

11 October 2023

JOINT SUBMISSION FOR THE UNIVERSAL PERIODIC REVIEW OF AFGHANISTAN

46th session of the UPR Working Group (29 April 2024 -10 May 2024)

This joint submission by the International Service for Human Rights (ISHR) and the Women's International League for Peace and Freedom (WILPF) to the Universal Periodic Review (UPR) draws urgent attention to the ongoing gender persecution in Afghanistan, and to the institutionalised framework of gender apartheid within which gender persecution takes place. The institutionalised gender-based discrimination, segregation and oppression, stemming, *inter alia*, from relentless misogynistic edicts and restrictions issued by the Taliban as well as their policies and practices, have resulted in the severe marginalisation and exclusion of women and girls in all their diversity, similar to apartheid on racial grounds in South Africa. These acts are institutionalised, systematic, and integral to the Taliban's system of ruling and are enforced through harsh enforcement methods.

Widespread and systematic abuses and violations of human rights in Afghanistan, in particular of the rights of women and girls, have been widely documented, analysed and reported on by the United Nations and civil society organisations; among others, the Special Rapporteur on Afghanistan, the UN High Commissioner for Human Rights, UNAMA, and the Working Group on Discrimination Against Women and Girls. Their findings point to the recognition that amongst many violations committed, those based on gender discrimination amount to gender persecution, a crime under the Rome Statute of the International Criminal Court to which Afghanistan is a state party.

The UN High Commissioner for Human Rights has recently reported to the Human Rights Council (HRC) that "Over two years on from [the Taliban's] takeover of the country, there has been systematic regression of the rule of law and human rights in Afghanistan, particularly with regard to the rights of women and girls."¹ This echoes the findings of the UN Special Rapporteur on Afghanistan and the Working Group on Discrimination Against Women and Girls that "nowhere else in the world has there been an attack as widespread, systematic and all-encompassing on the rights of women and girls as in Afghanistan."² This all-encompassing attack ranges from the rights to education, work, freedom of movement, to the right to take part in public life and to access justice and remedies, to name but a few.

In his statement to the HRC 54th session, the UN High Commissioner for Human Rights stressed that "the Council is by now familiar with the long list of misogynistic restrictions and edicts." The examples given in his statement³ are only the tip of the iceberg. The High Commissioner also recalled that "Women and girls deemed non-compliant with this litany of rules face arbitrary arrest and detention, harassment and even physical violence, as do their male relatives."⁴

The growing list of misogynistic restrictions and edicts together creates a wholesale erasure of women and girls in all spheres of life — in other words, segregation and subjugation based on their gender. Examples of such edicts can be found in a joint report of the UN Special Rapporteur on Afghanistan and the Working Group on Discrimination Against Women and Girls to the HRC’s 53rd session (which refers to list of more than 50 edicts issued between September 2021 and May 2023),⁵ the UN High Commissioner for Human Rights’ report to the HRC’s 54th session,⁶ and in NGO reports, such as a joint report by the International Commission of Jurists and Amnesty International.⁷ They include edicts and decrees violating the rights to:

Education: through a ban on all forms of education for girls beyond grade 6;

Freedom of movement: for example, through a requirement that women travel with a mahram (or male chaperone) for long-distance journeys, which includes a ban on women from boarding domestic and international flights without a mahram; and a decree stipulating that women should stay at home unless necessary;

Employment: for example, by banning women from working for national and international non-governmental organisations; banning Afghan women from working in the United Nations in Afghanistan; directing women civil servants to stay at home, except where they cannot be replaced by male colleagues in the health, education, and security sectors;

Take part in public and cultural life: by banning access of women to public baths, gyms, sports clubs, beauty salons and amusement parks;

Be free from violence: through the Taliban’s dissolution of the institutional framework of support for survivors of gender-based violence that was established by the 2009 Elimination of Violence against Women Law.

On 11 October 2023, the HRC adopted a resolution expressing “serious concern about the grave, institutionalized, widespread and systematic oppression of all women and girls in Afghanistan by the Taliban that stems, *inter alia*, from edicts, policies and practices targeting women and girls, the undermining of legal protections and accountability mechanisms for sexual and gender-based violence, and the ongoing denial of human rights.”⁸

