules through moral policing and surveillance, echoing enforcement strategies

⁶ A. Yusufzai (et al), Taliban Discrimination against Women: Comprehensive Analysis of Main Factors, Kutafin law review (Kutafin Moscow State Law University), Vol. 11, p 68.

from the 1990s.⁷

d. Forced Marriages and Sexual Violence: Although officially denied by Taliban authorities, reports from human rights organizations indicate that forced marriages between Taliban fighters and young women or widows remain prevalent in areas under Taliban control. These acts are often coercive and exploitative, particularly in rural and conflict-affected regions, and constitute serious violations of international norms prohibiting sexual and gender-based violence.⁸

e. Public Punishment and Moral Policing: Public acts of violence—such as beatings, floggings, and executions for so-called “moral crimes”—have become increasingly common. These include offenses such as speaking to unrelated men, improper dress, or suspected infidelity. In November 2022, such punishment was witnessed in Logar province, where a large crowd gathered in a stadium to watch public floggings. These spectacles reinforce an atmosphere of social control through fear, particularly targeting female behavior.

A. Institutionalization of Gender Oppression

The Taliban’s gender-based restrictions are not isolated practices, but part of a coordinated system of governance built around patriarchal control. These policies are implemented through official decrees, enforced by religious leaders and armed patrols, and justified via selective interpretations of Islamic law. The Ministry for the Promotion of Virtue and Prevention of Vice, reinstated after 2021, plays a central role in monitoring behavior, punishing transgressions, and reinforcing gender norms.

This system establishes a vertical power structure—from central authorities to local enforcers—where women lack any legal means to challenge oppression. Religious clerics issue fatwas to legitimize gender-based restrictions, and local governors carry out enforcement, often with discretionary authority. The result is a state-backed apparatus of control that formalizes female subjugation as a matter of policy.

B. Patterns of Enforcement Across Regions

While the Taliban maintains that its governance adheres to a unified interpretation of Sharia law, in practice, the implementation of gender-based restrictions varies widely across Afghanistan’s provinces. These variations are shaped by factors such as geographic remoteness, tribal dynamics, media scrutiny, and the degree of international presence.

⁷ Madina Xamdanova, Gender based Violence in Afghanistan: A distraught State in Denial, International Journal of Human Rights and Constitutional Studies, Vol. , p. 285.

⁸ A Windy Brown, Laura Grenfell, The International Crime of Gender-based Persecution and the Taliban, 01 Oct 2003, Melbourne Journal of International Law, Vol. , p 347.

- ***Urban Centers: Tactical Enforcement and International Optics***

In cities like Kabul, Herat, and Mazar-i-Sharif, where international NGOs, diplomatic missions, and media outlets maintain some presence, Taliban authorities tend to enforce gender restrictions more cautiously and selectively. For instance, moral policing may be less visible, and some exceptions to travel or employment restrictions are permitted in specialized or donor-backed institutions—especially in the early months of Taliban rule. This approach reflects a strategic awareness of global criticism and a desire to secure international legitimacy, even if temporarily. However, even in urban centers, enforcement has become more aggressive since 2022, particularly in response to women's protests and international pressure.⁹

- ***Rural and Conservative Provinces: Immediate and Harsh Repression***

In contrast, southern and eastern provinces—such as Kandahar, Uruzgan, Helmand, and Paktika—are often sites of harsher and more rigid enforcement. These areas are traditionally conservative, with stronger Taliban influence and weaker institutional oversight. Here, girls' education is almost universally prohibited, public beatings and forced marriages are more common, and moral police operate with impunity. Women are often confined to their homes, and local Taliban commanders may impose additional restrictions beyond national directives, justified by localized interpretations of religion or tribal custom.

- ***Fragmented Enforcement and Local Autonomy***

Despite the Taliban's claims of centralized control, there exists a significant degree of local autonomy in how gender edicts are applied. Provincial leaders and clerics often tailor rules to reflect local social dynamics. In some instances, even neighboring districts may show different levels of tolerance or rigidity regarding issues like veiling, work permits for women in healthcare, or access to humanitarian aid.

This fragmented enforcement structure complicates the efforts of international organizations to monitor abuses and deliver aid, and creates unequal conditions of survival for Afghan women across the country. It also underscores the arbitrary nature of Taliban rule, where rights are not universally denied or protected but are contingent on geography, power dynamics, and religious interpretation.

