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## Exclusion and Discrimination in Access to Education Against Afghanistan Women: An International Human Rights Study

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## Abstract

The Taliban's return as the de facto authority in Afghanistan in 2021 has led to severe restrictions on Afghan women's right to education, particularly through the closure of secondary and higher education institutions for female students. These policies raise significant concerns about violations of international human rights standards set out in the ICESCR, CEDAW, and the CRC, as well as their related General Comments and General Recommendations. This study aims to analyze how these restrictions constitute violations of women's right to education under international human rights law and to examine the state's responsibility for such violations. Using a normative juridical method with statute and comparative approaches, the research finds that the Taliban's actions represent discriminatory acts of commission that contradict core human rights principles, especially equality and non-discrimination. The study also shows that Afghanistan remains legally bound by its treaty obligations despite changes in governance. Therefore, strengthening international accountability mechanisms such as UN treaty bodies, particularly the CEDAW Committee, is essential to ensure acknowledgement of violations, provision of reparations, and guarantees of non-repetition. The study concludes that systemic exclusion of women from education constitutes a clear breach requiring urgent international oversight.

## Keywords

Afghan Women, International Human Rights Law, Non-Discrimination, Right to Education, State Responsibility.

## 1. Introduction

In 2021, the Taliban regained control of Afghanistan, reinstating the governance model they had previously imposed from 1996 to 2001. As an Islamic nationalist movement adhering to Sunni Islam of the Deobandi school, the Taliban practice an extreme, conservative interpretation blended with Pashtun cultural norms. This combination produces a deeply patriarchal system in which men dominate power and decision-making, while restrictions on women's mobility and public participation are normalized. The return of the Taliban has therefore triggered major shifts in state regulations, especially regarding women's rights. Compared to the former US-backed government, the most significant regressions occur in policies affecting women, including bans on leaving home without a mahram, mandatory burqa use for girls over eight, strict limitations on women's employment, and severe restrictions on access to education (Lestari, 2021; Ekanoviarini & Wibowo, 2022; Andani, 2022; Mallyar, 2023).

These policies certainly raise concerns about the fulfilment of Afghan women's basic rights. However, among all these policies, restricting women's access to education is considered the most crucial because it is a form of clear discrimination and a reflection of the Taliban's structural patriarchal system and has a direct impact on the future of women in Afghanistan. Under international law, women's rights to education have been implicitly recognized in Article 26 of the Universal Declaration of Human Rights (UDHR), which affirms that everyone has the right to education, where primary education is compulsory and available free of charge, and technical and general education must be accessible to all (Raihan, 2025). With this declaration, women's right to access education is part of human rights whose fulfilment must be guaranteed by the state.

This principle is reinforced by Articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 10 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and Articles 28 and 29 of the Convention on the Rights of the Child (CRC). These three conventions collectively affirm the state's obligation to ensure equal and discrimination-free education and to respect the rights and dignity of girls. These international agreements establish clear standards for fulfilling women's right to education. Afghanistan ratified these conventions during the US-backed government (2001–2021) and, as a state party, is legally obliged to implement them according to their guidelines, including CEDAW General Recommendations and ICESCR and CRC General Comments (Per, 2020; Samim, 2025).

General Recommendation Number 36 of 2017 from the CEDAW Committee affirms that women's right to education includes the right to access, be in, and benefit from education safely and equally (United Nations, 2017). Meanwhile, General Comment No. 13 of 1999 from the ICESCR Committee explains that education must be available, accessible and acceptable, and can be adapted to the needs of all citizens. States are also required to remove all structural barriers to access to education for women (United Nations, 1999a). Then, General Comment Number 1 of 2001 and Number 20 of 2016 from the CRC Committee specifically emphasize the importance of education that is free from gender discrimination for girls and adolescent girls because it is part of fulfilling children's rights to dignified and equal education. These provisions further strengthen the position of international law in rejecting all forms of educational restrictions based on gender.

