

Justice Denied: Afghan Women's Struggle for Legal Protection under the Taliban

Author: Humaira Rasuli

Afghan women's access to justice under the Taliban has collapsed, leading to the perpetuation of gender-based violence. Restoring legal aid and female representation will help more women in Afghanistan to access the legal justice they deserve.

Executive Summary

Afghan women face increased gender-based violence (GBV) and significantly decreased access to justice under the Taliban De Facto Authority (DFA). The legal and social structures that previously provided some protection and a safety net for women— including a national constitution, laws and specialised courts that addressed the elimination of violence toward women, and representation by female lawyers--have collapsed due to the DFA's overhaul of Afghanistan's entire judicial system. The Taliban leader has published at least ten official gazettes with over 102 decrees and orders that violate women's fundamental rights.

Among the steps taken, the Taliban suspended laws that protected the rights of women and girls including the Elimination of Violence Against Women law that had criminalized 22 forms of violence against women, including rape and forced marriage.

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Justice Denied

"I got a divorce from my husband in the former regime. My husband reopened the case after the Taliban took over Afghanistan, and the Talib judge told me that the former regime's judiciary was corrupt, their decisions were not legal, and they allowed my husband's petition to reverse the divorce. The case was referred to the Supreme Court for retrial. As a result, I left the country.."

A GBV Survivor

The 2024 Law on the Promotion of Virtue and Prevention of Vice mandates that women cover their entire bodies and faces, prohibits women from speaking in public, and requires that a male relative accompany women when leaving the house. The Taliban de facto authorities justify this discrimination by attributing it to Islamic Shariah, in contradiction of Shariah's principles of justice, dignity, mercy, due process, and evidentiary rigor. In summary, the Taliban have “weaponized” the legal and judicial system to oppress women and girls in what amounts to “crimes against humanity.” The Taliban dismissed all judges under the previous government, including 270 women, replacing them with men who lack legal training and hand down decisions based on edicts issued by the Taliban.

A few non-governmental organizations (NGOs) are partially operational in Afghanistan to help women access justice, but they face significant challenges. Unless access to justice is restored, Afghan women will remain trapped in cycles of violence and oppression, with dire consequences for the country's peace and development. Thus, there is an urgent need for international support to address the systematic gender-based discrimination in Afghanistan.



Image by Amber Clay from Pixabay.

Introduction

The purpose^[1] of this brief is to document the challenges Afghan women face in accessing justice under the DFA, highlight the role of non-government organizations (NGOs) and alternative mechanisms in supporting survivors, and provide actionable recommendations for policymakers, international organizations, and civil society. very clear. Well done.

The Rise of Informal Justice Mechanisms to Replace Formal Justice

A review of legal frameworks, Taliban decrees, and case studies, as well as in-depth discussions with legal professionals in Afghanistan, revealed that the situation for women in Afghanistan has deteriorated rapidly since the Taliban's takeover in August 2021. The DFA's policies have dismantled institutions that once provided legal recourse and protection for GBV survivors, while enforcing laws that deeply violate the rights of women.

In the absence of proper legal, judicial, and due process, families are resolving family issues via informal justice mechanisms such as family mediation, whilst sexual and gender-based violence against women and girls, committed particularly within families and communities, continues to be on the rise, and occurs with impunity and with minimal support for victims. Additionally, these informal justice mechanisms lack gender sensitivity, according to interviews with NGO staff and legal professionals.

Legal aid, female legal representation, and community-based response are needed that focus on a gender and woman-centered model of mediation in which the mediator advocates on behalf of the GBV survivor rather than merely facilitating the mediation process.

An Urgent Need for an International Response

The international community must act urgently to address this crisis^[1], as the lack of accountability and legal protections perpetuates violence, undermines human rights, and jeopardizes Afghanistan's long-term peace and development. Policymakers must prioritize:

- Supporting women's access to justice through legal aid, advocacy, and mediation.
- Pressuring the DFA to allow female lawyers to practice and reform discriminatory laws.
- Funding holistic programs for GBV survivors, including shelters, psychosocial support, and empowerment initiatives.
- Promoting gender equity within Islamic frameworks to challenge harmful norms.

Discussion and Analysis

Key findings from the study include the:

• Collapse of Legal Protections:

The dismantling of institutions like the Elimination of Violence Against Women (EVAW) courts and the Ministry of Women's Affairs has left GBV survivors without recourse. Judicial positions are filled by untrained Taliban members, leading to inconsistent and discriminatory rulings.

- **Barriers to Justice:**

Women face restrictions on mobility, education, and employment, preventing them from accessing legal remedies. Female lawyers are excluded from practicing, leaving survivors without adequate representation.

- **Denial of Rights:**

Women protestors against the DFA have been detained without credible legal grounds and denied judicial guarantees and procedural rights, per the review of case studies. The detainees also complained of forced confession, request of ransom in exchange for release, detention without trial, prolonged pre-trial detention, detention in unofficial places, lack of access to UN personnel to monitor conditions of detention, poor living conditions in prison, lack of access to family members, denial of or restrictions on legal counsel, and application of harsh sentencing.