The regional inconsistencies in enforcing gender-based policies do not reflect a lack of policy intent, but rather a strategic and adaptive repression model. In all cases, the underlying goal

⁹ A. Yusufzai (et al), Taliban Discrimination against Women: Comprehensive Analysis of Main Factors, Kutafin law review (Kutafin Moscow State Law University), Vol. 11 , p 68.

remains the same: to restrict female agency and reinforce patriarchal dominance, whether subtly in cities or overtly in rural areas. Understanding these variations is crucial for developing localized resistance strategies, targeted humanitarian responses, and accurate documentation for future accountability efforts.

IV. LEGAL AND HUMAN RIGHTS PERSPECTIVES

Understanding the Taliban's treatment of women requires a thorough evaluation through the lens of international human rights law. The regime's policies—banning education, restricting movement, and enforcing gender segregation—constitute more than cultural divergence; they reflect a state-level apparatus of gender oppression that may amount to crimes under international law. This section examines applicable legal instruments, the contested space between cultural relativism and universal rights, and the role of global institutions in seeking justice.

A. International Human Rights Law and the Status of Women

The international legal framework outlines several core documents that affirm women's rights as universal and indivisible:

a. The *Universal Declaration of Human Rights (UDHR)* sets the foundation for international human rights norms. Articles 1 and 2 affirm equal dignity and protection for all individuals regardless of sex, while Article 26 guarantees the right to education. *The Taliban's exclusion of women from schools and public life clearly violates these provisions.*

b. The *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)* obliges signatory states to eliminate discrimination in all its forms. Afghanistan ratified CEDAW in 2003, binding the country to uphold gender equality in education, employment, legal rights, and personal freedom. *The Taliban's current governance undermines CEDAW Articles 10 (education), Articles 11 (employment), and Article 15 (equality before the law).*

c. Under the *International Covenant on Civil and Political Rights (ICCPR)*—also ratified by Afghanistan—the *Taliban's practices violate several core protections: Article 3 (equality of rights), Article 12 (freedom of movement), and Article 7 (protection against cruel, inhuman treatment).* These violations are part of a wider, systematic denial of civil liberties to women and girls.

d. Afghanistan ratified the *International Covenant on Economic, Social and Cultural Rights (ICESCR)* in 1983, obligating all governing authorities—including the Taliban—to

uphold its provisions. *The Taliban's restrictions on women's education, employment, and freedom of movement violate Articles 2, 3, 6, 11, and 13 of the ICESCR, which guarantee non-discrimination, the right to work, an adequate standard of living, and equal access to education.* The mahram restrictions further hinder women's access to these rights. According to the ICESCR Committee, education is a foundational human right that empowers women, making the Taliban's gender-based policies a clear breach of this treaty.

e. Afghanistan, a party to the ***Convention on the Rights of the Child (CRC)***, is obligated to uphold non-discrimination (Article 2) and the right to education (Article 28). The CRC Committee stresses that restricting girls' education undermines their development, particularly in unsafe or discriminatory settings. *The Taliban's bans on girls' schooling and creation of unwelcoming environments violate these rights, breaching Afghanistan's duty to provide equal, inclusive educational opportunities for all children, regardless of gender.*

f. Afghanistan ratified the ***Convention Against Torture (CAT)*** in 1987, which prohibits torture and all forms of cruel, inhuman, or degrading treatment (Article 1). *The Taliban, as the de facto authority, remains bound by this non-derogable norm of international law. Their actions—particularly the arbitrary detention and physical abuse of female protesters, as well as the mistreatment of male dissenters—clearly violate CAT provisions.* Even under political instability, Article 2 affirms that torture is never justifiable. Confinement conditions imposed on women also raise serious concerns under CAT's definition of ill-treatment.

B. The Crime vs. Culture Debate in Human Rights Discourse

A central challenge in international human rights law is reconciling universal norms with culturally specific practices. The Taliban often invokes religious and cultural justifications to defend gender segregation, arguing that their policies align with Afghan Islamic values. This position raises the question: *where do we draw the line between cultural sovereignty and human rights violations?*

On the basis of above chart, it is clear that cultural relativism is a defense for systemic abuse. In particular:

- *Coercive or violent practices*, such as forced marriage, honor killings, or gender apartheid, are not protected under cultural norms when they violate fundamental human rights.

- The “*margin of appreciation*” doctrine, which allows cultural variation in some legal systems (e.g., in European human rights law), does not extend to core rights such as education, equality before the law, or bodily autonomy.¹⁰

Thus, while respect for cultural diversity is vital, it cannot serve as a shield for structural oppression. The Taliban’s gender policies exceed the bounds of cultural interpretation and constitute a legally actionable form of gender-based persecution.

