



# General Assembly

Distr.: General  
13 May 2024

Original: English

---

## Human Rights Council

### Fifty-sixth session

18 June–12 July 2024

Agenda item 2

**Annual report of the United Nations High Commissioner  
for Human Rights and reports of the Office of the  
High Commissioner and the Secretary-General**

## **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\***

#### *Summary*

In the present report, the Special Rapporteur on the situation of human rights in Afghanistan provides an intersectional analysis of the establishment and enforcement of an institutionalized system of discrimination, segregation, disrespect for human dignity and exclusion of women and girls.

---

\* Agreement was reached to publish the present document after the standard publication date owing to circumstances beyond the submitter's control.



## I. Introduction

1. In its resolution 54/1, the Human Rights Council requested the Special Rapporteur on the situation of human rights in Afghanistan, with the support of other relevant special procedure mandate holders and treaty bodies, to prepare a report on the phenomenon of an institutionalized system of discrimination, segregation, disrespect for human dignity and exclusion of women and girls.

2. As requested, the present report builds on the joint report submitted to the Human Rights Council at its fifty-third session by the Special Rapporteur and the Working Group on discrimination against women and girls.<sup>1</sup> According to that report, the Taliban were perpetrating the most extreme forms of gender-based discrimination, with Afghan women describing the erosion of their rights as “the walls [closing] in”, leaving them “without hope”. The Special Rapporteur and the Working Group on discrimination against women and girls determined that the pattern of large-scale systematic violations of women’s and girls’ fundamental rights in Afghanistan, abetted by the Taliban’s discriminatory and misogynist policies and harsh enforcement methods, constituted gender persecution and an institutionalized framework of gender apartheid, and provided detailed recommendations to the de facto authorities, States and the United Nations.

3. The Special Rapporteur’s subsequent human rights reports to the General Assembly at its seventy-eighth session and the Human Rights Council at its fifty-fifth session include updates on the worsening situation for women and girls.<sup>2</sup>

### A. Objectives

4. In the present report, the Special Rapporteur provides a critical analysis of the institutionalized subjugation of Afghan women and girls, encoded in the Taliban’s gender-based system of discrimination, segregation, disrespect for dignity and exclusion. As previously detailed,<sup>3</sup> the consequence has been the rapid attrition of female autonomy and agency, and the erasure of women and girls from the public, political, economic, social and cultural life of Afghanistan.

5. The Taliban’s institutionalized system of discrimination is most visible through its relentless issuance and enforcement of edicts, decrees, declarations and orders that in and of themselves constitute severe deprivations of human rights and violations of international law. In the present report, the Special Rapporteur examines the way in which these commands interlock to form a countrywide system of oppression and abuse in which all communities in Afghanistan, particularly women and girls, find themselves ensnared.

6. Grounded in a gender-competent intersectional approach, the report illuminates harms, visible and obscured, as well as the transgenerational impact on different communities in Afghanistan and elsewhere. The Special Rapporteur recognizes the interconnected nature of social categorizations such as gender, religion and ethnicity, among other identities, and considers an intersectional approach essential to institute a more inclusive framework for identities that are often unrecognized or underrecognized.

7. The aim of the report, therefore, is to provide a multidimensional understanding of the design, commission and impact of the rippling harms wrought by the Taliban’s institutionalized system of gender-based oppression. While the impact on Afghan women and girls is its focus, the report emphasizes that the establishment and entrenchment of such a system leads to devastating and long-lasting harm to all genders, with implications extending well beyond the borders of Afghanistan that are likely to arise from poorly conditioned engagement with the Taliban.

8. This analysis rejects exclusionary binaries that primarily cast women and girls as victims, and men and boys as perpetrators. Afghan women and girls are owed full recognition

---

<sup>1</sup> [A/HRC/53/21](#).

<sup>2</sup> See [A/78/338](#) and [A/78/338/Corr.1](#) and [A/HRC/55/80](#).

<sup>3</sup> See [A/HRC/55/80](#) and [A/HRC/53/21](#).

of their agency, their courageous resistance and their indelible roles as beacons of progress and justice for Afghanistan.

## **B. Methodology and challenges**

9. In preparing the present report, the Special Rapporteur consulted with Afghan women and men, human rights activists, lawyers, journalists, academics, health workers, entrepreneurs, international legal experts, and special procedures mandate holders and treaty bodies.

10. Multiple in-person and virtual consultations were supplemented by an expert round table. Approximately 128 individuals (95 Afghans and 33 international experts) participated, comprising 107 women, 20 men and 1 individual identifying as gender-fluid. Participants were drawn from diverse backgrounds and included members of ethnic and religious minorities and persons with disabilities.

11. These consultations built on the Special Rapporteur's previous engagement with stakeholders and aimed to capture personal narratives and experiences of discrimination. Efforts were made to examine harms inflicted upon groups often not fully seen within documentation processes, including children, older persons and persons experiencing domestic violence. Consultations also solicited priorities, strategies and recommendations from women in Afghanistan and the diaspora. The expert round table enriched the report by providing in-depth legal, human rights and political expertise.

12. Additionally, a call for submissions of information was made publicly. Eighteen submissions were received.

13. A survivor-centred approach, founded upon the core "do no harm" principle, underpinned consultations. In some instances, protection concerns could not be sufficiently mitigated to enable interactions with certain groups inside Afghanistan, with effects on the depth of insights gathered.

## **II. Establishment and enforcement of an institutionalized system of gender-based oppression**

14. The system of discrimination, segregation, disrespect for human dignity and exclusion institutionalized by the Taliban is motivated by and results in a profound rejection of the full humanity of women and girls. It is pervasive and methodical, and is institutionalized through and, in turn, reinforced by edicts and policies sanctioning the severe deprivation of fundamental rights. As illustrated in the present report, these deprivations do not exist independently of each other. Rather, each deprivation systematically informs and interacts with others, creating a mutually reinforcing architecture of oppression.

15. Since the drafting of the joint report, approximately 52 edicts have been issued, in the period from June 2023 to March 2024, restricting the rights of women and girls across the country. Principal among their effects were the following:

- (a) In June 2023:
  - (i) Foreign non-governmental organizations were banned from providing educational programmes, including community-based education;
  - (ii) Women were banned from participating in radio and television shows alongside male presenters;
- (b) In July 2023, female beauty salons were forced to close;
- (c) In August 2023, women were banned from entering Band-e Amir national park;
- (d) In October 2023, women were prohibited from holding directorships within non-governmental organizations;

(e) In February 2024, women on television were required to wear a black hijab, with their faces covered, leaving only their eyes visible.

16. Women and girls are being manoeuvred into increasingly narrow roles where the deep-rooted patriarchy, bolstered and legitimized by Taliban ideology, deems them to belong: as bearers and rearers of children, and as objects available for exploitation, including debt bondage, domestic servitude, sexual exploitation and other forms of unremunerated or poorly remunerated labour.

17. The denial of equal rights to Afghan women and girls predates both reigns of the Taliban and was a facet of the intervening two decades of the Islamic Republic, during which time serious concerns were expressed in human rights reporting. It would be unwise, therefore, to regard the Taliban solely as an aberration. The roots of this denial lie in misogyny that forms an undercurrent in most, if not all, societies, but which is radicalized and institutionalized in a governance project that the Taliban claims to be the unfolding of sharia but is unparalleled in other Muslim-majority countries.