The Taliban regime's restrictions on women's education are evidenced by policies mandated directly by the Ministry for the Propagation of Virtue and the Prevention of Vice. The initial policy, which separated boys' and girls' classrooms in schools, emerged in August 2021, followed by a nationwide ban on school attendance for girls over the age of 12, which came into effect in March 2022 (France, 2022). This ban

was reinforced by an official letter from the Minister of Higher Education (MNMN) in December 2022, suspending higher education for women, based on a policy established by the Taliban's supreme leader (HA) (Hikmat Noori, 2022).

The 2004 Constitution of Afghanistan obliges the state to protect women's rights, including equal access to education (Article 44). However, after the Taliban regained control in 2021, they ignored the constitution, instead enforcing an informal, unwritten legal system guided by norms and intimidation, creating structural discrimination that restricts women's educational opportunities (Vanda, 2023).

In 2024, the Taliban enacted the Law on the Promotion of Virtue and the Prevention of Vice, reinforcing patriarchal norms by restricting women's rights, including bans on interacting with non-mahram men (Article 20) (Calder, 2024). While it does not explicitly ban schools, the law ideologically excludes women from educational spaces. This de facto policy is enforced as binding due to the Taliban's control over the government and education system, despite Afghanistan being a party to international conventions such as CEDAW, ICESCR, and CRC, which prohibit gender-based discrimination in education.

According to UN data, female enrollment in Afghan schools rose dramatically from nearly zero in 2001 to 2.5 million in primary education and over 100,000 in higher education by 2021 (United Nations, 2023). However, since the Taliban regained power, UNESCO reported in 2024 that about 1.4 million girls lost access to secondary and higher education, an increase of 300,000 since April 2023 due to the ban on schooling for girls over 12. This highlights a significant gap between international legal standards for the right to education and the Taliban's discriminatory policies.

Since the Taliban's rise, Afghanistan has failed to ratify international conventions protecting women's right to education, reflecting a systemic failure to uphold its obligations. As a state party to ICESCR, CEDAW, and CRC, Afghanistan remains legally bound to ensure education without gender discrimination. The Taliban's discriminatory practices create a significant gap between national policies and international legal standards, violating women's rights and undermining the state's commitments. This study aims to analyze the violations of Afghan women's right to education under the Taliban regime according to international human rights standards and to examine the Afghan state's responsibility as a duty bearer in ensuring the fulfillment of these rights.

## **2. Methods**

This research employs a normative juridical method, which is a legal research approach that emphasizes the analysis of legal norms and principles through the study of documents, legislation, judicial decisions, contracts, agreements, and established legal theories (Muhaimin, 2020). The normative juridical method is particularly suitable for this study because it allows for a systematic examination of the legal framework surrounding the right to education for women in Afghanistan and its alignment with international human rights standards.

The study applies two specific approaches. First, the statutory approach is used to examine the provisions in international human rights instruments, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the Convention on the Rights of the Child (CRC), as well as their derivative General Comments and General Recommendations. This approach helps to identify the legal obligations of states, including Afghanistan, in guaranteeing the right to education without discrimination. Second, the comparative approach is employed to analyze the implementation of the right to education for Afghan women under the Taliban regime in relation to these international legal standards. By

comparing the legal obligations with actual practices, this study can highlight the extent and nature of violations.

Data collection relies on library research. Primary data consist of international legal instruments and their interpretative documents, while secondary data include official reports from international organizations, such as the United Nations and UNESCO, as well as news articles, books, and peer-reviewed journals. This combination allows the research to comprehensively assess both the normative framework and the factual context of women's educational rights under the Taliban regime.

### **3. Results and Discussion**

#### **3.1. Violations of the Right to Education for Afghan Girls and Women**

When the Taliban regained control of Afghanistan in August 2021, the government shifted from a constitutional regime under President Ashraf Ghani to Taliban rule, bringing major changes to national policies, especially in education. The Taliban's blend of Sunni Deobandi ideology and Pashtun culture established a patriarchal system that led to discrimination and violence against women, with religiously framed policies enforced by the de facto authority (Nurfahirah et al., 2022). Due to limited access to official Taliban documents, this analysis relies on credible secondary sources, including UNESCO 2024 reports such as Afghanistan Higher Education Gender Analysis and the Afghanistan Education Situation Report 2025, which detail the impact of Taliban policies on the national education system.