C. Role of the United Nations and the International Criminal Court (ICC)

International institutions have a crucial role in addressing and documenting the Taliban’s gender-based abuses. However, responses remain fragmented and under-enforced, despite growing evidence of systemic violations.

- ***The United Nations***, particularly through the Special Rapporteur on the situation of human rights in Afghanistan, has consistently highlighted the Taliban’s policies as potential violations of international law, describing them as "gender persecution". These findings have been echoed by UN Women, OHCHR, and UNAMA, which have issued repeated calls for accountability.
- ***Amnesty International and Human Rights Watch*** have provided extensive documentation of Taliban abuses, including gender-based violence, suppression of education, and public punishments. Their reports have urged global legal bodies to recognize these acts as constitutive of gender apartheid and crimes against humanity.
- ***The International Criminal Court (ICC)*** has jurisdiction over crimes committed in Afghanistan since 2003. Although initial ICC investigations focused on war crimes by U.S. and Afghan forces, recent legal scholars and NGOs have pushed for expanded investigations to include the Taliban’s gender persecution under Article 7 of the Rome Statute.¹¹
- **Crimes Against Humanity and Gender Persecution:** Under the **Rome Statute of the International Criminal Court (ICC)**, acts of persecution and gender-based violence may qualify as crimes against humanity when part of a widespread or systematic attack against a civilian population. Key legal provisions include:
 - Article 7(1)(h): Persecution against any identifiable group or collectivity on gender grounds.

¹⁰ AWindy Brown, Laura Grenfell, The International Crime of Gender-based Persecution and the Taliban, 01 Oct 2003, Melbourne Journal of International Law, Vol. 4.

¹¹ Nasratullah Akbari, Violation of Women's Rights in Afghanistan under the Taliban Rule, International Journal of Science and Research, 5th March, 2023.

- Article 7(1)(g): Acts such as rape, sexual slavery, and enforced prostitution.

By enforcing gender apartheid through state policy, the Taliban may be committing crimes that meet these thresholds. Legal scholars increasingly argue that gender persecution—a newly evolving legal category should be more forcefully applied in cases like Afghanistan.

Despite these efforts, no formal indictment of the Taliban leadership for gender-based crimes has yet materialized. The absence of enforcement mechanisms, political complications, and limited access to evidence in Taliban-held territories remain barriers to justice. Nonetheless, the Afghan case is emerging as a precedent-setting opportunity to formally recognize gender apartheid as a crime in international law, much like racial apartheid was under the 1973 Apartheid Convention.

The Taliban's gender policies constitute a direct assault on international human rights law, violating multiple treaties and conventions to which Afghanistan is bound. Framing these abuses as cultural practices ignores the lived reality of Afghan women and undermines legal standards meant to protect them. As the global legal community considers recognizing gender apartheid as a crime against humanity, the case of Afghanistan underscores the urgent need for coordinated, enforceable legal action and greater accountability for gender-based crimes.

V. CULTURAL RELATIVISM VS. UNIVERSAL HUMAN RIGHTS

The discourse surrounding the Taliban's treatment of women is deeply embedded in a global debate between cultural relativism and universal human rights. While the Taliban claims its gender policies are rooted in Islamic principles and Afghan cultural traditions, international legal frameworks increasingly categorize these practices as violations of non-derogable human rights standards. This section evaluates how cultural relativism is invoked in the Afghan context, whether gender apartheid can be justified culturally, and how religious, tribal, and customary systems intersect with state policy to reinforce or contest gender oppression.

A. Defining Cultural Relativism in the Afghan Context

Cultural relativism, originating in anthropological theory, promotes understanding societies on their own terms and cautions against imposing external norms. In international law, it functions as a principle that encourages sensitivity to cultural diversity in human rights interpretation. However, when weaponized by authoritarian regimes, it can serve to shield human rights abuses under the guise of local legitimacy.

In Afghanistan, the Taliban employs cultural relativism to validate gender segregation, bans on female education, and restrictions on women's mobility. These policies are defended as

expressions of:

- **Deobandi** interpretations of Islamic law,
- **Pashtunwali**, the tribal honor code governing many rural communities,
- **A reactionary stance against Western liberalism** and post-2001 reform efforts.

Yet, Afghan culture is neither monolithic nor static. Historically, women in Afghanistan have held political office, pursued higher education, and worked in medicine, law, and academia, particularly in urban areas like Kabul and Herat. This internal diversity challenges any claim that the Taliban's policies are reflective of an authentic or uncontested Afghan tradition.