18. In its response in January 2023 to a request from the Committee on the Elimination of Discrimination against Women for information on the situation of women and girls in Afghanistan since 15 August 2021, the Taliban held that it protected the rights of women and girls in line with sharia and the norms of Afghan society.<sup>4</sup> Assertions of cultural or religious customs and traditions cannot, however, justify violations of human rights. They do not, by any means, justify discrimination or violence, and cannot be used to legitimize exclusion, in violation of international law. The Special Rapporteur reiterates that traditional, historical, religious or cultural attitudes are not to be used to justify violations of the right to equality before the law and to equal enjoyment of all human rights. He recalls article 4 of Declaration on the Elimination of Violence against Women, under which States should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to the elimination of violence against women.<sup>5</sup>

19. Left unchecked, the Taliban's institutionalized system of gender oppression will become more robust, as those resisting it suffer increasing violence, as memories of female role models and notions of female independence fade, and as new generations are raised and radicalized in a society unquestioning of its dehumanization and exploitation of women and girls. The situation of Afghan women and girls is becoming increasingly alarming, with impunity creating risks that the international community has not yet fully grasped. One woman commented as follows during consultations: "We still have hope that the international community will act, and not only talk."

## A. Establishment

20. In the present report, the Special Rapporteur examines the way in which the Taliban's institutionalized system of oppression of Afghan women and girls is underpinned and sustained through the choreographed deprivation of human rights. To allow for a more in-depth analysis, the Special Rapporteur focuses on the way in which the denial of five fundamental rights – the rights to education, employment, freedom of movement, health and access to justice – intermesh to establish and enforce an architecture of oppression that is difficult, if not impossible, for Afghans of all genders, but particularly women and girls, to evade or overcome.

21. As detailed in previous reports, the Taliban's erasure of women from public life violates a multiplicity of human rights beyond those that are the subject of the present analysis. Those rights are equally as important; there is no hierarchy within the human rights framework, and all rights are indivisible and fully enforceable. The Special Rapporteur will

<sup>4</sup> Response of the de facto authorities in Afghanistan to the Committee on the Elimination of Discrimination against Women, 30 January 2023. Available at <https://www.ohchr.org/sites/default/files/documents/hrbodies/cedaw/received-info/information-from-the-de-facto-authorities-of-Afghanistan.pdf>.

<sup>5</sup> General Assembly resolution 48/104.

provide his update on the overall human rights situation in Afghanistan in his report to the General Assembly at its seventy-ninth session, in October 2024.

## 1. Right to education

22. The institutionalized discrimination against women and girls permeates the Taliban's draconian policies, including access to education. After seizing power in 2021, the Taliban swiftly imposed a ban on secondary education for girls, subsequently expanding this restriction to encompass universities and, more recently, private learning centres. Young women have also been prevented from leaving Afghanistan to pursue tertiary education. Madrasas, always part of the education landscape, offering Taliban-approved religious education have mushroomed as unequal alternatives. Prominent Afghan religious scholars and some members of the Taliban leadership have spoken in support of girls' right to education, underscoring the absence of religious or cultural justification for the ban.

23. In September 2022, an attack on a school claimed the lives of at least 54 people, mostly Hazara women and girls, and injured at least 100 others. It formed part of a broader pattern of attacks on Hazara schools, mosques and workplaces, many of which were claimed by Islamic State in Iraq and the Levant-Khorasan. Constituting an assault on intersecting grounds of gender, ethnicity and religion, the targeting of educational facilities and the Taliban's failure to prevent it or provide meaningful assistance to victims increases risks associated with pursuing education.

24. The denial of education to women and girls above sixth grade has a pernicious effect, curtailing the acquisition of earning power, which is key to women's personal empowerment, their independence within their families and their very survival. Many are driven to psychological distress, including suicidal thoughts and actions. One girl explained: "When I am at home, I feel like I am in a prison ... When I was going to school, I felt free." Denial of access to equal education is causing transgenerational disempowerment that will increasingly ingrain the debased socioeconomic status of Afghan women and girls and their State-enforced dependence on men.

25. Women and girls barred from the education system in Afghanistan are at increased risk of forced marriage, particularly where their families are under financial pressure. One woman, living inside Afghanistan, stated that she now had to marry, stating that "all of my dreams have shattered". While the Taliban has issued an order prohibiting forced marriage, the Special Rapporteur is concerned about allegations that the Taliban has been involved in forced and child marriages without legal consequences, especially in rural and remote areas. These coerced conjugal relationships, a phenomenon that also predates the Taliban's administration, may also entail other violations, including rape, torture, forced pregnancy and forced labour. The Taliban are reportedly providing no meaningful State protection against either forced marriage itself or violence within marriage.

26. The transgenerational impact of the systematic exclusion of women and girls from education will be immense and enduring. With each generation, there will be fewer women with educational backgrounds enabling them to take up roles outside the home. Most cited is the impact of an absence of female doctors and health-care workers. Afghanistan, however, is in the process of losing more than its future health-care workers, with the concomitant risks to women and girls. The Taliban's institutionalized gender oppression is depriving Afghanistan of its future women engineers, journalists, lawyers, biologists, politicians and poets, to name a few. It is a profound and mounting loss to an entire nation.

## 2. Right to work

27. The Taliban curtailed women's right to work by banning women from registering organizations and from working in non-governmental or foreign organizations (with limited exceptions in the fields of health and education), by instructing women civil servants not to report to work, and by limiting physical access to job sites through the *mahram* requirement.

28. Conditions placed on women's employment are designed to decimate women's financial autonomy and independence. Numbers of employed women have fallen dramatically, with an especially visible impact on women civil servants, judges, prosecutors

and journalists. One woman, a human rights defender, stated: “I opened my organization 20 years ago, and now I am not allowed even to enter the building because I am a woman.”

29. In 2023, the Taliban cracked down on women’s employment in the private sector, including by ordering the closure of beauty salons, a source of employment and social support. Also affected are Afghan women entrepreneurs, including those running home-based businesses, who must rely on a *mahram* to travel to local markets. Women’s and girls’ future employment prospects are undercut by the denial of their right to education. The Special Rapporteur acknowledges the ingenuity and determination of Afghan women who continue to find ways to sustain themselves and their families.

30. The Taliban’s ban on women working in most roles in aid agencies has created cascading gendered harms by complicating the delivery of humanitarian assistance to women and girls, thus impeding other rights, including the rights to adequate food and to the highest attainable standard of health.

31. Without the benefit of women’s income, families have plunged deeper into poverty. The resulting financial strife, affecting whole families, carries distinct risks to children, including child labour and forced marriage of girls and women.

32. The dependence on male relatives orchestrated by the Taliban’s violation of women’s right to work has particularly devastating effects on unmarried and separated women and girls, widows and women-headed households. Dependent on the benevolence of male relatives, they are vulnerable to abuse, exploitation and abandonment. Unsupported women are pushed into extreme poverty, which may include acute food insecurity, contravening their rights to food and health. Those who beg to survive risk arrest for their presence in public spaces without a *mahram*.

33. The curtailing of women’s employment, freedom of movement, education and access to justice and the closure of shelters have significantly contributed to trapping women, girls and boys in violent and abusive households, while cutting off possible avenues of redress and escape.

### 3. Right to freedom of movement

34. The Taliban has strenuously constrained the freedom of movement of women and girls. Bans on access to public baths, parks and gyms affect the rights to health and to recreation and leisure. While women and girls are not permitted to travel more than 72 kilometres from their homes unless accompanied by a *mahram*, this rule is often overenforced, with women and girls prevented from travelling even short distances alone.