Early in their reign, the Taliban regime temporarily closed all levels of education for both girls and boys. The reason for this closure was the transition period the Taliban needed to develop a new curriculum and education system consistent with their interpretation of Islamic law (Partov, 2022). In early September 2021, the Taliban's Minister of Higher Education, Abdul Baqi Haqqani, announced that university education would reopen with gender-segregated classrooms and women would be required to wear Islamic dress, wearing a full-length veil (Deutsche, 2021).

Gender segregation is enforced in all Afghan universities, as the Taliban consider mixed-gender classrooms incompatible with their interpretation of Islamic teachings. Where separate classrooms are unavailable, barriers such as curtains are used to separate male and female students (Barman & Chopra, 2021). UNESCO (2025a) reports further note that students must use separate entrances, exits, and study schedules, including differing class hours and days.

The Taliban Ministry of Higher Education mandates that female teachers instruct female students and male teachers instruct male students (Ellis-Petersen, 2021). Exceptions are made if female teachers are unavailable, allowing older male teachers of "good character" to teach female students under strict conditions, including adherence to dress codes, limited interaction, and use of Taliban-approved materials, excluding content promoting gender equality or democracy (Bezhan, 2021; Dawn, 2021). Even in such cases, male teachers and female students must remain physically separated by partitions during lessons. Subsequently, in mid-September 2021, the Taliban regime announced the reopening of secondary schools, but only for male students. The announcement did not mention female students at all (News Agencies, 2021). This announcement marked the beginning of a policy prohibiting women from pursuing higher education. Then, in March 2022, the Taliban officially ordered the closure of all secondary and high schools for female students in Afghanistan. This policy has created uncertainty over the future of education for women.

The Taliban not only closed secondary and higher education for women but also overhauled the national curriculum. A 55-member committee of mullahs, university professors, and ministry officials revised higher education to align with Taliban

Islamic principles (Ashghor, 2021; Kawa, 2025). By 2025, the Ministry of Higher Education ordered the removal of 18 subjects, including human rights, gender equality, and politics, and banned 679 books deemed contrary to Taliban cultural and religious values.

Afghanistan is the only country in the world that officially bans secondary and higher education for girls. As a result of this ban on secondary and higher education for girls, the United Nations International Children's Emergency Fund (UNICEF) recorded that 2.2 million Afghan girls were forced to drop out of school after the sixth grade. By the 2025 school year, an additional 400,000 girls will lose access to education, bringing the total number of girls affected by this policy to more than 2.6 million. Meanwhile, UNESCO (2025b) reported that since the Taliban took over Afghanistan's de facto government in 2021, the number of girls barred from accessing education has reached 1.5 million by 2025. Furthermore, the education ban policy has also impacted Afghan female literacy rates, with female literacy rates recorded at only 26.6% in 2022, while male literacy rates reached 52.1% (UNICEF, 2025).

These data highlight a stark contrast in women's education before and after the Taliban takeover in 2021. Between 2001 and 2018, UNESCO (2023) reported that total student enrollment increased tenfold from 1 million to 10 million, with female primary school students rising from nearly zero to 2.5 million. Higher education enrollment for women also grew from 5,000 in 2001 to over 100,000 in 2021, while female literacy nearly doubled from 17% to 30% across all age groups (UNICEF, 2023). These figures demonstrate that, during periods without Taliban rule, Afghanistan made substantial progress in expanding women's access to education.

The Taliban's prohibition and discrimination against women in secondary and higher education is not only a national issue but also a violation of international human rights. The right to education, enshrined in Article 26 of the UDHR, guarantees access to technical and general education for all without discrimination (Edeji, 2025). Similarly, Article 13 of the ICESCR emphasizes that education must foster human development and respect for human rights, with basic education provided free and higher education accessible according to ability, without discrimination. General Comment Number 13 further elaborates that education must meet the principles of availability, accessibility, acceptability, and adaptability, requiring states to ensure inclusive, non-discriminatory, and quality education for all.

