

Gender Apartheid in Afghanistan: Analyzing the Taliban's Policies and the European Union's Response

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List of abbreviations

AWLF	African Women Leaders Forum
CAPD	EU-Afghanistan Cooperation Agreement on Partnership and Development
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CFSP	Common Foreign and Security Policy
CIRAW	Centre of Information Resilience's Afghan Witness
ECJ	European Court of Justice
EEAS	European External Action Service
ENP	European Neighbourhood Policy
EP	European Parliament
EUAA	European Union Agency for Asylum
GBV	Gender-Based Violence
HR/VP	High Representative of the Union for Foreign Affairs and Security Policy / Vice-President of the Commission
ICC	International Criminal Court
ICJ	International Court of Justice
IEA	Islamic Emirate of Afghanistan
LPVPV	Law on the Propagation of Virtue and Prevention of Vice
NGO	Non-Governmental Organization
NPE	Normative Power Europe
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
UN	United Nations
UN WG	United Nations Working Group
UNAMA	United Nations Assistance Mission in Afghanistan

UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UNGA	United Nations General Assembly
UNHRC	United Nations Human Rights Council
UNSCR	United Nations Security Council
USIP	United States Institute of Peace

Introduction

The re-establishment of Taliban rule in Afghanistan in August 2021 marked a dramatic reversal of two decades of progress in women's rights and freedoms. Since then, the Taliban have implemented an array of decrees and practices that restrict the civil, political, and socio-economic rights of Afghan women and girls. In response, there has been increasing international advocacy for the recognition of a new crime against humanity, 'gender apartheid'. An act that, much like the recognition of racial apartheid in the early 1990s, may potentially catalyze a unified international response capable of transforming the reality for women and girls in Afghanistan.

This thesis aims to 1) analyze whether the Taliban's policies in Afghanistan after August 2021 constitute the emerging legal concept of gender apartheid, 2) critically evaluate the European Union's response, and 3) assess whether the EU's advocacy for the international recognition of gender apartheid as a legal concept can enhance its influence on regimes like the Taliban. To achieve these objectives, the following research questions are answered.

- Main Research Question (RQ1): *"How can the EU exert influence over third countries where linkage and leverage are low?"*
- Sub-Research Question 1 (RQ2): *"To what extent do the Taliban's post-2021 policies and practices constitute gender apartheid under emerging international legal frameworks?"*
- Sub-Research Question 2 (RQ3): *"How has the European Union responded—legally, diplomatically, and programmatically—to the Taliban's treatment of women and girls since August 2021?"*
- Sub-Research Question 3 (RQ4): *"Should the EU embrace the concept of 'gender apartheid' to enhance its influence on authoritarian gender-excluding regimes like the Taliban, particularly given the EU's limited linkage and leverage?"*

The research outcomes are expected to provide recommendations for a future EU approach to third countries with low leverage and linkage. The research is temporally delimited to the period from August 2021 to January 2025, beginning with the Taliban's return to power (emergence of Islamic Emirate of Afghanistan – IEA), which reversed decades of progress in gender equality. Afghanistan was chosen as a case study because it presents a contemporary and the most extreme example of gender apartheid.

While the intersection between the emerging international concept of gender apartheid and the European Union's external engagement in authoritarian regimes remains underexplored, both areas have been studied independently. Legal discourse increasingly conceptualizes gender apartheid as a distinct crime against humanity, building on established frameworks like the Rome Statute of the International Criminal Court from 1998 (Rome Statute), and the Convention on the Suppression and Punishment of the Crime of Apartheid from 1973 (Apartheid Convention). It gains visibility in response to deteriorating conditions for women and girls under regimes such as the Islamic Emirate of Afghanistan and the Islamic Republic of Iran. Meanwhile, the EU's external action has been extensively theorized through frameworks like EU Actorness,¹ Normative Power Europe,² and External Governance.³