35. Afghan women told the Special Rapporteur that the forced dependence on a male relative to accompany them was humiliating and undercut opportunities to enjoy even moments of leisure outside the home. The situation is particularly dire for those with no close male relatives, as they lack a *mahram*, hindering their access to essential services.

36. Overenforcement of the *mahram* requirement and of clothing restrictions has led to arrest and detention of women and girls. A consequence is the sequestering of many women and girls, with some families restricting girls’ movements, or with women and girls remaining indoors to reduce the risk of contact with the Taliban and its supporters.

### 4. Right to health

37. Living under an institutionalized system of gender-based oppression is inherently dehumanizing and causes physical and psychological harm. These include killings, physical, sexual and reproductive violence leading to death, injuries, chronic health conditions, depression and suicide. These harms are deepened where justice systems are engineered to fail victims and provide protection to perpetrators.

38. In consultations for the present report, and as detailed in previous reports, several actors, including women inside Afghanistan and in the diaspora, referenced an increase in reports of depression and suicide among women and girls. One woman stated: “I was the

breadwinner and now have no job, no income and my children are asking for food, I have no choice but to consider suicide.”<sup>6</sup>

39. Forced marriage is an attack on victims’ health, constituting denial of relational, sexual and bodily autonomy. Forced marriage of girls has particularly egregious physical, psychological and social consequences. As sites of physical and sexual violence, abusive marriages – including, but not limited to, forced marriage – have devastating physical and psychological effects and may entail routine rape and heightened risk of victims’ murder. The Special Rapporteur notes the decree by leader Haibatullah Akhundzada, barring forced marriage and noting that women should not be considered “property” and must consent to marriage. Allegedly, the decree has not been fully respected by Taliban members.<sup>7</sup>

40. Restrictions on health-care providers seeing patients of the opposite sex, and on women working in the health sector, have severely constrained access for women and girls to medical treatment. The impact is significant in rural areas, where there are far fewer clinics and women health-care workers. The *mahram* requirement imposes barriers on women and girls, particularly those with no close male relatives, to medical treatment. In some areas the Taliban have specifically banned women from attending a health-care appointment without a *mahram* present, a policy that also violates their right to privacy. Denial of access to health facilities, goods and services for individuals or groups, on the basis of discrimination, violates the right to health.

## **B. Enforcement**

### **1. Attacks on those resisting**

41. So pervasive is the Taliban’s institutionalized gender oppression, and so slender are the spaces in which women and girls may live freely, that in Afghanistan today almost any act can be characterized as an act of resistance. To go for a walk in a park, to dine outdoors with a friend, to don bright colours: all may be perceived as challenges to the Taliban’s suffocating regime.

42. The Taliban’s enforcement of its institutionalized gender oppression is most vividly seen in attacks on women protesters. Since August 2021, women have been subjected to beatings, arrest, arbitrary deprivation of liberty and enforced disappearance. The Special Rapporteur received information regarding torture and sexual violence directed against women held in detention, including those arrested while demonstrating.

43. Fundamental to understanding the Taliban’s institutionalized subjugation of women and girls is recognizing that anyone who seeks to challenge the system, regardless of their gender, risks suffering any number of inhumane acts. While women continue to be at the forefront of the resistance, the Taliban have also arrested, detained and inflicted physical violence on men and boys who have defied or questioned their governance system. Attacks by the Taliban against all Afghans show that a core objective of crushing resistance is to protect and maintain the institutionalized system of oppression.

44. The Taliban have delegated enforcement to masculinist power structures, including families, implicating and instrumentalizing men in enforcing a State-sanctioned system of gender-based domination. As one woman confided, “I am surveilled by my sons”. Men risk suffering beatings, imprisonment and confiscation of property if they fail to enforce the Taliban’s edicts on their female relatives. A strategy of coerced complicity, it bolsters the overarching architecture of oppression while also providing moment-by-moment policing of the conduct and choices of every woman and girl in Afghanistan.

### **2. Denial of access to justice**

45. Regimes of institutionalized discrimination and exclusion have as their hallmark support for, and tolerance of, public and private violence against those being systematically

<sup>6</sup> A/HRC/53/21, paras. 63 and 64.

<sup>7</sup> See <https://www.alemarahenglish.af/special-decree-issued-by-amir-ul-momenin-on-womens-rights/>.

marginalized, bolstered by laws sanctioning such violence or by the instrumentalization of justice processes to deny justice to victims.

46. Women and girls have long been denied meaningful access to avenues for redress within the formal justice system in Afghanistan; under the Taliban, this situation has worsened dramatically. The Taliban has removed all judges and prosecutors, replacing them with legally unqualified mullahs with limited understanding of sharia, who are advised by muftis,<sup>8</sup> and has effectively suspended the legal licences of women lawyers. The Law on the Elimination of Violence against Women has been abolished, while specialized courts, prosecution offices and family response units have been dismantled. By these means, the Taliban have effectively curtailed women's ability to seek justice, escape abuse and hold perpetrators of violence accountable.

47. Historically, informal justice systems, such as jirgas and shuras, marginalized the voices of women, resulting in processes and outcomes that were often traumatic and revictimizing. Particularly affected were women and girls from rural areas. The Taliban's institutionalization of gender oppression has further legitimized misogynistic attitudes, including in all-male power structures that comprise the informal justice system.

48. Afghans highlighted to the Special Rapporteur the precariousness of the situation of women and girls suffering domestic violence, with victims routinely forced back into abusive households. This situation has been exacerbated by the Taliban's dismantling of infrastructure to support survivors, including women's protection centres, legal assistance, the Ministry of Women's Affairs, and the Afghanistan Independent Human Rights Commission.

### **3. Impact on children**

49. Afghan girls suffer age-specific, gendered harms, including unequal access to education and health care, increased risk of exploitation (including forced marriage, debt bondage and trafficking), and lack of protection against violence, whether committed by family members or the de facto authorities. Girls with multiply marginalized identities, including those from religious and ethnic minorities, suffer distinct harms, magnified by pre-existing discriminatory attitudes and tolerance of violence against them.

50. The most profound harms may be transgenerational. It is likely that in-country active resistance to the Taliban's institutionalized subjugation of Afghan women and girls will lessen over time owing to increasingly brutal attacks on those seeking to challenge the Taliban or as a result of the hopelessness engendered by the perception that the world has abandoned the Afghan people. New generations raised in a country that sanctions the oppression and humiliation of women and girls will also be severely affected.

51. What will be the effect – on all Afghans, but particularly on girls and boys – of the erasure of strong female role models outside of the home? What conception of the world, and of themselves, do girls have when they have no memories of women thriving independently from men? And what type of men do boys, raised within an institutionalized regime which has systematically disempowered women and girls, grow into?

## **C. Multiply marginalized communities**

### **1. Persons with disabilities**

52. Afghan women and girls with disabilities continue to face gender-specific intersecting forms of systematic exclusion. In consultations, Afghan women have emphasized that women and girls with disabilities are more likely to be seen as unfit for marriage and may be rejected by the grooms' families.