The principle of availability requires adequate educational institutions, facilities, and trained teachers. The Taliban, as Afghanistan's de facto authority, denied women access to secondary and higher education and restricted curricula to religious subjects, failing this principle. The principle of accessibility mandates non-discriminatory education and equal opportunities for vulnerable groups, including women. By banning women from secondary and higher education, the Taliban violate this principle, limiting women's participation in national development and their productive contribution.

Afghan women's limited capacity to contribute productively is evidenced by the limited opportunities for them to enter the formal labor market. United Nations (UN) Women noted that by 2024, approximately 77.6% of young women aged 18-29 will lack access to formal education, training, or employment. This situation is a dire reality for upholding equality in women's lives. Lack of access leads to high levels of economic dependency and limits women's ability to contribute productively to national development (UN Women, 2025).

With the formal job market inaccessible, Afghan women can only find jobs with low wages and inadequate working conditions. Since the Taliban banned women from pursuing secondary education, Afghan women have been diverted by the Taliban to work in the informal sector, such as the carpet weaving industry.

Although the carpet weaving industry is one of Afghanistan's main export commodities, exporting to Pakistan, India, Austria, China, Turkey, France, and the United States, Afghan women working in this industry receive very low wages. They are paid only around \$27 per square meter of carpet, while the process of making one meter of carpet can take a full month (Nowrouzi, 2025). Yet, exports from this industry reached more than 2.4 million kilograms in the first quarter of 2024, with revenues of \$8.7 million from the international market (Sekin, 2025).

The principle of acceptability focuses on the relevance and quality of educational content and the needs of students, thus requiring states to ensure that curricula and teaching methods are up-to-date and respect human rights. The reality of Afghan education under the Taliban regime demonstrates a discrepancy with the commitments outlined in General Comment Number 13 of 1999, which states should have fulfilled. The Taliban undertook a major restructuring of the curriculum, including the elimination of subjects deemed to teach Western values and contrary to Islamic law, such as science, social studies, and the arts. With the elimination of these subjects, Afghan students' education became irrelevant and failed to meet the right to meaningful learning. Education under the Taliban regime disregarded the principles of equality, freedom of thought, and respect for human rights.

The principle of adaptability should provide opportunities for citizens to adapt to social and cultural changes, thereby maximizing their potential and keeping pace with the times. Instead of fostering this potential, the Taliban's policies, which restrict women's educational opportunities, such as closing access to secondary and higher education and allowing only female teachers to teach female students, demonstrate that Afghanistan's education system is not adaptable to social change and the times. The patriarchal norms embedded in these policies directly hinder social transformation toward gender equality and undermine women's empowerment.

Not only emphasizing the principles of fulfilling the right to education, General Comment Number 13 of 1999, in Paragraph 46, emphasizes three state obligations in fulfilling the right to education: to respect, to protect, and to fulfill that right. To respect requires the state to refrain from intervention or actions that directly hinder or limit an individual's access to education. To protect requires the state to protect individuals from rights violations committed by third parties, such as social groups, institutions, or non-state actors who obstruct the right to education. Meanwhile, to fulfill emphasizes that the state is obliged to take active and progressive steps to realize the right to education, such as through policy making, budget allocation, infrastructure development, curriculum development, and the provision of adequate learning facilities.

These three human rights obligations are interconnected, forming a framework for the state to ensure the fulfillment of the right to education comprehensively and equitably, without discrimination, for all citizens. The Taliban regime, as the de facto authority governing Afghanistan, has systematically failed to fulfill these three obligations. Discriminatory policies that block access to secondary and higher education for women constitute a major violation of women's human rights. This suffices to illustrate the state's failure to ensure the fulfillment of all aspects of the right to education.