A. Is Gender Apartheid a Cultural Norm or a Violation?

The term gender apartheid refers to the systemic exclusion of individuals based on sex, often enforced through legal and institutional frameworks. While apartheid was first codified in the context of racial segregation, legal scholars are increasingly applying the term to gender-based regimes that institutionalize segregation and deprivation, such as the Taliban's Afghanistan.

Proponents of universal human rights argue that:

- Cultural norms lose legal validity when they result in systematic denial of autonomy, bodily integrity, or equal citizenship.
- The Taliban's model does not merely reflect local customs but constitutes state-enforced gender subjugation, violating the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and other global human rights instruments.

Hence, the question is not whether these practices are culturally accepted by some, but whether they meet the legal threshold of crimes against humanity when enforced at scale, as is the case in Afghanistan. Labeling gender apartheid as cultural risks legitimizing impunity and eroding the normative power of international law.

B. Role of Religion, Tradition, and Tribalism

The Taliban's governance is a hybrid system drawing from Islamic jurisprudence, tribal codes, and ultraconservative ideology. These influences shape its gender policies, but their implementation reflects a selective and politicized interpretation rather than an authentic synthesis of Afghan religious or cultural identity.

Role of Islam: While the Taliban claims religious legitimacy, many Islamic scholars—both inside and outside Afghanistan—contest their interpretations, especially regarding education, employment, and public participation for women. Islam, as practiced in many other Muslim-

majority societies, permits women to work, study, and engage in civic life.

Are all the Islamic countries governed by Shariat Law have a common conservative stand rooted in orthodoxy and oppression towards women? The analysis answer to this question in negative.

Women's Rights under Shariat Law: A Comparative Country Analysis

The application of Sharia law in different Muslim-majority countries has deeply impacted women's rights, roles, and freedoms. Although rooted in the Qur'an and Hadith, interpretations and enforcement of Islamic legal principles differ significantly across regions due to variations in legal schools, cultural influences, and political structures. This research papers presents a comparative study of women's legal and social status in seven jurisdictions where Sharia is implemented either partially or entirely: Iran, Saudi Arabia, Afghanistan, Pakistan, northern states of Nigeria, Malaysia, and Indonesia's Aceh Province.

Case Study-

a. Iran- Women under a Theocratic Legal Framework: Iran's legal framework is rooted in Twelver Shi'a Islamic jurisprudence, institutionalized after the 1979 revolution through its constitution, which incorporates religious principles across personal, civil, and criminal law. In the area of personal status law, women must obtain permission from a male guardian to marry. Both polygamy and temporary marriages (sigheh) are legally recognized.

In terms of legal equality, a woman's testimony in court is considered to be worth half that of a man's, and daughters inherit half the share of sons. The mandatory hijab law has been enforced by morality police since 1983.

The death of Mahsa Amini in custody ignited widespread demonstrations, highlighting significant public opposition to the state's gender policies.

Despite legal and institutional constraints, Iranian women continue to resist and challenge the system through activism, legal advocacy, and digital platforms.

b. Saudi Arabia- Gradual Liberalization under Authoritarianism: Saudi Arabia operates under Wahhabi Sunni Islam, recognized as one of the most conservative forms of Islamic jurisprudence. Traditionally, the male guardianship system required women to obtain consent from male relatives for travel, employment, education, and other essential activities. Since 2018, some of these restrictions have been relaxed through gradual reforms.

The lifting of the driving ban in 2018 marked a milestone in gender policy, symbolizing the regime's limited push toward modernization. Nonetheless, legal inequality remains

entrenched—women’s testimony holds lesser evidentiary weight in criminal courts, and inheritance laws still favor male heirs.

Gender segregation continues to shape public life and professional environments, though exceptions are increasingly permitted in select urban and economic settings. The government's Vision 2030 initiative has opened up opportunities for female engagement in the workforce and public life, but substantive legal equality remains elusive due to enduring systemic and institutional barriers.

c. *Afghanistan – Reversal of Rights under Taliban Rule:* Since the Taliban’s return to power in 2021, Afghanistan has reintroduced a strict Deobandi-Sunni interpretation of Sharia law, significantly curtailing women's freedoms. Access to education for girls has been halted beyond the primary level, effectively banning them from secondary schools and universities. In the public sphere, women are prohibited from traveling without a male guardian (mahram) and are excluded from most forms of employment.