The core theoretical framework of this thesis draws heavily from established literature on the European Union as an external actor. A central analytical tool is Levitsky and Way's (2006, 2011) linkage and leverage framework.⁴ Although this framework was not developed specifically for the EU, it is crucial for understanding external pressures on authoritarian regimes, defining "leverage" as a government's vulnerability to external pressure (e.g., through aid or sanctions), and "linkage" as the density of ties with Western institutions across economic, geopolitical, social, communication, and civil society dimensions.⁵ The thesis highlights this framework's relevance for contexts like Afghanistan, where leverage and linkage are "extremely low." Elaborated especially for the research of the European Union, the concept of EU external governance (Lavenex and Schimmelfennig, 2009) examines how the EU extends its rules, institutions, and governance modes beyond its member states, even to countries without a membership perspective.⁶ Since most of this literature focuses on countries with formal ties to the EU (e.g., candidate states, quasi-members), F. Schimmelfennig's work

¹ WALLACE, W. The External Role of the European Community. *International Affairs*, 1 October 1978, 54(4) Issue 4, pp. 666–667. DOI: <https://doi.org/10.2307/2617335>.

² MANNERS, I. Normative Power Europe: A Contradiction in Terms? *Journal of Common Market Studies* [online]. 2002, 40(2) [viewed 29 May 2025]. Available from: <https://doi.org/10.1111/1468-5965.00353>

³ LAVENEX, S. and F. SCHIMMELFENNIG. EU rules beyond EU borders: theorizing external governance in European politics. *Journal of European Public Policy* [online]. 2009, 16(6) [viewed 29 May 2025]. Available from: <https://doi.org/10.1080/13501760903087696>

⁴ LEVITSKY, S. and L. A. WAY. Linkage versus Leverage. Rethinking the International Dimension of Regime Change. *Comparative Politics* [online]. 2006, 38(4) [viewed 29 May 2025]. Available from: <https://doi.org/10.2307/20434008>

LEVITSKY, S. and L. A. WAY. *Competitive Authoritarianism: Hybrid Regimes after the Cold War*. New York: Cambridge University Press, 2010. ISBN 9780511781353.

⁵ LEVITSKY, S. and L. A. WAY. Linkage versus Leverage..., pp. 382-383.

⁶ LAVENEX, S. and F. SCHIMMELFENNIG. EU rules beyond EU borders: theorizing external governance in European politics. *Journal of European Public Policy* [online]. 2009, 16(6) [viewed 29 May 2025]. Available from: <https://doi.org/10.1080/13501760903087696>

"*Europeanization beyond Europe*" (2010, 2015) provides a framework for examining external governance in countries outside these ties, where the EU promotes democracy and human rights.⁷

The second major body of literature concerns the international legal concept of gender apartheid, which gained prominence in the 1990s to describe the systematic oppression of women's rights under the first Taliban rule in Afghanistan, drawing parallels to racial apartheid in South Africa.⁸ Key scholars like Karima Bennoune (2022)⁹ and Rangita Silva de Alwis (2024),¹⁰ alongside UN bodies¹¹ and experts, such as lawyers and judges,¹² have contributed to defining gender apartheid, often by adapting the definition of apartheid from the Rome Statute and the Apartheid Convention. Scholars like Nigel Worden (2012)¹³ and N. L. Clark (2011)¹⁴ explain the foundational concept of apartheid. From a critical standpoint, A. A. Shariati¹⁵ and E. S. Abdullah¹⁶ offer valuable insights into the potential challenges and legal implications of recognizing gender apartheid. Despite the emerging scholar interest, this thesis fills a research

⁷ SCHIMMELFENNIG, F. *Europeanization beyond Europe*. *Living Reviews in European Governance* [online]. 2009, 4(3) [viewed 29 May 2025]. Available from: <https://edoc.vifapol.de/opus/volltexte/2011/2487/>

SCHIMMELFENNIG, F. *Europeanization beyond Europe*. *Living Reviews in European Governance* [online]. 2015, 10(1) [viewed 29 May 2025]. Available from: <https://doi.org/10.3929/ethz-b-000107421>

⁸ GOLESORKHI, L.-Z. Gender Apartheid and Asylum: Establishing General Risks of Gender-Based Persecution in International Refugee Law. *Politics & Gender* [online]. 2024, 21(2) [viewed 23 March 2025], p. 7. Available from: <https://doi.org/10.1017/S1743923X24000436>