53. While this prejudice predates the Taliban, it underlines the value of education as a path to independence and opportunity for women and girls with disabilities. Consequently,

<sup>8</sup> Office of the United Nations High Commissioner for Human Rights, "[UN experts: legal professionals in Afghanistan face extreme risks, need urgent international support](#)", 20 January 2023.



the State-sanctioned denial of equal access to education and employment has had a particularly grave impact. Unable to work, some women and girls with disabilities have resorted to begging on the streets, where they may face harassment and/or arrest for breaching the *mahram* requirement.

54. Women and girls with disabilities risk being seen as a burden on their families and are at an increased risk of violence both in and outside the home. Their vulnerability to abuse and exploitation is exacerbated by the denial of access to justice inherent in the Taliban's system of gender-based discrimination.

## **2. LGBTQIA+ communities**

55. The Special Rapporteur received reports from survivors that Taliban members had attacked or threatened them because of their sexual orientation or gender identity. Almost all reported abuse – including attempted murder, rape and beatings – from relatives who supported the Taliban's threats of violence or who believed that they had to act to ensure their own safety. Some reported being forced into marriage or forced out of the family home. With violence both committed and condoned by the Taliban, there are no paths to justice in Afghanistan for LGBTQIA+ individuals.

56. Many have fled to neighbouring countries, where they continue to fear being victimized because of their sexual orientation or gender identity and are at risk of being deported to Afghanistan. Survivors underscored inadequate support to seek protection in or transit out of Afghanistan, including owing to lack of awareness or capacity among humanitarian agencies and non-governmental organizations to address their protection needs. Those consulted have emphasized that the only refuge is in countries with greater protections for LGBTQIA+ people; few countries have offered asylum and resettlement to Afghan members of these communities.

## **3. Ethnic, religious and linguistic minorities**

57. Afghanistan is a multi-ethnic, multilingual and multireligious country, with Pashtun, Tajik, Hazara, Uzbek, Turkmen, Sunni, Shia, Sikh, Hindu and many other religious, ethnic and linguistic communities. Through his mandate, the Special Rapporteur has frequently received reports of members and supporters of the Taliban violating the rights of religious, ethnic and linguistic minorities.

58. Shia Muslims of Hazara ethnicity, as well as Sikh and Hindu communities, have been targeted by Islamic State in Iraq and the Levant-Khorasan, including through attacks on schools, marketplaces, religious sites and public transportation. Concerns have been consistently voiced that the Taliban is taking woefully insufficient action to protect and assist these minority communities.

59. Dress restrictions hamper women and girls from all communities, including the Pashtun community, in the expression of their culture, including the wearing of traditional dresses. The Special Rapporteur further notes that arrests by the Taliban regarding dress codes imposed on women and girls have focused disproportionately on majority Hazara and Tajik areas.

60. Violations of the human rights of the ethnic, religious and linguistic minorities of Afghanistan intersects with the Taliban's institutionalized system of gender-based discrimination, with women and girls from minority communities suffering distinct harms, and with the destructive impact heightened by pre-existing structural inequalities.

# **III. Legal analysis**

61. The present report relies upon the framework of public international law, including international human rights law and international criminal law. The analysis draws from information collected through consultations and submissions, including extensive consultation with legal experts, and builds upon information provided in earlier reports.

## A. Gross human rights abuses

62. Afghanistan has committed to specific obligations as a party to key international conventions and human rights treaties.<sup>9</sup> Upholding these obligations entails not only refraining from violations, but also creating an environment where human rights are respected, by establishing and maintaining institutions, laws and policies that ensure the rule of law and promote accountability.<sup>10</sup>

63. As detailed in previous reports, the Taliban is systematically committing gross human rights abuses. Through its institutionalization of a system of gender oppression, the Taliban are depriving Afghans of all genders, but particularly women and girls, of their rights, including the following: the right to life, liberty and security of person; the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment; the right not to be subjected to arbitrary arrest or detention; the right not to be held in slavery; the right not to be subjected to arbitrary interference with privacy and family; the right to the highest attainable standard of physical and mental health; the right to adequate food; the right to water and sanitation; the right to education; the right to take part in cultural life; the right to equality before the law; and the right to equal protection against discrimination. The Special Rapporteur reiterates that violence against women and girls constitutes a form of discrimination, as defined under international human rights law, particularly the Convention on the Elimination of All Forms of Discrimination against Women.<sup>11</sup>

64. The Special Rapporteur considers it essential to emphasize the commitments and obligations of Afghanistan as a party to the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Obligations under those and other instruments include ensuring to women and girls, on equal terms with men and boys, the right to education at all levels, the right to employment and to an occupation, and the right to participate in government policymaking and other areas of public life.<sup>12</sup> These treaty commitments, which the de facto authorities are obliged to uphold, require the protection of these rights in law and policy and the establishment of institutions and rule of law practices that enable their enforcement.

65. Children in Afghanistan risk experiencing human rights abuses throughout their childhood, with profound physical and psychological implications. This is particularly true for girls, given that they are being denied equal access to education and are consequently at a heightened risk of other abuses, including forced marriage and enslavement. Boys, raised in a governance structure that legitimizes the dehumanization of women and girls, and suffering from a deficit of educational and economic opportunities, are left vulnerable to abuse and radicalization, sowing seeds for security concerns extending beyond the country's borders.

66. Like adults, children experienced distinct harms, based on identifiers such as their gender, age, ethnicity and religion. However, children's exposure to institutionalized systems of oppression, and the harms committed in service of maintaining such a system, are likely to have more far-reaching consequences on their ability to gain access to their rights and on their overall development.

<sup>9</sup> Including the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities. Regarding its international humanitarian law commitments, Afghanistan is also a party to the four Geneva Conventions of 12 August 1949 and the first two Protocols Additional thereto.

<sup>10</sup> A/HRC/54/21, para. 5.

<sup>11</sup> According to the Committee on the Elimination of Discrimination against Women, in its general recommendation No. 35 (2017), updating general recommendation No. 19 (1992), para. 21: "Gender-based violence against women constitutes discrimination against women under article 1 and therefore engages all obligations under the Convention."

<sup>12</sup> Convention on the Elimination of All Forms of Discrimination against Women, arts. 7, 8, 10 and 11.

## B. Crimes against humanity

67. Crimes against humanity, as enumerated in article 7 of the Rome Statute of the International Criminal Court, must be committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack. Only the attack as a whole, not the individual acts, must be widespread or systematic.

68. As crimes against humanity may be committed in peacetime, an attack is not limited to the conduct of hostilities or use of armed force, and may comprise a course of conduct involving the commission of acts of violence or be non-violent in nature. Under the jurisprudence of the International Criminal Court, the attack must be committed “pursuant to or in furtherance of a State or organizational policy to commit such attack”,<sup>13</sup> which requires that “the State or organization actively promote or encourage such an attack against a civilian population”.<sup>14</sup>

69. The Special Rapporteur concludes that the Taliban’s institutionalized system of discrimination, segregation, disrespect for dignity and exclusion of women and girls constituted in and of itself a widespread and systematic attack on the entire civilian population of Afghanistan. The attack is both widespread, being countrywide and affecting large numbers of civilians, and systematic, being organized at the highest levels of de facto governance and following a regular pattern. It is committed pursuant to or in furtherance of an organizational policy, which Taliban officials have not attempted to hide.

70. Information received by the Special Rapporteur strongly indicates that multiple acts have been committed by individuals, including but not limited to senior members of the Taliban, as part of the maintenance of its institutionalized gender oppression, comprising a widespread and systematic attack on the civilian population.