Strict dress codes mandate full-body coverings, including the face, enforced through religious policing. In many official and legal contexts, women lack formal recognition, rendering them nearly absent from institutional and civic participation. The dismantling of progress achieved during the previous Republic era has positioned Afghanistan as one of the most oppressive environments for women, with systemic restrictions on nearly every aspect of public and private life.

d. *Pakistan- Between Legal Reform and Patriarchal Realities:* Pakistan’s legal framework reflects a fusion of British common law and Islamic jurisprudence, resulting in a dual system that often generates inconsistencies in women’s rights. The controversial Hudood Ordinances of 1979, which criminalized adultery and imposed severe evidentiary requirements on women, were only partially reformed in 2006. In matters of marriage and divorce, men enjoy unilateral rights, while women must prove fault to obtain judicial separation (khula). Inheritance laws based on Islamic principles grant women lesser shares than men. Although political reforms have introduced reserved legislative seats for women, their actual influence remains limited due to entrenched cultural conservatism. Social traditions and patriarchal attitudes frequently override constitutional guarantees, limiting women's agency in both public and private life. The gap between law and lived reality in Pakistan highlights the tension between modern legal reforms and traditional societal norms, reflecting a broader struggle for gender justice in the region.

e. Nigeria- Legal Pluralism and Religious Enforcement: Nigeria's legal system is shaped by the coexistence of Islamic (Sharia), customary, and statutory laws, especially in the 12 northern states where Sharia law applies to the Muslim population. This plural legal framework often disadvantages women, particularly in family and criminal law. Men are permitted to marry up to four wives, while women face significant restrictions in divorce and child custody cases. Sharia-based criminal laws prescribe severe punishments like stoning for adultery, though such penalties are rarely enforced. Cultural and religious norms, particularly in rural areas, further limit women's rights, especially access to education and public life. These overlapping systems create inconsistent legal protections and weak enforcement of women's rights. Despite these barriers, grassroots organizations such as the Women for Peace Initiative are working to challenge discriminatory practices and promote reform. The overall legal complexity contributes to ongoing gender inequality and highlights the need for coherent, rights-based legal harmonization.

f. Malaysia- Dual Legal System and Cultural Balance: Malaysia features a dual legal system, with Sharia courts applying to Muslims and civil courts serving the broader population. In matters of family law, Sharia governs Muslim personal affairs, permitting polygamy and placing more stringent requirements on women seeking divorce. While modest dress is generally promoted, enforcement differs across regions. Despite legal constraints, Malaysian women have achieved significant progress, with high levels of education and workforce participation. Advocacy groups like Sisters in Islam play a key role in pushing for legal reform and greater gender equity. There is a growing movement calling for *ijtihad*, or independent interpretation of Islamic texts, to align religious principles with modern understandings of gender equality. Malaysia exemplifies how moderate application of Sharia can coexist with advancements in women's rights, although some legal and cultural tensions persist.

g. Indonesia- Regional Application of Full Sharia: Aceh Province stands out as the sole region in Indonesia authorized to implement full Sharia law. Enforcement includes moral policing, with public caning used as punishment for offenses like adultery, gambling, and improper attire. Gender segregation is common in public spaces, including transportation, schools, and workplaces. Muslim women are required to wear the hijab as part of a mandatory dress code. This strict application of Islamic law in Aceh sharply contrasts with the broader national context, where Indonesia generally upholds gender rights within a secular and pluralistic legal framework.

Comparative Chart of Islamic nations with respect to women's rights

Country	Sharia Scope	Hijab Mandatory?	Women's Inheritance	Education Access	Political Participation
Iran	Full (national)	Yes	Half of men	Restricted	Limited
Saudi Arabia	Full (national)	Yes	Half of men	Improving	Symbolic
Afghanistan	Full (Taliban)	Yes (burqa/niqab)	Often denied	Banned	Banned
Pakistan	Partial (personal law)	No	Half of men	Mixed	Moderate
Nigeria	Partial (North)	Yes	Half of men	Limited	Very Low
Malaysia	Partial (personal law)	No	Half of men	High	Moderate
Indonesia	Regional	Yes	Half of men	Moderate	Low

Role of Tradition: Afghan traditions vary significantly across ethnic and regional lines. For example, Tajik and Hazara communities have historically supported girls' education at higher rates than in Pashtun-dominated rural areas. Thus, traditionalism in Afghanistan is not synonymous with Taliban doctrine.

Role of Tribalism: The Pashtunwali code—emphasizing honor, hospitality, and gender segregation—has influenced Taliban policy, particularly in the south. However, tribal norms are not legally binding frameworks and often coexist with more egalitarian practices, especially when challenged by civil society and women's networks.