⁹ BENNOUNE, K. The International Obligation to Counter Gender Apartheid in Afghanistan. *Columbia Human Rights Law Review* [online]. 2022, 54(1) [viewed 23 March 2025]. Available from: <https://hrlr.law.columbia.edu/hrlr/the-international-obligation-to-counter-gender-apartheid-in-afghanistan/>

¹⁰ DE SILVA DE ALWIS, R. Holding the Taliban Accountable for Gender Persecution: The Search for New Accountability Paradigms under International Human Rights Law, International Criminal Law and Women, Peace, and Security. *German Law Journal* [online]. 2024, 25(2) [viewed 23 March 2025]. Available from: <https://doi.org/10.1017/glj.2023.113>

¹¹ WORKING GROUP ON DISCRIMINATION AGAINST WOMEN AND GIRLS. Draft articles on prevention and punishment of crimes against humanity n. A/HRC/WG.11/40/1 (2024). Available from: <https://docs.un.org/en/A/HRC/WG.11/40/1>

BENNETT, R. A/HRC/56/25: 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. *Office of the United Nations High Commissioner for Human Rights* [online]. 13 May 2024 [viewed 23 March 2025]. Available from: <https://docs.un.org/en/A/HRC/56/25>

¹² BRANT, Leonardo. Declaration of Judge Brant n. 186-20240719-ADV-01-11-EN (2024). Available from: <https://www.icj-cij.org/node/204171>

¹³ WORDEN, Nigel. *The making of modern South Africa: Conquest, apartheid, democracy*. 5th ed. Chichester: John Wiley & Sons Ltd, 2012. ISBN: 9780470656334.

¹⁴ CLARK, N. L. and W. H. WORGER. *South Africa: The rise and fall of apartheid*. 2nd ed. Routledge: Abingdon, 2011. ISBN: 9781408245644.

¹⁵ SHARIATI, A. A. Gender Persecution and Gender Apartheid in Afghanistan: Seeking the Appropriate Legal Basis for International Accountability. *ejiltalk.org* [online]. 10 April 2024 [viewed 23 March 2025]. Available from: <https://www.ejiltalk.org/gender-persecution-and-gender-apartheid-in-afghanistan-seeking-the-appropriate-legal-basis-for-international-accountability/>

¹⁶ ABDULLAH, E. S. Examining Both Sides: Perspectives on Codification of Gender Apartheid. *cilj.co.uk* [online]. 17 July 2024 [viewed 23 March 2025]. Available from: <https://cilj.co.uk/2024/07/17/examining-both-sides-perspectives-on-codification-of-gender-apartheid/>

gap by exploring the underexplored intersection between the emerging international concept of gender apartheid and the European Union's external engagement in third countries with limited leverage and linkage.

The research on Taliban gender policies is limited by the absence of fieldwork, severe media restrictions, limited access to the country even for NGOs or UN mechanisms, and the fragmented nature of Taliban communications (from formal decrees to informal statements on social networks). The analysis of the EU's response and effectiveness is limited by the complexity of international influence (multiple actors) and the non-transparent nature of Taliban decision-making. Aware of these limitations, the thesis draws on a large number of reports that document the situation on the ground. These key sources, utilized in Chapter Two, include reports from ACAPS,¹⁷ Etilaatroz,¹⁸ UN Special Rapporteur R. Bennett¹⁹ and the UN Working Group on Discrimination against Women and Girls,²⁰ Amnesty International and

¹⁷ ACAPS. AFGHANISTAN: Second update on Taliban decrees and directives relevant to the humanitarian response. *acaps.org* [online]. 25 July 2024 [viewed 24 March 2025]. Available from: https://www.acaps.org/fileadmin/Data_Product/Main_media/20240725_ACAPS_Second_update_on_Taliban_Decrees_01.pdf

ACAPS. AFGHANISTAN: Taliban directives and decrees affecting human rights and humanitarian actors. *acaps.org* [online]. 21 April 2023 [viewed 24 March 2025]. Available from: https://www.acaps.org/fileadmin/Data_Product/Main_media/20230424_acaps_thematic_report_afghanistan_taliban_directives_and_decrees_0.pdf