### 1. Gender persecution

71. Under article 7 (2) (g) of the Rome Statute, “persecution” is defined as the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity. The relevant conduct entails such persecution in connection with any act referred to in article 7 (1) or any crime within the jurisdiction of the Court.

72. Through an institutionalized regime of gender-based discrimination, the Taliban are severely depriving women and girls of their fundamental rights, including their rights to substantive equality, quality education, health, equal participation in economic, social cultural and political life, equality before the law, freedom from torture and other cruel, inhuman or degrading treatment or punishment, freedom from discrimination, and freedom of movement, peaceful assembly, association and expression. The Taliban enforces its rights-violating edicts through acts including arbitrary detention, torture or other cruel, inhuman or degrading treatment or punishment, sexual violence and enforced disappearance, all of which constitute severe deprivation of fundamental rights.

73. Women and girls are targeted for gender persecution because of their sex characteristics and social constructs and criteria used to define gender roles, behaviour, activities and attributes. The Special Rapporteur considers the persecution of Afghan girls to be of particular concern, given the lasting harms caused and given that children enjoy special recognition and protection under international law.

74. Victims of gender persecution include the LGBTQIA+ community of Afghanistan, which also continues to suffer severe deprivation of fundamental rights, including but not limited to the rights to life, security of person, freedom from torture and other cruel, inhuman or degrading treatment or punishment, freedom from discrimination and equality before the law.

<sup>13</sup> Rome Statute, art. 7 (2).

<sup>14</sup> International Criminal Court, Elements of Crimes (ICC-ASP/1/3 and ICC-ASP/1/3/Corr.1, part II.B), art. 7, para. 3.

75. The discriminatory intent underpinning gender persecution may intersect with persecution based on religion and ethnicity. The Special Rapporteur has, throughout his mandate, drawn attention to severe human rights abuses committed by the Taliban and its supporters, as well as by Islamic State in Iraq and the Levant-Khorasan, against the Hazara, Tajik, Uzbek, Turkmen, Hindu, and Sikh communities in Afghanistan and against Pashtun women and girls. The underpinning discriminatory intent should be analysed as persecution on the intersecting grounds of gender, religion and ethnicity.

## 2. Murder

76. The Taliban's institutionalized discrimination and segregation has been bolstered by killings committed by its members and supporters, as well as by Islamic State in Iraq and the Levant-Khorasan. These killings have occurred in private homes, in public spaces and in detention facilities, and victims have included human rights defenders, lawyers, prosecutors, judges, students, teachers and police officers, many of them female. Victims have been targeted based on gender and, in many cases, overlapping ethnic and/or religious identities.

77. Where preventable deaths are caused because women and girls are unable to gain access health care – for example, through denial of access to qualified doctors or owing to the *mahram* requirement – the deaths should be analysed within the framework of international criminal law.

78. Concerns that the Taliban will resume public stoning of women underscore the spiralling dangers to women and girls in Afghanistan. The Special Rapporteur considers that such acts causing deaths would clearly form part of the widespread and systematic attack in progress, and may constitute murder, as a crime against humanity.

## 3. Enforced disappearance

79. Enforced disappearance, as a crime against humanity, comprises the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.<sup>15</sup> Cases of such disappearances of human rights defenders, legal professionals and protesters, many of them female, have been documented.

## 4. Torture

80. Information provided to the Special Rapporteur throughout his term highlighted torture suffered by women and girls held in Taliban-run detention centres, notably those who are challenging or are perceived to be challenging their systematized oppression, including protesters.

81. Women and girls have suffered beatings and other forms of physical and psychological violence at the hands of the Taliban, its supporters and family members. Such treatment includes punishments for “unacceptable” conduct, including breach of the *mahram* requirement, refusal of forced marriage and “inappropriate” gender expression.

82. The Taliban punishes *hudud* crimes – including apostasy, adultery, same-sex relations and theft – with penalties that may include killings and lashings. These punishments, which contravene the International Covenant on Civil and Political Rights, should also be analysed as possible crimes against humanity.

## 5. Rape and other acts of sexual violence

83. The Special Rapporteur has reported on acts of sexual violence perpetrated against women protesters in detention, and within the confines of forced marriage, including of young girls. LGBTQIA+ survivors shared accounts of being subjected to sexual assaults, including by relatives and Taliban members, as punishment for their sexual orientation and/or

<sup>15</sup> Rome Statute, art. 7 (2) (i).

gender identity. Also documented has been the sexual exploitation of boys from impoverished backgrounds, referred to as *bacha bazi*, abuses which predate the Taliban.

84. The Special Rapporteur underscores that sexual violence committed against all genders, but particularly women and girls, serves the strategic purpose of reinforcing the system of gender oppression, institutionalized by the Taliban.

## 6. Enslavement

85. The crime of enslavement remains poorly understood and consequently underutilized. Indicators of enslavement include control of movement, control of physical environment, psychological control, measures taken to prevent or deter escape, use of force, threat of force or coercion, duration, assertion of exclusivity, subjection to cruel treatment and abuse, control of sexuality and forced labour. Greater focus and gender-competent documentation is needed on the extent to which the economic and social circumstances of Afghans, forced marriage, obstruction of freedom of movement and exclusion from education may constitute manifestations of enslavement in Afghanistan.

## 7. Other inhumane acts

86. The crime of “other inhumane acts”, under article 7 (1) (k) of the Rome Statute, functions as a residual category for serious charges not otherwise enumerated under that article. The following acts, committed as part of the attack defined above, could comprise the crime against humanity of “other inhumane acts”: beatings and other acts of violence; serious bodily and mental injury; forcible transfer; cruel, inhumane or degrading treatment; forced prostitution; enforced disappearance; and forced marriage. This list is not exhaustive.

87. The residual nature of the crime of “other inhumane acts” has allowed crimes perceived to be more likely committed against marginalized communities, notably women and girls, to enter the prosecuting framework of international criminal law. The Special Rapporteur encourages prosecutors and investigators to consider whether the relative elasticity of “other inhumane acts” may allow for facts underpinning as-yet-unrecognized crimes, including gender apartheid and forced marriage, to be adduced, thereby ensuring that the totality of harms of victims and survivors are rendered into the evidential and historical record.

## C. Gender apartheid

88. Gender apartheid, as a concept, draws from both international human rights and international criminal law. Across multiple consultations and written submissions, Afghans, notably Afghan women, emphasized that the term gender apartheid best captured the totality of the distinct and transgenerational harms committed against them, and called for its recognition as a crime against humanity.

89. Efforts towards a draft convention on crimes against humanity could open a door to formal recognition of the crime, through an amendment to the definition of apartheid contained in article 7 (2) (h) of the Rome Statute, whereby gender apartheid would be understood as “inhumane acts committed in the context of an institutionalized regime of systematic oppression and domination by one gender group over any other gender group or groups and committed with the intention of maintaining that regime”. As the Special Rapporteur and Working Group on discrimination on women and girls stated in their joint report, this definition accurately describes the systematic discrimination against women and girls that lies at the heart of Taliban ideology and rule.<sup>16</sup>

90. Apartheid, whether race- or gender-based, emphasizes the institutionalized and systematic nature of the oppression. It is distinct from all other international crimes in two respects. First, apartheid may be committed in the context of an institutionalized regime of systematic oppression and domination only. Second, the crime is committed with the specific and unique intent of maintaining that regime, an intent that may extend beyond the

<sup>16</sup> A/HRC/53/21, para. 95.

individuals who established the apartheid regime. Its distinct elements, together with the contextual requirements common to all crimes against humanity, impose a high threshold, ensuring that the commission of the crime of apartheid stands firmly beyond the inequalities that most societies are still working to fully overturn.