Furthermore, the Convention specifically governing women, CEDAW, specifically provides a comprehensive legal basis for guaranteeing women's right to equal education. Article 10 of CEDAW emphasizes that states are obliged to guarantee equality between men and women in education, including access to education at all levels (OHCHR, 1981). Boys and girls must also have access to the same subjects, school examinations, as well as the same quality of teachers and school facilities. The principle of non-discrimination contained in this Convention is

substantive, meaning that states must actively work to eliminate social, cultural, and legal barriers that prevent women from obtaining their right to education.

General Recommendation Number 36 of 2017, issued by the CEDAW Committee as a derivative document of Article 10 of CEDAW, emphasizes that education is a primary prerequisite for women's empowerment and the realization of human rights. The fundamental rights outlined in this recommendation are the right to access education, the right within education, and the right through education (United Nations, 2017). The right to access education obliges state parties to ensure the availability of access to all levels of education without discrimination of any kind, including gender, social, physical, or legal discrimination. In the context of Afghanistan, the systemic prohibition that prohibits girls from attending school beyond the primary level has demonstrated a direct violation of this right.

The right to education demands equality in a safe learning environment supported by gender equality among educators, and free from gender-based violence. The reality in Afghanistan contrasts with this right, as educators are only permitted to teach students based on gender. Female teachers are not permitted to teach male students, and male teachers can only teach female students under limited conditions and strict supervision. The material taught has also been refined with new curriculum adjustments in line with the Islamic teachings believed by the Taliban. Meanwhile, the right to education re-emphasizes the role of education as a means of empowerment for women. This empowerment is expected to enable women to actively participate in social, economic, and political life. When the Taliban banned women from secondary and higher education and restricted women from becoming teachers, they blocked women's opportunities to contribute to national development and weakened their position in the public sphere.

The CRC also explicitly guarantees the right to education for girls and adolescent girls (OHCHR, 1990). Article 28 Paragraph (1) emphasizes that states parties must ensure that girls and boys have equal opportunities to obtain education. Meanwhile, Article 29 emphasizes that education must be aimed at developing the child's personality, broadening children's understanding of respect for human rights, and preparing children to take responsibility in society. General Comment No. 1 of 2001 clarifies the implementation of Article 29 of the CRC that education is not only a matter of physical formality, but is a form of respect for human rights, and shaping children's character so that they are ready to be active in community life (CRC United Nations, 2021). Through this General Comment, the CRC Committee emphasizes that education must be child-centered and inspiring, so that boys and girls can develop their full potential.

Furthermore, General Comment Number 20 of 2016, which is a continuation of Article 28 of the CRC, emphasizes that adolescence is a critical period for women. Therefore, the state must pay special attention to adolescent girls so that their right to education can be implemented responsively and continuously to their needs (United Nations, 2016). Barriers such as child marriage, sexual violence, and armed conflict can close the door to the continuing education that adolescent girls should receive. The Taliban's policy of completely closing access to higher and secondary education for adolescent girls reflects a complete violation of these two General Comments. Directly, not only is access to education cut off, but the state has failed to create an education system with a safe, inclusive, and sustainable learning environment. As a result, education, which should be a means of understanding human rights and instilling awareness of women's social roles in society, has failed to be implemented. Afghanistan's 2004 Constitution guarantees gender equality and the right to education. Article 22 affirms equal rights and duties for men and women, Article 43 declares education a state-guaranteed right for all citizens, and Article 44 obliges the state to implement programs promoting women's education and eliminating illiteracy (President Hamid Karzai, 2004).

Although Afghanistan has constitutional provisions demonstrating its commitment to upholding gender equality and ensuring universal access to education, the current situation on the ground is the complete opposite of these commitments. Since assuming de facto power in 2021, the 2004 Constitution of the Islamic Republic of Afghanistan has never been formally revoked by the Taliban. Instead, they use an unwritten constitution, a patchwork legal system. This legal system is interpreted and implemented according to informal norms they believe to be correct.