In the above-mentioned joint report, the UN Special Rapporteur on Afghanistan and the Working Group on Discrimination Against Women and Girls concluded that: “The pattern of large-scale systematic violations of women’s and girls’ fundamental rights in Afghanistan, abetted by the Taliban’s discriminatory and misogynistic policies and harsh enforcement methods, constitutes gender persecution and an institutionalised framework of gender apartheid.”⁹ The Special Rapporteur had earlier referred to the Taliban’s “absolute erasure” of women from public life.¹⁰ Addressing the UN Security Council on 12 January 2023, the UN Secretary-General stated that: “in Afghanistan, unprecedented, systemic attacks on women’s and girls’ rights and the flouting of international obligations are creating gender-based apartheid.”¹¹ The UN High Commissioner for Human Rights,¹² the UN Women Executive Director¹³ and several countries from many regions, including South Africa,¹⁴ have also termed the levels of persecution suffered to amount to gender apartheid. South Africa has called for an international response to gender apartheid similar to that in support of the struggle against racial apartheid.¹⁵

Calls to end gender apartheid in Afghanistan were also made in statements in a UN Security Council's meeting on 26 September 2023. One of the speakers, Professor Karima Bennoune, international legal expert and civil society representative, recalled that the "increase in suicides among women is a horrible, but predictable, consequence"¹⁶ of this institutionalised system of gender apartheid. Bennoune stated that "day after day, women from across Afghanistan, from different ethnic groups, tell me about the devastating impact of Taliban rule. One Uzbek woman from Takhar who previously worked in civil society said she recently tried to commit suicide. 'I am afraid,' she explained, 'that they will ban women from breathing without a man's permission.' A Hazara woman described living under constant threat of widespread, targeted anti-Hazara atrocities by the Taliban. A woman protestor in Kabul said, 'The Taliban have imprisoned us in our homes. What we are experiencing every day is gradual death. This is what it feels like to live under gender apartheid.'"¹⁷ Bennoune also recalled that the Taliban have arbitrarily detained and tortured women human rights defenders who bravely resist these apartheid restrictions. She added that "Many Afghan women also tell me how concerned they are over increasing attempts by some international actors to normalise the Taliban despite their repressive policies. As a result, some Afghan WHRDs recently undertook a hunger strike, demanding international recognition that gender apartheid is being practised in their country, and appealing for international action to end it."¹⁸

RECOMMENDATIONS

Our organisations urge States to use the UPR of Afghanistan to:

- denounce the ongoing gender persecution and gender apartheid in Afghanistan. The institutionalised gender-based discrimination, segregation and oppression imposed by the Taliban in Afghanistan must be recognised and explicitly named for what it clearly is: gender apartheid. And there must be consequences, based on precedent from apartheid on racial grounds in South Africa.
- call on the Taliban to rescind immediately all their misogynistic restrictions and edicts that discriminate against, dehumanise and segregate women and girls in many aspects of public and private life, and to comply with all recommendations they have received from UN human rights experts, the UN High Commissioner for Human Rights and other relevant actors. The Taliban's relentless and blatant disregard of Afghanistan's human rights obligations must not be tolerated.

Furthermore, our organisations urge States to ensure that any engagement with the Taliban, such as on humanitarian grounds, be fully informed by international law and by the views and recommendations of Afghan women activists, and that such engagement not be part of a move towards recognition of the Taliban. Just as with respect to racial apartheid, States and non-State actors, including international organisations and international financial institutions, should take active steps to prevent, suppress and punish gender apartheid. No Member State or other actor can be complicit in or normalise the Taliban's illegal actions; there can be no recognition of the Taliban.

States must also ensure continued support for Afghan human rights defenders, including Afghan women activists inside and outside the country.

¹ 'Situation of human rights in Afghanistan, Report of the Office of the High Commissioner for Human Rights', 11 September 2023, A/HRC/54/21 paragraph 74, available at: <<https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session54/list-reports>>.

² 'Situation of women and girls in Afghanistan, Report of the Special Rapporteur on the situation of human rights in Afghanistan and the Working Group on discrimination against women and girls,' A/HRC/53/21, 20 June 2023, paragraph 97, available at: <<https://www.ohchr.org/en/documents/country-reports/ahrc5321-situation-women-and-girls-afghanistan-report-special-rapporteur>>.

³ "The shocking level of oppression of Afghan women and girls is immeasurably cruel.

Afghanistan has set a devastating precedent as the only country in the world where women and girls are denied access to secondary and higher education.

Restrictions are becoming increasingly severe, quelling women and girls' fundamental freedoms, effectively confining them to the four walls of their homes.

This Council is by now familiar with the long list of misogynistic restrictions and edicts. An ongoing ban on secondary and higher education. A requirement to wear the hijab in public places, with punishments extending to male relatives if they do not comply. No parks, gyms, or public baths. No beauty salons. No travelling more than 78km without a *mahram*, or male chaperone. No working for domestic or international NGOs, and now, the United Nations. This last ban flies in the face of the UN Charter and its fundamental principle of equality, compromising both human rights and the humanitarian response.