91. The crime of apartheid recognizes the broad spectrum of potential victims, which is to say all those subjected to an inhumane act because of their resistance to an institutionalized regime of systematic oppression and domination. Unlike the crime of genocide, which requires victims to be a member of the targeted group, victims of the crime of apartheid are not circumscribed. In Afghanistan, victims of inhumane acts committed with the intent of maintaining the Taliban's institutionalized gender oppression include not only women, girls and LGBTQIA+ persons, but also men and boys, including because of active, allied resistance or failure to police the conduct of "their" women and girls. The crushing of resistance, regardless of the identity of those failing to comply, is essential for the Taliban to maintain its institutionalized system of gender oppression.

92. In addition to strengthening the normative framework of international law, recognition of the crime against humanity of gender apartheid would more profoundly underscore the duty of States to take effective action to prevent and punish the practice.

93. Afghan women have emphasized that the concept of gender apartheid is used as a mobilizing tool, including in rooting discussions regarding benchmarks for States' engagement with the Taliban and as a guard rail against normalization.

94. The Special Rapporteur is firmly of the view that gender apartheid most fully encapsulates the institutionalized and ideological nature of the abuses in question and places squarely into view the responsibilities of other international actors to respond appropriately. He recognizes an emerging, gender-inclusive interpretation of the concept of apartheid as including gender apartheid. To effectively address the current, unparalleled human rights crisis confronting Afghan women, strengthening this interpretation is highly desirable.

95. The codification of gender apartheid as a crime against humanity would properly reflect its status as a crime that shocks the conscience of humanity and violates *jus cogens*, a peremptory norm of international law. As such, the Special Rapporteur considers that the institutionalized system of domination and oppression of women and girls in Afghanistan should propel the discussion of the codification of the crime of gender apartheid, just as the systematized domination and oppression of Black and other non-white people in South Africa animated anti-apartheid activists and States to bring the crime of apartheid into being, which helped end its practice.

#### **D. Trafficking in persons**

96. Increased monitoring of trafficking in women, girls and boys within and from Afghanistan is needed. While documentation remains challenging, indicators suggest significant risks, particularly regarding trafficking for the purposes of forced marriage, domestic servitude and sexual exploitation, and the recruitment and use of children as a form of trafficking and a grave violation against children in armed conflict. The denial of access to education for girls and limited capacity for child protection increases the risks of trafficking in children. Women-headed households and widows are also at risk, given the breakdown of service provision. As more information emerges, the consequent analysis should consider the links between trafficking in persons and gender persecution, including as constituting forms of enslavement.

### **IV. Paths forward**

97. The Special Rapporteur has consistently emphasized that no single approach is likely to reverse or mitigate the Taliban's regime of gender oppression. Challenging and dismantling the Taliban's institutionalized system will require an "all tools" approach.

98. The strategy and recommendations outlined below are aimed at building a mutually reinforcing framework: (a) to account for the totality of human rights abuses and violations

of international law being perpetrated against persons, particularly women and girls, in Afghanistan; (b) to ensure that engagement with the Taliban is conditioned on respect for human rights, particularly the rights of women and girls, including the establishment of benchmarks; and (c) to support and amplify the voices, work and presence of women and girls from across the Afghan mosaic.

## **A. Justice and accountability**

99. With barriers to achieving justice inside Taliban-controlled Afghanistan seemingly insurmountable, pathways to survivor-centred justice processes must be identified and supported in different international forums. The Special Rapporteur's approach to justice includes but extends beyond human rights law and criminal accountability to transitional justice processes more broadly, including truth-seeking, reparations, memorialization and the pursuit of State responsibility.

100. The objectives of this approach are multiple, and include the following: punishing abuses and crimes committed by the Taliban, its agents and supporters, thus tackling a culture of impunity that has long existed in Afghanistan; creating a permanent record of the experiences of women, girls and other marginalized communities in Afghanistan; bolstering guard rails against normalization of relations with the Taliban; and providing opportunities for victims and survivors, particularly women and girls, to be seen and heard and to have the systematized abuse that they are suffering recognized and condemned.

### **1. International Court of Justice**

101. The International Court of Justice is a vital venue for addressing State responsibility for severe human rights abuses, such as those occurring in Afghanistan. The Special Rapporteur is supportive of efforts to initiate a case against Afghanistan at the International Court of Justice for violations of the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Political Rights of Women and other applicable instruments to which Afghanistan is a party.

102. The International Court of Justice would provide a forum for addressing abuses by the Taliban, as the de facto authority controlling Afghan territory, as part of its institutionalized gender oppression. Under international law, any authority – recognized or de facto – in control of the country is required to uphold the obligations of Afghanistan under the international treaties to which it is a party, including the Convention on the Elimination of All Forms of Discrimination against Women.<sup>17</sup> Importantly, precedents suggest that bringing such a case neither equates to nor requires recognition of the Taliban as the legitimate government of Afghanistan.<sup>18</sup>

### **2. International Criminal Court**

103. In October 2022, Pre-Trial Chamber II of the International Criminal Court authorized the Prosecution to resume its investigation into the situation in Afghanistan, in particular crimes against humanity and war crimes committed in Afghanistan since May 2003, from when the Court began exercising jurisdiction in Afghanistan following its accession to the Rome Statute in February 2003. The Prosecution has indicated that any investigation would focus on alleged crimes committed by members of the Taliban and Islamic State in Iraq and the Levant-Khorasan.

104. In consultations and other engagements with the Special Rapporteur, Afghans expressed both frustration with the lengthy preliminary examination and investigation, and hope in the Prosecution's efforts to secure indictments for crimes committed, notably against women and girls and religious and ethnic minorities. There was particular focus on indictment for the crime against humanity of persecution, as a means of addressing systemic

<sup>17</sup> A/HRC/54/21, para. 5.

<sup>18</sup> See International Court of Justice, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, verbatim record No. 2022/1, 21 February 2022, p. 11. See also *Yearbook of the International Law Commission, 2003*, vol. II (Part Two), para. 253.

discrimination on intersecting grounds and holding perpetrators accountable for targeting individuals based on their identity.

105. The Special Rapporteur considers it essential that the International Criminal Court be provided with the necessary resources to carry out effective investigations into crimes under international law. Crucially, given significant challenges in investigating in Afghanistan, States should commit to strengthening their cooperation with the International Criminal Court in its investigation.

### **3. National courts, including under the principle of universal jurisdiction**

106. The Special Rapporteur encourages national prosecution units in different jurisdictions to open gender-competent investigations into crimes committed by members of all parties throughout the conflict and since the Taliban regained power. Such action includes pursuing domestic prosecutions for crimes committed by national forces, as well as building towards universal jurisdiction trials, which enable the prosecution of core international crimes committed elsewhere, even where, under some statutes, the suspect or victim has no connection to the prosecuting country.