ACAPS. AFGHANISTAN: Third update on Taliban decrees and directives relevant to the humanitarian response (July–December 2024). *acaps.org* [online]. 24 December 2024 [viewed 24 March 2025]. Available from: https://www.acaps.org/fileadmin/Data_Product/Main_media/20241224_ACAPS_Afghanistan_Third_update_on_Taliban_decrees_and_directives.pdf

ACAPS. AFGHANISTAN: Update on Taliban decrees and directives affecting the humanitarian response. *acaps.org* [online]. 1 December 2023 [viewed 24 March 2025]. Available from: <https://gisf.ngo/wp-content/uploads/2023/12/ACAPS-Thematic-Report-Afghanistan-Update-on-Taliban-decrees-and-directives-affecting-the-humanitarian-response-01-December-2023.pdf>

¹⁸ ETILAATROZ. In the Dungeon of Suffering: A Report on the Arrest, Torture, and Murder of Women in a Year of Taliban Rule. *etilaatroz.com* [online]. 20 February 2023 [viewed 23 March 2025]. Available from: <https://www.etilaatroz.com/166247>

¹⁹ BENNETT, R. A/79/330: Situation of human rights in Afghanistan – Report of the Special Rapporteur on the situation of human rights in Afghanistan, Richard Bennett. *Office of the United Nations High Commissioner for Human Rights* [online]. 30 August 2024 [viewed 23 March 2025]. Available from: <https://docs.un.org/en/A/79/330>

BENNETT, R. A/HRC/51/6: Situation of human rights in Afghanistan - Report of the Special Rapporteur on the situation of human rights in Afghanistan. *Office of the United Nations High Commissioner for Human Rights* [online]. 9 September 2022 [viewed 24 March 2025]. Available from: <https://docs.un.org/en/A/HRC/51/6>

BENNETT, R. A/HRC/56/25: 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. *Office of the United Nations High Commissioner for Human Rights* [online]. 13 May 2024 [viewed 23 March 2025]. Available from: <https://docs.un.org/en/A/HRC/56/25>

BENNETT, R. A/HRC/58/74: Study on the so-called “Law on the Promotion of Virtue and the Prevention of Vice” – Report of the Special Rapporteur on the situation of human rights in Afghanistan, Richard Bennett. *Office of the United Nations High Commissioner for Human Rights* [online]. 25 February 2025 [viewed 23 March 2025]. Available from: <https://www.ohchr.org/sites/default/files/2025-02/a-hrc-58-74-pvpv-study.pdf>

²⁰ SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS IN AFGHANISTAN and WORKING GROUP ON DISCRIMINATION AGAINST WOMEN AND GIRLS. A/HRC/53/21: Situation of women and girls in Afghanistan - Report of the Special Rapporteur on the situation of human rights in Afghanistan and the Working

ICJ,²¹ USIP,²² EUAA,²³ M. Mehran (Afghanistan Research Network),²⁴ and Centre for Information Resilience's Afghan Witness project (CIRAW).²⁵

The thesis is structured into three chapters. **Chapter One** establishes the theoretical and conceptual foundations of the thesis. The first subchapter presents theoretical approaches such as Leverage and Linkage, External Governance, and Normative Power Europe, emphasizing their mechanisms and conditions for effectiveness. The second subchapter introduces and defines the legal concept of gender apartheid and outlines current legal debates and prospects.

Chapter Two, called "*Analysis of Gender Apartheid in Afghanistan (post-2021)*," employs a qualitative case study to answer a sub-research question (RQ2). The methodology involves applying a set of pre-established criteria for defining gender apartheid: (i) the commission of inhuman acts against a gender group (with an emphasis on segregation and exclusion), (ii) institutionalized regime, (iii) regime of systematic oppression and domination by one gender group over another, and (iv) the intent to maintain such a regime. The analysis of "inhuman acts" is structured around six categories from Article II of the Apartheid Convention: denial of life and liberty, imposition of physically destructive living conditions, denial of participation in political, social, economic, and cultural life, segregation, exploitation and forced labor, and persecution of dissenters. Data are drawn from primary and secondary sources, including UN reports, NGO reports, academic studies/analyses, and media.