Evidence of this is evident in the policies implemented under the de facto Taliban regime since 2021, which have significantly restricted women's access to education, including a ban on them pursuing secondary and higher education. Furthermore, the Taliban's changes to the curriculum, eliminating subjects deemed contrary to their interpretation of Islamic law, such as human rights, civics, gender studies, political systems, and globalization and development, demonstrate a major ideological overhaul of the national education system. This reality is inconsistent with international standards established in the ICESCR, CEDAW, CRC, and their derivative General Comments and Recommendations.

In August 2024, the Taliban enacted the Law on the Promotion of Virtue and the Prevention of Vice, with 35 articles regulating public life according to Taliban moral values. The law restricts women's movement, bans interaction with non-mahram men, limits public voices, and mandates covering the body and face (AP News, 2024). Morality officers enforce it through monitoring and sanctions (Rahimi, 2024). Despite Afghan women seeking education through informal channels, the Taliban frequently arrest activists, teachers, and students who challenge these discriminatory policies.

In January 2024, Lale was arrested in Kabul by Taliban morality officials while secretly attending English classes, allegedly violating hijab regulations despite wearing a niqab (Zuhal, 2024). She endured physical violence, and her father was also abused for "raising an immoral daughter." Lale was released after community leaders intervened. Her case illustrates that women seeking education secretly remain targets of Taliban repression, even without using educational access as a formal pretext. Although the Taliban assumed power unconstitutionally, Afghanistan remains a sovereign subject of international law, obligated to respect, protect, and fulfill human rights for all citizens. The Taliban's discriminatory policies, including the ban on women's access to secondary and higher education, constitute violations by commission, as they actively restrict individual rights. These actions make the Taliban the primary perpetrators of violations, but the Afghan state continues to bear international legal responsibility for such violations, regardless of the regime's political legitimacy.

### **3.2. State Responsibility for Violations of Girls' Education Rights**

The international human rights legal framework elaborates that the state has the role of primary duty bearer (Setiyani & Joko Setiyono, 2020). This role carries the primary moral and legal responsibility to ensure that everyone, without any discrimination, can fully enjoy their rights. This includes ensuring that women's right to education is properly fulfilled. The state's obligations are divided into three: to respect, to protect, and to fulfill (Chirwa, 2004). The obligation to respect requires the state to refrain from interventions that directly limit or eliminate access to education. Afghanistan, through policies issued by its de facto authority, the Taliban regime, has failed to fulfill this obligation. This is evidenced by the policy prohibiting women from accessing secondary and higher education.

The obligation to protect requires the state to shield everyone from discrimination or violence by non-state actors. Taliban education policies systematically discriminate against women, using religious and cultural norms to confine them to the domestic sphere. Enforcement of the Law on the Promotion of

Virtue and the Prevention of Vice against women seeking informal education, as in Lale's case, illustrates gender-based violence. The obligation to fulfill requires the state to actively ensure equal access to education through policies, budgets, and infrastructure. Instead, the Taliban restructured the curriculum, reducing hours for subjects like mathematics, social studies, and science, and banned books on gender equality, democracy, and social sciences. This restricts not only women's access to education but also male students' access to knowledge. Article 4 of the Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA) explains that actions by officials or entities carrying out government functions are considered state actions if they are carried out in an official capacity or in the context of effective control over a certain territory. Therefore, the Taliban's series of discriminatory policies against the fulfillment of women's educational rights can also be qualified as acts attributed to the Afghan state. Therefore, the failure of the Afghan state to fulfill these three obligations gives rise to consequences of state responsibility (Kadir & Nurhaliza, 2023).

In human rights theory, the Taliban's systemic policies that discriminate against women in fulfilling their right to education are classified as acts of commission. Acts of commission are human rights violations committed actively and intentionally by authorities holding state power by directly intervening in rights that should be respected, protected, and fulfilled (Tampubolon et al., 2022). This differs from acts of omission, which occur when the state fails to act or take steps that should be taken to protect and fulfill human rights (Layn et al., 2024). The Taliban regime, as the de facto authority that carries out governmental functions in Afghanistan, including control of territory, public institutions, and legal policies, makes all their actions be delegated to the Afghan state as the direct perpetrator of human rights violations. This includes violations of women's right to education.