These intersecting forces are manipulated by the Taliban to enforce a patriarchal regime that is more ideological than cultural. Afghan feminist organizations, such as RAWA and the Afghan Women's Network, reject these justifications and continue to advocate for rights-based interpretations of both culture and religion.

While cultural relativism plays a critical role in promoting respect for diversity, it cannot serve as a justification for systemic gender oppression. The Taliban's regime of gender apartheid exceeds the bounds of legitimate cultural variation and violates international human rights

obligations. By examining Afghan society's internal pluralism, diverse religious interpretations, and active resistance from within, it becomes clear that universal human rights norms do not oppose Afghan culture—they are upheld by many within it.

VI. VOICES FROM THE GROUND: TESTIMONIES AND RESISTANCE

Under Taliban rule, Afghan women confront a daily reality marked by repression, exclusion, and profound courage. Despite severe restrictions on education, employment, and public life, many women have emerged as powerful voices of resistance.¹² Their testimonies, often shared through encrypted channels or international media, illuminate both the personal toll of Taliban policies and the resilience of those who refuse to be silenced.

A. Personal Testimonies: Life Under Taliban Rule

Firsthand accounts from Afghan women reveal the emotional and existential impact of the Taliban's gender-based restrictions:

University Student in Kabul: A young woman recounted the moment her education was halted: *"I walked to the gate of the university and was told to go home. Just like that. They didn't see me as a person anymore—just a woman they could erase."*

Health Worker in Herat: After being forced to leave her post due to the NGO ban, a health worker expressed her despair: *"We were delivering babies, saving lives. Now I sit at home watching women die because no one can reach them."*

Underground School Teacher: Operating in secrecy, a teacher shared her fears and determination: *"I teach in secret, in basements. If they find us, we'll be punished. But silence is worse than fear."*

These narratives, often shared anonymously through secure platforms, underscore the profound challenges faced by women under Taliban rule.

Despite the risks, Afghan women have engaged in various forms of resistance:

- **Street Protests:** Since September 2021, women have organized protests in cities like Kabul and Herat, chanting slogans such as "Bread, Work, Freedom" to demand their rights.
- **Digital Activism:** Social media platforms have become vital tools for advocacy. Campaigns like **#LetHerLearn** and **#AfghanWomenExist** have gained international attention, highlighting the plight of Afghan women.

¹² <https://www.thetimes.com/culture/tv-radio/article/were-like-mice-in-a-trap-ales-of-fear-and-defiance-in-kabul-kwmjs6bjr®ion=global>.

- **Underground Education and Healthcare:** Secret schools and clinics have been established to provide essential services to women and girls, defying Taliban bans.¹³
- **Diaspora Advocacy:** Afghan women in exile continue to advocate for women's rights, working with organizations to document abuses and influence international policy.

B. Role of Diaspora and Global Solidarity Movements

Afghan women in exile have become pivotal figures in the global resistance against the Taliban's oppressive regime. Leveraging their freedom of movement and speech, these diaspora communities have amplified the voices of those silenced within Afghanistan and have mobilized international support to challenge the Taliban's gender-based restrictions.

Advocacy and International Engagement

Exiled Afghan women have organized and participated in international forums to draw attention to the plight of women under Taliban rule. For instance, the All Afghan Women summit in Tirana, Albania, brought together women from around the world to strategize on restoring women's rights in Afghanistan and to issue declarations urging international action against the Taliban's infringements. Such gatherings serve as platforms for sharing experiences, coordinating advocacy efforts, and maintaining global awareness of the ongoing crisis.¹⁴

Digital Activism and Information Dissemination

Diaspora networks have been instrumental in disseminating information about the situation in Afghanistan through digital platforms. They have supported campaigns like **#LetHerLearn** and **#AfghanWomenExist**,¹⁵ which highlight the restrictions imposed on women's education and presence in public life. These online movements not only raise awareness but also put pressure on international bodies to take action .

Diaspora-led media outlets, such as **Begum TV**, have been instrumental in providing educational content, health information, and discussions on women's rights. Broadcasting from Paris, Begum TV offers programs in Dari and Pashto, reaching audiences in Afghanistan and serving as a lifeline for women under the Taliban's oppressive regime.¹⁶

¹³ MSF staff in Afghanistan speak out against the country's ban on women NGO workers, published on 13 Jan, 2023, <https://reliefweb.int/report/afghanistan/msf-staff-afghanistan-speak-out-against-countrys-ban-women-ngo-workers>.