Chapter Three, called "*European Union's Response to Gender Apartheid in Afghanistan under Taliban*," used a qualitative case study approach to examine the European Union's response and answer the RQ1, RQ3, and RQ4. EU actions are categorized into three groups based on Schimmelfennig's framework: (i) diplomatic pressure and high-level statements, (ii) conditionality, non-recognition, and sanctions, and (iii) support for Afghan

Group on discrimination against women and girls. *Office of the United Nations High Commissioner for Human Rights* [online]. 15 June 2023 [viewed 23 March 2025]. Available from: <https://docs.un.org/en/A/HRC/53/21>

²¹ AMNESTY INTERNATIONAL and ICJ. THE TALIBAN'S WAR ON WOMEN: The crime against humanity of gender persecution in Afghanistan. *icj.org* [online]. 18 March 2024 [viewed 23 March 2025]. Available from: <https://www.icj.org/wp-content/uploads/2023/05/The-Talibans-war-on-women-the-crime-against-humanity-of-gender-persecution-in-Afghanistan-FINAL-VERSION.pdf>

²² UNITED STATES INSTITUTE OF PEACE. Tracking the Taliban's (Mis)Treatment of Women. *usip.org* [online]. [viewed 24 March 2025]. Available from: <https://www.usip.org/tracking-talibans-mistreatment-women>

²³ EUAA. Afghanistan - Country Focus. *European Union Agency for Asylum* [online]. 11 November 2024 [viewed 23 March 2025]. Available from: <https://euaa.europa.eu/publications/afghanistan-country-focus-0>

²⁴ MEHRAN, M. Recognition of Gender Apartheid in Afghanistan Justified. *peacerep.org* [online]. 2023 [viewed 23 March 2025]. Available from: https://peacerep.org/wp-content/uploads/2023/06/PeaceRep-Afghanistan-Research-Network-Reflection_06.pdf

²⁵ AFGHAN WITNESS. The Erasure of Women. *Centre for Information Resilience* [online]. 14 August 2024 [viewed 23 March 2025]. Available from: https://uploads.guim.co.uk/2024/08/14/240814_Erasure_of_Women.pdf

NGOs, civil society, and Afghan women. Effectiveness is evaluated based on *formal alignment* and *behavioral/on-the-ground change*, with limitations explained through the leverage and linkage framework. The research relies on document analysis of primary and secondary sources. Primary sources include official EU statements, press releases, European Parliament resolutions, legal documents, and speeches of the EU officials. Secondary sources include academic literature,²⁶ media reports, and analyses by international organizations.

²⁶ For example, MALEJACQ, R. and N. TERPSTRA. Why International Leverage Has Failed With the Taliban. *lawfaremedia.org* [online]. 30 July 2023 [viewed 24 May 2025]. Available from: <https://www.lawfaremedia.org/article/why-international-leverage-has-failed-with-the-taliban>

1 Theoretical Framework

Since the late 1980s and especially the 1990s, promoting democratization and protecting human rights have received increasing attention in international relations. While early discussions predominantly centered on the role of the United States as a global norm-setter (Nye 1990; Carothers 1999),²⁷ scholarly and policy focus has gradually shifted also toward the European Union (Manners 2002, Schimmelfennig and Sedelmeier 2004, Lavenex and Schimmelfennig 2009).²⁸ This paper focuses on the EU's role in this context, exploring how it promotes democracy and human rights in its external relations.

1.1 European Union as an External Actor

The EU influences countries with closer ties to (e.g., candidate countries) primarily through conditionality, which means setting specific political and legal standards as prerequisites for membership. Since membership offers significant political and economic rewards, candidates are generally motivated to adopt EU norms.²⁹ The literature shows that the results with candidate and association countries have been mixed, and the situation becomes even more complex in the case of countries that are economically, politically, and culturally distant from the EU.