- **Rise in GBV:**

Domestic violence, forced marriages, and honor killings have surged due to poverty, lack of accountability, and restrictive policies. Women's economic dependence exacerbates their vulnerability.

- **Role of NGOs:**

NGOs provide critical psychosocial counseling, legal advice, and mediation services, but face operational challenges under DFA restrictions.

- **International Community's Reluctance:**

Limited donor funding and engagement hinder efforts to support women's access to justice and reform.

A Women's Human Rights Defender was arrested by the Taliban Intelligence Directorate for her involvement in the Spontaneous Women's Movement. She received an 18-month imprisonment sentence from a primary court for allegedly engaging in 'Propaganda against the Islamic Emirate,' stemming from an incident where she tore a photo of the Taliban leader Hibatullah Akhundzada. She was arrested by Taliban intelligence on August 10, 2023, and transferred to the national intelligence department. She says that during her imprisonment, the Taliban tortured her physically and mentally, beat her, gave her electric shocks, insulted, humiliated, and harassed her. After 21 days, she was able to contact her family and inform them about the incident. She says that by giving 5000 dollars to one of the judges and a forced confession in the media with the guarantee of her father, her brother, and her sister's husband, she was released from Taliban prison. But she had to guarantee that she will no longer fight against the Taliban and participate in the demonstrations. After her release, she and her family fled.

Recommendations

To improve the lives of GBV survivors and increase their access to justice, policymakers should:

Strengthen Legal Representation:

- Pressure the DFA to allow female lawyers to renew licenses and practice law.
- Fund legal aid programs to provide survivors with access to legal counsel.
- Train mediators to ensure gender-sensitive dispute resolution.

Rebuild the Justice Infrastructure:

- Advocate for the reintegration of trained legal professionals from the previous regime.
- Restore shelters, psychosocial support, and holistic programs for GBV survivors.

Promote Gender-Sensitive Reforms and International Support:

- Engage with the DFA to reform discriminatory laws and align Sharia-based frameworks with international human rights standards.
- Push for the establishment of a constitution to ensure legal consistency and accountability.
- Provide financial and technical assistance to NGOs and women's organisations working on GBV prevention and survivor protection.
- Support the Afghan diaspora in building their organisations and initiatives from wherever they are located, as they will contribute to Afghanistan's development by establishing enterprises and nonprofits, educating children, promoting a culture of peace and human rights, and actively participating in the country's sustainable development.

- Publicly condemn the violations of the rights of women and girls in Afghanistan by the Taliban, and for the Organization of Islamic Cooperation (OIC) member states in particular to take this firm stance. In particular, for the OIC to clarify that the objective of mahram under Islamic jurisprudence is to enable women's movement and participation in society, and, when its use has the opposite effects as explained in this submission, the objectives are effectively frustrated.
- Initiate proceedings before the International Court of Justice (ICJ) to adjudicate the severe violations of CEDAW by Afghanistan and cooperate with national courts and existing international judicial bodies like the International Criminal Court (ICC) to investigate international law violations in Afghanistan including gender-based discrimination and crimes against women as a form of gender-apartheid.
- Use diplomatic channels to pressure the DFA to uphold women's rights and end gender apartheid.

In general, the international community and the United Nations use international judicial and non-judicial legal frameworks and political tools to combat women's oppression in Afghanistan. Formal recognition of gender apartheid (the institutionalized erasure of women from public, educational, and political life) in the proposed international Crimes Against Humanity Treaty would unlock new legal avenues to combat impunity, deliver justice, and deter future crimes globally.

Raise Awareness and Advocacy:

- Support public education campaigns to challenge harmful norms and promote women's rights within communities.
- Collaborate with Islamic countries to advocate for gender equity under Islamic principles.

Expand Access to Education:

- Advocate for the reopening of schools for girls beyond sixth grade and ensure quality education so that women have skills to support themselves.
- Fund alternative education programs, including online schooling, for Afghan girls and women.



Illustration by Sofia Bartolini

References and Further Reading

Bennett, R. (2024). The phenomenon of an institutionalized system of discrimination, segregation, disrespect for human dignity and exclusion of women and girls: Report of the Special Rapporteur on the situation of human rights in Afghanistan. United Nations Human Rights Council.

<https://documents.un.org/doc/undoc/gen/g24/075/00/pdf/g2407500.pdf>

Rasuli, H. (2025). Highlighting Afghan women's experiences of violence and access to justice: Report of the RWI Afghanistan Programme. Raoul Wallenberg Institute of Human Rights and Humanitarian Law.

<https://rwi.lu.se/wp-content/uploads/2025/05/Rasuli-2025-Highlighting.pdf>

Institute of South Asian Studies. Remaking of Afghanistan: How the Taliban are Changing Afghanistan's Laws and Legal Institutions. 26 July 2022.

URL: <https://www.isas.nus.edu.sg/papers/remaking-of-afghanistan-how-the-taliban-are-changing-afghanistans-laws-and-legal-institutions/>

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