State responsibility requires reparation, acknowledgement of breach, and guarantee of non-repetition under Articles 30–39 ARSIWA. Reparation includes restitution, compensation, or satisfaction (de Tagle, 2015). Regarding Taliban violations of women's education, this entails reopening access to secondary and higher education, revoking discriminatory policies, and compensating for material and non-material losses, including lost learning opportunities, psychological trauma, and social impacts such as reduced female participation in formal employment.

Acknowledgement of breach requires the state to officially acknowledge that human rights violations have occurred in the realm of women's education. This acknowledgement can take the form of a public statement, a national and international apology, and the issuance of a legal document acknowledging the violation of Afghan women's right to education. This recognition is crucial because it demonstrates the state's commitment to preventing similar violations in the future. Furthermore, it demonstrates state accountability, thereby restoring the trust of the victims (in this case, women) and the international community in Afghanistan. Meanwhile, the guarantee of non-repetition, which means ensuring that human rights violations will not recur, is carried out by the state, requiring the state as the perpetrator to reform the applicable law. In this case, Afghanistan, as the perpetrator, can review and amend laws, policies, and institutions that directly or indirectly relate to the fulfillment of women's right to education. Regulations prohibiting discrimination against women in education, training state officials to prevent repressive actions against women, and independent oversight of the implementation of education policies must be implemented.

Afghanistan's human rights accountability is weak. After the Taliban regained de facto power in 2021, they disbanded the Afghanistan Independent Human Rights Commission and replaced the Ministry of Women's Affairs with the Ministry for the Propagation of Virtue and the Prevention of Vice, enforcing moral codes instead (Barr, 2021). The absence of independent institutions or courts limits enforcement

of state accountability for human rights violations, creating de facto immunity for violations like those against women's education. The absence of a domestic mechanism in Afghanistan makes international accountability the only primary alternative solution. The Human Rights Council (HRC) and the Special Rapporteur on the situation of human rights in Afghanistan play a role in monitoring and reporting on systematic violations committed by the Taliban regime. The HRC is a UN body authorized to monitor the implementation of human rights in all countries, conduct international dialogue and cooperation, provide recommendations, investigate human rights violations, and adopt resolutions to address situations of serious human rights violations in various countries. However, the HRC does not have the authority to directly intervene or enforce the law on human rights violations occurring in any country. However, the HRC can exert moral and political influence to promote human rights protection through recommendations for action and international cooperation.

Meanwhile, the Special Rapporteur on the situation of human rights in Afghanistan is an independent individual appointed by the HRC to monitor, report, and provide recommendations on the human rights situation in Afghanistan. Specifically, this individual is tasked with gathering information on violations, investigating conditions on the ground, and providing international advocacy for improving human rights conditions in Afghanistan. This Special Rapporteur is crucial in monitoring and reporting on systematic human rights violations by the Taliban regime, as his reports provide the international community with a critical analysis of the Taliban's human rights violations.

The limited domestic mechanisms for seeking justice for human rights violations mean that Afghan women who are victims of violations of their right to education by the Taliban regime can only seek justice through international accountability. The International Court of Justice (ICJ) cannot be an alternative resolution because it only handles disputes between states and has no authority over individual or group complaints regarding human rights violations. Instead, the implementation of the Optional Protocol to the CEDAW Convention can be an alternative mechanism. This Optional Protocol provides the right for individuals or groups who are victims of human rights violations in the form of gender-based discrimination against the right to education to submit an individual complaint to the CEDAW Committee, provided the state party has ratified the protocol.

These individual communications allow the CEDAW Committee to further examine whether a state party has failed to fulfill its obligations to protect women's rights, including the right to education. The CEDAW Committee can issue recommendations to improve the situation. Although the committee's decisions are non-binding, this mechanism can still serve as an international legal tool for upholding the protection of women's rights when domestic resolution is not possible (Cusack & Pusey, 2013). However, because Afghanistan has not ratified this optional protocol, Afghan women cannot seek justice through individual communications with the CEDAW Committee. Nevertheless, Afghan women still have a potential international legal path to seek justice for their violations if Afghanistan ratifies this optional protocol in the future.