¹⁴ Annie Kelly, 'We will never stop fighting': why Afghan women have risked their lives to attend a summit in Tirana, Tirana Albania, published on 13 Sept, 2024, <https://www.theguardian.com/global-development/2024/sep/13/we-will-never-stop-fighting-why-afghan-women-have-risked-their-lives-to-attend-a-summit-in-tirana>.

¹⁵ Shahrbanu Haidari, Digital Resistance: Women's Activism Under Taliban rule, <https://www.info-res.org/app/uploads/2024/10/Digital-Resistance-Womens-Activism-Under-Taliban-rule.pdf>.

¹⁶ Ashifa Kassam European community affairs correspondent, 'It's a continuation of hope': Paris-based TV station

Building Transnational Solidarity

Global feminist organizations and human rights groups have collaborated with Afghan diaspora activists to provide resources, safe communication channels, and platforms for advocacy. This transnational solidarity has been crucial in sustaining the resistance movement, offering both moral and material support to those fighting for women's rights in Afghanistan.¹⁷

Cultural Resistance and Identity Preservation

Afghan women artists and cultural figures in exile have used their work to resist the erasure of women's identities and histories. Through art, music, and literature, they preserve the cultural heritage of Afghan women and challenge the narratives imposed by the Taliban. These creative expressions serve as acts of defiance and as tools for education and solidarity-building across borders. Despite facing challenges such as security threats, online harassment, and limited resources, Afghan women in the diaspora continue to play a crucial role in the global movement for gender equality. Their persistent efforts underscore the importance of international solidarity in combating systemic oppression and advocating for the rights of women in Afghanistan.

VII. INTERNATIONAL RESPONSE AND ACCOUNTABILITY

A. UN, NGOs, and Sanctions

The international community, including the United Nations and various non-governmental organizations (NGOs), has expressed profound concern over the Taliban's systematic erosion of women's rights. The UN Security Council¹⁸ has labeled Afghanistan under the Taliban as the most repressive country for women's rights, citing numerous restrictions on women's freedom to travel, study, and work. In response to the Taliban's ban on women working in NGOs¹⁹, many organizations have suspended aid operations, exacerbating the humanitarian crisis.

B. Efforts for Legal Recourse: ICC and Other Forums

In a landmark move²⁰, the International Criminal Court (ICC) has sought arrest warrants for senior Taliban leaders, including Supreme Leader Haibatullah Akhundzada and Chief Justice

provides a lifeline for women in Afghanistan, published on 12 Jan, 2025, <https://www.theguardian.com/world/2025/jan/12/its-a-continuation-of-hope-paris-based-tv-station-provides-a-lifeline-for-women-in-afghanistan>

¹⁷ Bridging the gap: Using OSINT to report on women and girls in Afghanistan, Centre for Information Resilience, published on 7 March, 2025, <https://www.info-res.org/afghan-witness/articles/bridging-the-gap-using-osint-to-report-on-women-and-girls-in-afghanistan/>.

¹⁸ Security Council Emphasizes That Punitive Restrictions on Women's Rights, Escalating Hunger, Insecurity Taking Devastating Toll in Afghanistan, published on 8 March, 2023, <https://press.un.org/en>.

¹⁹ UN to Taliban: 'Vital' to reverse ban on women in NGOs, <https://www.aljazeera.com/news/2022/12/24/taliban-bans-women-from-working-for-domestic-foreign-ngos>.

²⁰ Afghanistan: ICC Prosecutor Seeks Gender Persecution Charges, <https://www.icc-cpi.int/sites/default/files/CourtRecords/0902ebd180a915c7.pdf>.

Abdul Hakim Haqqani, for crimes against humanity, specifically gender persecution. The ICC's investigation highlights the Taliban's systemic violations of women's rights, including bans on education, employment, and public participation.²¹ This initiative marks a significant step towards holding the Taliban accountable on an international legal platform.

Despite these efforts, significant gaps remain in the global response to the Taliban's human rights abuses. The lack of unified international recognition of the Taliban regime has led to inconsistent policies and enforcement of sanctions. Moreover, geopolitical interests and concerns over humanitarian access have often tempered international actions, resulting in limited tangible support for Afghan women. The challenges of enforcing ICC arrest warrants against Taliban leaders, who are unlikely to face trial without significant international pressure, further underscore the limitations of current accountability mechanisms.