### **4. Complementarity of accountability litigation**

107. Litigation pathways would refocus international attention on the plight of Afghan women and girls. Pursuing State responsibility at the International Court of Justice would complement efforts aimed at securing individual criminal accountability through forums like the International Criminal Court, while also addressing the multiple violations that women and girls face that might not be defined as international crimes. Moreover, proceedings at the International Court of Justice, combined with those at the International Criminal Court and in national courts, would contribute to an incontrovertible record of the totality of experiences of Afghans under Taliban rule. Together, they would enhance advocacy efforts, mobilize new forms of international support and provide a platform for Afghan human rights defenders. They might also serve as a deterrent to engagement with the Taliban without principled attention to human rights considerations, and support efforts to prevent normalization.

## **B. Support for the codification of gender apartheid as a crime against humanity**

108. The Special Rapporteur adds his voice to that of the Working Group on discrimination against women and girls which, in February 2024, called for the recognition and codification of gender apartheid as a crime against humanity.<sup>19</sup> This proposal would strengthen the normative framework of international law to prevent and punish current and future perpetrators of gender apartheid.

109. While a convention on crimes against humanity, if it were to come into being, would not have retroactive effect and would be unlikely to be ratified by the Taliban, the codification of gender apartheid through an amendment to the existing crime of apartheid could elevate gender apartheid to *jus cogens* status, and underscore States' obligation to prevent and suppress the crime.

## **C. Embedding human rights and women's voices in political processes and diplomatic engagement**

### **1. Establishing human rights benchmarks for engagement**

110. The Taliban's institutionalized gender oppression violates the principles of the Charter of the United Nations and the fundamental spirit and norms of international human rights law.

111. As the Taliban's gender oppression embeds itself and as the de facto authorities continue to seek de jure recognition, there is an urgent need to develop clear frameworks and

<sup>19</sup> See [A/HRC/WG.11/40/1](#).



strategies for engaging with the Taliban while upholding human rights principles and obligations. The Special Rapporteur reiterates that investment is needed in efforts to establish human rights-based parameters to guide interactions with the Taliban, including benchmarks and means of monitoring, reporting and evaluating progress. Moreover, States have the obligation to centre women's rights, gender equality and the prohibition of discrimination against women and gender-based violence against women. Ad hoc engagement with the Taliban risks being perceived as tolerance of human rights abuses. Such interactions, particularly when they occur at the expense of or instead of engaging on human rights issues, could signal complacency when it comes to the widespread and systematic oppression of women and girls, among other marginalized communities in Afghanistan.

## **2. Deliberations concerning the country's future**

112. The Special Rapporteur is concerned that Afghan women have been all but absent from the deliberations concerning the country's future, including meetings in Doha, in contradiction to the international obligations assumed under the women, peace and security agenda. He reiterates that there can be neither sustainable peace nor a just future for Afghanistan, especially for women and girls, without the full participation of women. The Special Rapporteur urges Member States committed to feminist foreign policies to lead by ensuring that Afghan women are included in all political discussions, including the Doha process, and by taking steps to support measures proposed in the present report.

113. Member States are called upon to avoid normalization or legitimization of the de facto authorities until there are demonstrated, measurable and independently verified improvements in the human rights situation, especially for women and girls. As the preparations for a road map continue, it is essential to include human rights as central to the Doha process and any other political processes, including by insisting on the upholding of obligations under human rights treaties, as recommended in the independent assessment requested by the Security Council.<sup>20</sup>

114. Given the importance of maintaining the prominence of Afghanistan on the agenda of all international platforms, the Special Rapporteur strongly encourages more coordinated efforts to bridge the discussions held in Geneva and New York on the severe human rights situation in Afghanistan. The Special Rapporteur recalls that the Security Council, in its resolution 2721 (2023), took positive note of the independent assessment on Afghanistan that it had requested, recognized the need to ensure the full, equal, meaningful and safe participation of Afghan women in the international process, and requested the Secretary-General to appoint a special envoy for Afghanistan, with robust expertise on human rights and gender. Such efforts should include supporting the General Assembly's biennial resolution on Afghanistan and ensuring that it contains strong language related to the situation of women and girls.

## **D. Bolstering documentation**

115. Documentation of institutionalized gender oppression, and the abuses and crimes perpetrated, requires investigation and analysis, in line with international best practices. Such documentation provides the foundation for accountability-driven investigations, the establishment and updating of benchmarks for engagement, and informed advocacy by a multiplicity of actors, including human rights defenders, civil society organizations, States and the United Nations. It also serves to counter disinformation that is currently being disseminated, including on social media.

### **1. Increased funding for Afghan civil society**

116. Afghan-led organizations, notably those led by women and other marginalized Afghan communities, are continuing to carry out credible monitoring and documentation of human rights abuses in Afghanistan. Some are also working to bolster accountability-driven information-collection and case-building processes in the Afghan diaspora. There is a need

<sup>20</sup> [S/2023/856](#), para. 18.

for sustained funding and other support for such organizations. Where mounting security challenges can be addressed, there should be dedicated funding for human rights defenders inside and across Afghanistan.

## **2. Resourcing of the Special Rapporteur's work**

117. The dire human rights situation requires full resourcing of the Special Rapporteur's work, including dedicated resources geared towards information-gathering and analysis. Such resources would also serve to strengthen the existing digital repository of information concerning human rights violations and abuses in accordance with the Special Rapporteur's mandate. During 2024, the Special Rapporteur's work has been hampered by the ongoing liquidity crisis.

118. The Special Rapporteur's work could contribute to the development of human rights benchmarks, as noted above, which would benefit from the convening of relevant stakeholders, including Afghan civil society and international experts, including other relevant special procedure mandate holders and treaty bodies.

## **3. Support for the United Nations Assistance Mission in Afghanistan**

119. The Human Rights Service of the United Nations Assistance Mission in Afghanistan (UNAMA) works to gather credible and accurate reports regarding the human rights situation in Afghanistan. The Special Rapporteur underscores the invaluable role of UNAMA, including advocating on reported abuses and human rights standards with the de facto authorities, and calls upon States to continue to support a robust mandate, matched with resources.

# **E. Protection and solidarity**

## **1. Supporting Afghan women and girls**

120. Since August 2021, Afghan women have been putting their lives on the line to oppose Taliban abuses, and to resist the oppressive regime in which they are currently entrapped. The lack of a concerted international response to the Taliban's institutionalized gender oppression risks emboldening their assault on Afghan women and girls.

121. Throughout the consultations and in other discussions with the Special Rapporteur, Afghan women, in and outside Afghanistan, expressed a mounting sense of abandonment and betrayal by the international community. Afghan women require and deserve the international community's full support and solidarity in their struggle, including through the funding of their advocacy and legal efforts, and by centring women and issues affecting women and girls in negotiations, discussions and decisions concerning Afghanistan.

122. Further efforts should be made to identify paths to supporting women's and girls' autonomy inside Afghanistan. Such efforts may include providing more support for education, including improved Internet access and the provision of online secondary and tertiary courses; seeding and nurturing women's entrepreneurship; and advocating the inclusion of gender equality considerations in international humanitarian and development assistance efforts in Afghanistan, while reinforcing measures to prevent and detect aid diversion and corruption and increase the transparency and monitoring of financial reporting.

## **2. Protecting the long-term security of human rights defenders**

123. There is an urgent need to expand measures to protect Afghan human rights defenders, gender equality advocates and other Afghans at risk, notably women and girls. Such measures should include those to protect their long-term security, including granting them refugee, protected or regular status, facilitating their safe resettlement and expanding the provision of educational scholarships.