In addition, the International Criminal Court (ICC) is an international criminal court authorized to prosecute individuals for serious international crimes, including serious human rights violations. The ICC's jurisdiction is regulated by the Rome Statute and applies to states that have ratified the instrument. Afghanistan has been a state party to the Rome Statute since it ratified the instrument in 2003, so the ICC's jurisdiction covers international crimes committed in its territory since then (Sharma, 2025). However, in early 2025, the Taliban regime officially withdrew Afghanistan from the Rome Statute (Khaeron, 2025). This withdrawal sparked legal debate because the Taliban regime's position is still not internationally recognized

as a legitimate government. Furthermore, according to Article 127 of the Rome Statute, withdrawal only takes effect normatively after one year of official notification to the UN Secretary-General. Therefore, the ICC still has jurisdiction over human rights crimes committed in Afghanistan until one year after notification of withdrawal.

The Rome Statute also allows for the expansion of its sovereign jurisdiction over non-party states through two mechanisms. The first mechanism can be implemented through a referral from the UN Security Council under Article 13(b) of the Rome Statute and Chapter VII of the UN Charter (United Nations, 1999b). This referral allows the ICC to investigate and prosecute serious international crimes in a non-party state if the situation in that state is deemed a threat to international peace and security (Christianti, 2018). Meanwhile, the second mechanism, based on Article 12 Paragraph 3 of the Rome Statute, allows a non-party state to accept ICC jurisdiction through an ad hoc declaration for specific crimes (Christianti, 2015; Febriana, 2021; Patty & Makaruku, 2024). In the context of Afghanistan, this mechanism is relevant if the state voluntarily wishes to re-accept ICC jurisdiction in the future.

However, the ICC remains authorized only to prosecute individuals who commit human rights violations. The ICC cannot prosecute states but provides reparations for victims of gross human rights violations under Article 75 of the Rome Statute, including restitution, compensation, and rehabilitation through the Trust Fund for Victims (Shimoyachi, 2024). Although Afghanistan may fall outside ICC jurisdiction post-withdrawal, this framework serves as a normative reference for reparations for Afghan women subjected to systemic educational rights violations by the Taliban. Afghanistan cannot evade responsibility for human rights due to political changes, as these norms are erga omnes and universally binding. Failure to guarantee girls' education carries moral, legal, and political consequences, allowing other states or international organizations to hold Afghanistan accountable. Women's rights violations thus constitute a breach of the international community's common interests, reflecting global solidarity in upholding human rights and non-discrimination.

#### **4. Conclusion**

The Taliban regime's actions restricting access to education for women in Afghanistan constitute a violation of human rights. These violations can be identified through international legal instruments such as the ICESCR, CEDAW, and CRC, as well as the General Comment and Recommendation regarding the right to education and the principle of non-discrimination. Violations of the right to education demonstrate the failure of the Afghan state to fulfill its obligation to respect, protect, and fulfill human rights, thus giving rise to state responsibility. Consequently, Afghanistan has a legal and moral obligation to bear the consequences of these violations by providing reparation, acknowledging the violation (acknowledgement of breach), and guaranteeing non-repetition. International legal mechanisms through the CEDAW Committee and the erga omnes principle have provided the basis for the international community to demand accountability from Afghanistan.

Therefore, violations of the right to education for women in Afghanistan are not merely a domestic issue but also an issue that impacts the common interests of the international community. This study has important implications, highlighting the urgent need for international oversight and reparation mechanisms to protect women's educational rights under de facto regimes. However, the research has limitations, relying mainly on secondary sources due to limited access to official Taliban documents. Future research could examine the effectiveness of international enforcement mechanisms and the role of informal education in mitigating educational exclusion.

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***Data Disclosure Statement***

The data that support the findings of this study are available from the corresponding author upon reasonable request.



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