Women and girls deemed non-compliant with this litany of rules face arbitrary arrest and detention, harassment and even physical violence, as do their male relatives.

In recent weeks, the *de facto* authorities prevented a group of female students from travelling to Dubai for their studies because they were not all accompanied by *mahrms*."

'Statement by Volker Türk, United Nations High Commissioner for Human Rights to the 54th Session of the Human Rights Council, Interactive Dialogue on Afghanistan', 12 September 2023, available at: https://hrcmeetings.ohchr.org/HRCSessions/HRCDocuments/70/OTH/OTH_3548_88_e732ed18_c3f6_466f_9191_22_ca46076c2d.docx

⁴ *Ibid*.

⁵ 'Situation of women and girls in Afghanistan, Report of the Special Rapporteur on the situation of human rights in Afghanistan and the Working Group on discrimination against women and girls,' A/HRC/53/21, 20 June 2023, paragraph 17.

⁶ 'Situation of human rights in Afghanistan, Report of the Office of the High Commissioner for Human Rights', 11 September 2023, A/HRC/54/21 paragraph 31.

⁷ International Commission of Jurists and Amnesty International, 'Afghanistan: The Taliban's war on women: The crime against humanity of gender persecution in Afghanistan', 25 May 2023, available at: <<https://www.amnesty.org/en/documents/asa11/6789/2023/en/>>.

⁸ 'Situation of human rights in Afghanistan', Draft resolution A/HRC/54/L.16, adopted without a vote on 11 October 2023, preambular paragraph 12.

⁹ 'Situation of women and girls in Afghanistan, Report of the Special Rapporteur on the situation of human rights in Afghanistan and the Working Group on discrimination against women and girls,' A/HRC/53/21, 20 June 2023, paragraph 97.

¹⁰ See Zan Times interview: 'The UN's Richard Bennett on human rights abuses, gender apartheid, and the Taliban's quest for recognition', 24 February 2023, available at: <<https://womensenews.org/2023/02/zan-times-interview-the-uns-richard-bennett-on-human-rights-abuses-gender-apartheid-and-the-talibans-quest-for-recognition/>> .

¹¹ See 'The Secretary-General's remarks to the Security Council on the Promotion and Strengthening of the Rule of Law in the Maintenance of International Peace and Security: The Rule of Law Among Nations', 12 January 2023, available at: <<https://www.un.org/sg/en/content/sg/statement/2023-01-12/the-secretary-generals-remarks-the-security->

council-the-promotion-and-strengthening-of-the-rule-of-law-the-maintenance-of-international-peace-and-security-the-rule-of >.

¹² Statement by the UN High Commissioner for Human Rights, ‘Türk: “There should be a UN Human Rights Office everywhere.”’ 24 May 2023, available at: <<https://www.ohchr.org/en/statements/2023/05/turk-there-should-be-un-human-rights-office-everywhere>>.

¹³ UN Women, ‘Speech: We need a radical change of direction’, 7 March 2023, available at: <<https://www.unwomen.org/en/news-stories/speech/2023/03/speech-we-need-a-radical-change-of-direction>>.

¹⁴ “Indeed, as the report disturbingly highlights, women and girls in Afghanistan are suffering from some of the most pernicious human rights violations, unparalleled elsewhere in the world. Among others, the wide-ranging set of decrees restricting their ability to engage in society, serve as but one of many examples of this. These decrees are aimed at removing women and girls from all spheres of public life and form part of a system of institutionalised and systematic gender-based discrimination and violence, which may amount to crime against humanity of “gender persecution”.

As a country that prizes the promotion and protection of the human rights of women and girls, my delegation therefore calls on the international community to take action against what the report describes as “gender apartheid”, much like it did in support of South Africa’s struggle against racial apartheid. We owe this to the bravery displayed by women and girls in Afghanistan that we salute today, which despite continued threats and intimidation continue to be the primary advocates for their rights.”

‘South African National Statement, 53rd Session of the Human Rights Council in Geneva, Enhanced Interactive Dialogue on Afghanistan with the Special Rapporteur and the Working Group on Discrimination against Women and Girls’, available at: <https://hrcmeetings.ohchr.org/HRCSessions/HRCDocuments/68/SP/55177_59_4268c96e_131e_4736_8b37_66aad0cf34cd.docx>.

¹⁵ *Ibid.*

¹⁶ NGO Working Group on Women, Peace and Security, ‘UN Security Council Briefing on Afghanistan by Karima Bennouna’, 26 September 2023, available at: <https://www.womenpeacesecurity.org/resource/un-security-council-briefing-afghanistan-karima-bennouna/#_ftn12>.

¹⁷ *Ibid.*

¹⁸ *Ibid.*