VIII. CONCLUSION & SUGGESTION

It can be concluded that level of education in Afghanistan has fluctuated dramatically over time due to political instability, conflict, and cultural shifts. Prior to Civil war (1992-1996) and Taliban Rule (1996-2001), the Afghanistan had a progressive and inclusive approach towards women education. After the downfall of Taliban in 2001 till the time it regained its lost power in 2021, the country made investments in women's education and was more welcoming of women's rights in social and political sphere. But unfortunately, post 2021 till present, Afghanistan has moved backward to conservatism, gender apartheid citing religious culturalism as a justified cause for gender oppressive policies of the government.

The evidence, drawn from legal analysis, testimonies, historical context, and feminist theory, overwhelmingly supports the classification of horrendous acts of oppression against women as systemic crimes against humanity rather than expressions of legitimate cultural or religious norms.

The Taliban's policies against women—banning education, erasing public presence, and enforcing coercive gender roles meet key legal thresholds for gender persecution and arguably gender apartheid under international law. While the regime defends its actions through appeals to Islamic tradition and Afghan cultural sovereignty, these justifications collapse under scrutiny:

- **Culture is not static:** Pre-Taliban Afghan history reveals a rich and pluralistic tradition where women occupied spaces in education, politics, and public life.

²¹ UN Security Council criticizes Taliban ban on Afghan women's medical education, published on 14 Dec, 2024, <https://apnews.com/article/un-afghanistan-women-taliban-medical-education-ban-4d33b8e97ad26d84bfd0bfd8d133b0c>.

- **Islamic legal interpretations** vary, and many Afghan clerics and women scholars challenge the Taliban's fundamentalist views. Afghan women themselves reject the characterization of their repression as cultural or religious, asserting instead their rights to dignity, knowledge, and freedom.

Thus, the Taliban's narrative of cultural authenticity is a political tool of control, not an expression of widely held or uncontested values. The oppression of women under Taliban rule is not only gendered but deeply intersectional:

- Ethnicity, class, geography, and rural-urban divides shape how women experience Taliban control.
- Women from marginalized ethnic groups like the Hazara face compounded discrimination, including religious persecution.
- Urban women with digital access may engage in activism, while rural women are often cut off from such platforms and more vulnerable to direct repression.

This layered oppression calls for multi-dimensional interventions that go beyond surface-level advocacy.

A. Conclusion: Crimes Against Humanity or Cultural Practice?

The systemic and institutionalized repression of Afghan women under Taliban rule—characterized by bans on education, employment, mobility, and public participation—clearly transcends the boundaries of cultural expression. While the Taliban justifies these measures through appeals to tradition, religion, and sovereignty, the international legal consensus increasingly identifies such actions as crimes against humanity, specifically gender persecution and emerging discussions around gender apartheid.

Crucially, Afghan culture is not a monolith, and many Afghan women and men strongly contest the Taliban's interpretation of religion and tradition. As such, the international community must reject cultural relativism as a defense for gender-based oppression and recognize these actions as deliberate tools of domination and control.

B. Recommendations

Legal Accountability through International Mechanisms

- a. Support the ICC's arrest warrants against Taliban leaders by facilitating evidence collection, survivor testimonies, and diplomatic backing.

- b. Codify gender apartheid as a standalone crime under international law to strengthen prosecutorial frameworks and enhance future accountability.
- c. Encourage universal jurisdiction cases in national courts (e.g., Germany, Netherlands) to prosecute Taliban officials present abroad.

Strengthen Support for Afghan Civil Society and Women-Led Resistance

- a. Provide secure funding and logistical support to women-led NGOs, underground schools, and health networks.
- b. Expand digital protection tools and cybersecurity training for activists using encrypted platforms for coordination.
- c. Enable safe asylum pathways and visa protections for women journalists, lawyers, and human rights defenders in exile.

Shift from Sanctions-Only Approaches to Targeted Engagement

- a. Design smart sanctions that focus on individuals directly responsible for human rights violations, while mitigating humanitarian fallout.
- b. Link international aid disbursement to measurable improvements in women's rights and inclusion, monitored by independent actors.

Reframe Global Discourse and Ethical Research Practice

- a. Center Afghan women's voices in policymaking, media coverage, and academic research to combat orientalist framing and passive victim narratives.
- b. Enforce ethical standards in research and reporting, including informed consent, trauma-sensitive approaches, and collaborative authorship with Afghan scholars and activists.

Foster Long-Term Gender Equality Frameworks

- a. Encourage future Afghan governance models to incorporate gender equity clauses in constitutional and legal frameworks.
- b. Collaborate with regional Islamic scholars and institutions to challenge extremist interpretations of Sharia law that fuel gender oppression.

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