Scholars have applied and further developed Levitsky and Way's concepts of leverage and linkage, which offer a way to understand the governance of the democratization process. They define western leverage as a given government's "*vulnerability to external pressure*"³⁰ (for example, pressure for democratization or human rights compliance) exerted by Western powers. Target governments are positively induced to change policies in exchange for benefits

²⁷ NYE, J. Soft power. *Foreign Policy*, 1990, 80, pp. 153–171. DOI: <https://doi.org/10.2307/1148580>.

CAROTHERS, T. *Aiding democracy abroad: The learning curve*. Washington, DC: Carnegie Endowment for International Peace, 1999. DOI: <https://doi.org/10.2307/j.ctt6wpj7p>.

²⁸ MANNERS, I. Normative Power Europe: A Contradiction in Terms? *Journal of Common Market Studies* [online]. 2002, 40(2) [viewed 8 June 2025]. Available from: <https://doi.org/10.1111/1468-5965.00353>.

SCHIMMELFENNIG, F. and U. SEDELMEIER. Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe. *Journal of European Public Policy*, 2004 11(4), pp. 661–679. DOI: <https://doi.org/10.1080/1350176042000248089>.

LAVENEX, S. and F. SCHIMMELFENNIG. EU rules beyond EU borders: theorizing external governance in European politics. *Journal of European Public Policy* [online]. 2009, 16(6) [viewed 29 May 2025]. Available from: <https://doi.org/10.1080/13501760903087696>

²⁹ SCHIMMELFENNIG, F. EU External Governance and Europeanization Beyond the EU. In: David Levi-Faur (ed.). *The Oxford Handbook of Governance*. New York: Oxford Academy, 2012, pp. 8-9.

³⁰ LEVITSKY, S. and L. A. WAY. Linkage versus Leverage. Rethinking the International Dimension of Regime Change. *Comparative Politics* [online]. 2006, 38(4) [viewed 29 May 2025], p. 382. Available from: <https://doi.org/10.2307/20434008>

(offering rewards for compliance) or negatively to avoid punishments (withholding benefits or imposing costs for non-compliance). Rewards include, for example, the provision of development aid, while punishments include sanctions, suspension of aid, diplomatic persuasion, and even military force.³¹ According to the authors, western leverage can be limited by three main factors. First is the “*size and strength of countries’ states and economies.*”³² By this logic, large, more powerful countries like China or Russia can resist influence due to their greater bargaining power (military, economic) and resilience to tools like sanctions or suspension of aid.³³ Secondly, the existence of conflicting Western foreign policy interests (economic, security) that prioritize regime stability over democracy promotion, thereby weakening the ability to enforce effective punitive measures.³⁴ Third is the presence of opposing powers (so-called “black knights”) providing target regimes with alternative economic, military, or diplomatic support.³⁵

Linkage to the West refers to the “*density of ties and cross-border flows between particular countries and the U.S., the EU, and western-led dominated institutions.*”³⁶ Levitsky and Way (2006) distinguish five dimensions: economic, geopolitical, social, communication, and transnational civil society.³⁷ They define these dimensions as follows:

*“Economic linkage includes trade, investment, credit, and bilateral and multilateral aid flows. Geopolitical linkage refers to ties with Western governments and participation in Western-led alliances, treaties, and international organizations. Social linkage, or the flow of people across borders, encompasses migration, tourism, refugees, and diaspora communities, as well as elite education in the West. Communication linkage involves the cross-border flow of information through telecommunications, internet connectivity, and the penetration and coverage of Western radio and television. Finally, transnational civil society linkage consists of local ties to Western-based non-governmental organizations, religious groups, and political party organizations.”*³⁸

³¹ LEVITSKY, S. and L. A. WAY. Linkage versus Leverage..., p. 382.

³² LEVITSKY, S. and L. A. WAY. Competitive Authoritarianism: Hybrid Regimes after the Cold War. New York: Cambridge University Press, 2010, p. 41.

³³ LEVITSKY, S. and L. A. WAY. Competitive Authoritarianism..., p. 41.

³⁴ Ibid.

³⁵ Ibid.

³⁶ LEVITSKY, S. and L. A. WAY. Linkage versus Leverage..., p. 383.

³⁷ Ibid., pp. 383-384.

³⁸ Ibid., pp. 383-384.