124. The Special Rapporteur reiterates that the ongoing gender persecution may also be deemed as grounds for those targeted by reason of their gender to apply for or to be granted

refugee status by host States under the Convention relating to the Status of Refugees, the Protocol thereto and applicable regional and national legislation.

## **F. Global impact**

125. The ongoing entrenchment of the Taliban's gender oppression and domination and its inherent dehumanization of women and girls is likely to be seeding a dangerous ideology in new generations of Afghans, particularly boys and young men, and potentially creating future security risks in the region and beyond. The current impunity, which could be perceived as tolerance of the domination and abuse of women and girls, is also creating risks that are not being fully seen, acknowledged or addressed. The Special Rapporteur notes the Security Council's emphasis on an Afghanistan at peace with itself and its neighbours and on the essential nature of respect for human rights, especially those of women and girls, for that purpose.

126. The situation in Afghanistan coincides with a time of global rollbacks in the recognition and implementation of the rights and freedoms of women and girls. The Taliban's gender oppression should prompt greater urgency regarding the need to address structural inequalities and prejudices that underpin everyday violence and discrimination against women, girls and other marginalized communities globally, and which violate the Convention on the Elimination of All Forms of Discrimination against Women and other human rights instruments. The Special Rapporteur urges an assessment of the global impact of the tolerance of governance systems that are based on gender domination.

## **V. Conclusions and recommendations**

127. The Taliban's institutionalization of its system of discrimination, segregation, disrespect for human dignity and exclusion of women and girls, and the harms that it has entrenched, should shock the conscience of humanity. The enshrinement of an ideology of gender oppression in the laws and governance of Afghanistan has erased any autonomy and agency of women and girls that may have existed under an imperfect previous administration. It deprives them of enjoyment of their human rights and has caused deep and lasting harms. Without concerted action, these harms will reverberate down the generations and potentially across the world.

128. The full commitment of the international community and its institutions is needed to oppose the architecture of oppression enshrined in the Taliban's approach to governance. Such commitment requires recognition that the regime is committing core international crimes, including the crime against humanity of gender persecution.

129. While gender apartheid is not yet codified as a crime against humanity, it most accurately denotes the institutionalized oppression that characterizes Taliban governance. States are encouraged to support the recognition and codification of gender apartheid as a crime against humanity. Moreover, this concept has become a mobilizing force, particularly for Afghans, and States are encouraged to support their advocacy through political, diplomatic and legal means. Such support would counter the concerns of many Afghans whom the Special Rapporteur consulted, especially women and girls, who have observed a troubling silence emanating from the international community and provoking a sense of abandonment and betrayal.

130. Compassion for the women and girls of Afghanistan must be matched with action. The international community must act to oppose and combat the institutionalized gender oppression that the Taliban has established and is seeking to maintain.

131. The following recommendations build upon the Special Rapporteur's recommendations in his previous reports and his joint report with the Working Group on discrimination against women and girls.

132. The Special Rapporteur recommends that the de facto authorities:

- (a) Fulfil their responsibilities in accordance with international human rights treaties ratified by Afghanistan, including by reversing policies and practices that violate these international obligations;
- (b) Take steps to dismantle their institutionalized system of gender oppression, urgently reversing discriminatory policies and directives that deprive women and girls of rights and fundamental freedoms, including by:
  - (i) Immediately and unconditionally releasing all women and girls who have been arbitrarily detained, including women human rights defenders, protesters and those arrested owing to alleged contravention of dress codes or the *mahram* requirement, as well as others, including men and boys, who have been detained for standing up for women's rights, including for their access to education;
  - (ii) Re-establishing equal, inclusive and equitable access to quality and comprehensive education for women and girls at all levels and across all subjects;
  - (iii) Supporting local, demand-driven vocational training to increase women's entrepreneurial capacities, skills and economic opportunities;
  - (iv) Lifting restrictions on the freedom of movement of women and girls, notably the requirement to be accompanied by a *mahram*;
  - (v) Ensuring that women and girls have access to quality health services, including physical, psychosocial and reproductive health services;
  - (vi) Immediately restoring the right of women to work in all sectors, including for the United Nations and humanitarian agencies;
- (c) Restore institutional systems to protect women and girls from violence and ensure their access to justice, reparations and other basic services;
- (d) Hold perpetrators of crimes and human rights abuses against women and girls to account, in accordance with international standards;
- (e) Take effective measures to protect all children from harmful practices, including grave violations against children in armed conflict, sexual violence and exploitation, forced marriage, enslavement, trafficking and debt bondage;
- (f) Take effective measures to end discrimination and violence against individuals on the basis of their sexual orientation or gender identity, and ensure that abuses and violations are duly investigated and perpetrators held to account;
- (g) Ensure that State budgets are published transparently and prioritize spending on improving the lives of Afghan people, especially women and girls, including delivery of basic services;
- (h) Allocate dedicated funds to improve the financial and living conditions of persons with disabilities, widows and women-headed households;
- (i) Ensure inclusiveness, avoid discrimination and protect the security of communities and persons from minority backgrounds, including on intersecting grounds of gender, ethnicity and religion, and bring to justice, in accordance with international standards, those who are responsible for attacks and violations against these communities;
- (j) Engage constructively and facilitate visits to the country by the Special Rapporteur and other United Nations human rights mechanisms.

133. The Special Rapporteur recommends that States and the international community:

- (a) Avoid normalization or legitimization of the de facto authorities until and unless there are demonstrated, measurable and independently verified improvements, including human rights benchmarks, particularly for women and girls;

- (b) Convene an Arria-formula meeting, as an opportunity for members of the Security Council to have a frank and private exchange of views on the present report of the Special Rapporteur;
  - (c) Take practical measures to ensure that the institutionalized oppression of women and girls is a priority for discussion and action in national, multilateral and regional settings;
  - (d) In particular Muslim-majority countries and the Organization of Islamic Cooperation, intensify efforts to persuade the Taliban to modify policies and practices inconsistent with mainstream Islamic principles, including equal access to education for all;
  - (e) Support efforts to bring Afghanistan before the International Court of Justice for violations of international human rights treaties to which it is a party;
  - (f) Ensure that the International Criminal Court and other courts, including national courts, have the resources and cooperation needed to investigate and prosecute those responsible for international crimes, including gender persecution;
  - (g) Support the recognition of gender apartheid and its codification as a crime against humanity;
  - (h) Politically support Afghans who mobilize around the concept of gender apartheid;
  - (i) Include human rights as central to all political processes, with a specific focus on the obligations of Afghanistan under international human rights treaties;
  - (j) Support – financially and politically – platforms for the ongoing work of Afghan women as they organize and mobilize among themselves, claim their right to be full participants in all discussions about the future of Afghanistan and seek to influence the Taliban;
  - (k) Ensure the full funding of the work of the Special Rapporteur, including sufficient dedicated resources geared towards documentation and analysis of allegations of human rights abuses;
  - (l) Expand measures to protect Afghan women human rights defenders and other Afghans at risk, including their long-term security, by granting them refugee, protected or regular status, facilitating their safe resettlement and expanding the provision of educational scholarships;
  - (m) Support community-led initiatives promoting gender equality and women's rights at the grass-roots level, including through funding and technical assistance on issues such as reproductive health, maternal care, girls' education, prevention of gender-based violence, and economic development, ensuring culturally- and gender-sensitive approaches;
  - (n) Assess the consequences for gender equality globally of an insufficient international response to the Taliban's institutionalized system of gender oppression, and strengthen the international response accordingly.
-