Levitsky and Way further argue that geographic proximity remains a fundamental determinant. Countries closer to the EU, such as those in Central Europe, tend to exhibit stronger linkage than more remote regions like Central Asia.³⁹ Historical factors, such as colonial legacies, geopolitical alliances, and military occupations, also shape the origins and strength of linkage.⁴⁰ With this understanding, the linkage promotes democratization through three core mechanisms. First, it amplifies international responsiveness to authoritarian abuses. Dense networks of media, NGOs, and migration increase the likelihood that repression or electoral fraud will be exposed globally, thereby raising the cost of authoritarian behavior.⁴¹ Second, linkage creates domestic actors with a vested interest in upholding democratic norms. Individuals, firms, and organizations with personal or economic ties to the West face reputational or material risks if democratic norms are violated. Western-educated technocrats may also support reforms to preserve professional credibility. Even voters can be influenced to reject parties that jeopardize international integration.⁴² Third, linkage reshapes domestic power relations by strengthening opposition groups and pro-democratic movements. Western ties can offer protection, visibility, and material resources to marginalized actors. International media coverage and human rights observers can deter repression, while Western media exposure raises public awareness and support for democratic alternatives.⁴³

Furthermore, leverage and linkage are closely related and influence each other. According to Levitsky and Way, “*leverage in the absence of linkage has rarely been sufficient to induce democratization since the end of the Cold War.*”⁴⁴ Both are important, but linkage has a more consistent, diffuse effect in promoting liberalization over time. Leverage alone, for example, sporadic sanctions or pressure, often is insufficient to induce lasting change if a regime has low linkage. Meaningful democratization or policy change usually requires more sustained influence that comes from extensive linkage.⁴⁵ This dynamic is clearly illustrated in Table 1, which presents a typology of regimes based on varying levels of linkage and leverage, showing how these combinations shape both the effectiveness of external democratizing pressure and the regime’s vulnerability to international influence.

³⁹ LEVITSKY, S. and L. A. WAY. Linkage versus Leverage..., p. 384.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid.

⁴³ Ibid., p. 385.

⁴⁴ Ibid., p. 379.

⁴⁵ Ibid., pp. 385-386.

Table 1: How Variation in Linkage and Leverage Shapes External Pressure for Democratization

	High linkage	Low Linkage
High Leverage	Consistent and effective democratizing pressure	Intermittent and limited democratizing pressure
Low Leverage	Consistent but diffuse, indirect democratizing pressure	Weak external democratizing pressure

Source: LEVITSKY, S. and L. A. WAY. *Linkage versus Leverage...*, p. 388. Available from: <https://doi.org/10.2307/20434008>

In summary, when both linkage and leverage are high, democratizing pressure is strong and consistent, often leading to regime change even under poor domestic conditions. High linkage but low leverage results in softer, indirect influence, encouraging regimes to avoid abuses to maintain international credibility. High leverage with low linkage creates sporadic, less effective pressure, often leading to only partial liberalization. When both linkage and leverage are low, international influence is minimal, and regime outcomes depend almost entirely on domestic factors.⁴⁶ Domestic factors primarily concern the “*organizational power of incumbents*.”⁴⁷ It encompasses the state’s coercive capacity (its ability to monitor, intimidate, and suppress dissent) and the structure of the ruling party (which enables it to manage elite conflict and mobilize political support).⁴⁸

Building on the theory of leverage and linkage, the EU external governance concept was tailored specifically for the European Union’s external relations. This concept, developed by scholars such as S. Lavenex and F. Schimmelfennig, refers to the extension of the EU’s rules, institutions, and modes of governance beyond its member states. Lavenex (2004) introduced “external governance” to capture how the EU exports its regulations and standards to neighboring states and partners, even those without a membership prospect.⁴⁹ Lavenex and Schimmelfennig (2009) defined external governance as “*both an attempt at conceptualizing important aspects of the EU’s international role and a step towards analyzing forms of*

⁴⁶ LEVITSKY, S. and L. A. WAY. *Linkage versus Leverage...*, pp. 386-388.

⁴⁷ LEVITSKY, S. and L. A. WAY. *Competitive Authoritarianism: Hybrid Regimes...*, p. 71.

⁴⁸ COP, B. and K. KILIÇDAROĞLU. Linkage, Leverage, and Authoritarianism: An Overview of the Collapse of Turkey’s EU Membership Prospect. *SAGE Open* [online]. 2021, 11(3) [viewed 29 May 2025], p. 2. Available from: <https://doi.org/10.1177/21582440211040783>

⁴⁹ LAVENEX, S. EU external governance in “wider Europe.” *Journal of European Public Policy* [online]. 2004, 11(4) [viewed 29 May 2025], p. 681. Available from: <https://doi.org/10.1080/1350176042000248098>

*integration into the European system of rules that remain below the threshold of membership.*⁵⁰ The institutional frameworks through which the EU extends its influence are diverse. In some cases, it occurs through formal agreements and structures, such as the European Economic Area (EEA) and the European Neighborhood Policy (ENP). Bilateral agreements, such as the EU's association or cooperation agreements, often include clauses on regulatory alignment, human rights, and gender equality. In other cases, external governance is less formalized: agreements that link trade and aid with adherence to governance principles, but without a full supranational framework. There are even instances of spontaneous diffusion, where third countries voluntarily emulate EU regulations due to interdependence or the attractiveness of EU models, absent any treaty requirement.⁵¹

This external governance operates through three primary modes: hierarchical governance, which involves rule-setting backed by asymmetrical power or conditionality; network governance, based on joint decision-making and mutual learning among actors; and market-based governance, where countries adopt EU rules to gain economic benefits or access to markets.⁵² Effectiveness is measured through three interconnected dimensions: rule selection, rule adoption, and rule application. Rule selection involves evaluating the extent to which third countries acknowledge and prioritize EU-promoted norms as reference standards within their bilateral or multilateral negotiations and formal agreements. Rule adoption examines the formal and institutional incorporation of EU norms into the domestic legal frameworks of third countries. Rule application assesses the practical implications and consistent enforcement of EU norms through administrative procedures, judicial mechanisms, and social institutions of target countries.⁵³

However, the Lavenex and Schimmelfennig's framework and most of the literature on EU external governance primarily focus on countries with some formal ties to the EU (e.g., candidate countries, quasi-members, or states within the ENP). Schimmelfennig's work "*Europeanization beyond Europe*" (2009, 2015) additionally addresses whether and how the EU can exert domestic influence even in countries outside this circle. In this context, external governance represents a set of EU tools and strategies through which the EU seeks to achieve

⁵⁰ LAVENEX, S. and F. SCHIMMELFENNIG. EU rules beyond EU borders: theorizing external governance in European politics. *Journal of European Public Policy* [online]. 2009, 16(6) [viewed 29 May 2025], p. 792. Available from: <https://doi.org/10.1080/13501760903087696>

⁵¹ *Ibid.*, p. 792.

⁵² *Ibid.*, pp. 797-800.

⁵³ *Ibid.*, pp. 800-801.

the Europeanization of these countries (i.e., the transfer and adoption of its norms and rules into their domestic systems).⁵⁴ The key mechanisms under this framework identified as applicable to democracy and human rights promotion outside the candidate circle include international conditionality, international socialization, and transnational mechanisms (incentives and socialization).⁵⁵ Two additional pathways are externalization, an indirect and often unintended effect of the EU's internal governance, where third countries or actors adopt EU rules to gain market access or avoid regulatory costs, and imitation (lesson-drawing), the voluntary adoption of EU rules and policies by domestic actors who view them as suitable solutions to their problems.⁵⁶

Table 2: Mechanisms of EU impact beyond member-states

	Intergovernmental		Transnational	
	Direct	Indirect	Direct	Indirect
Logic of consequences	Conditionality	Externalization	Transnational incentives	Transnational externalization
Logic of appropriateness	Socialization	Imitation	Transnational socialization	Societal imitation

Source: SCHIMMELFENNIG, F. *Europeanization beyond Europe...*, p. 8. Available from: <https://edoc.vifapol.de/opus/volltexte/2011/2487/>

Intergovernmental conditionality is a direct, incentive-based mode where the EU ties rewards (such as aid, trade access, or diplomatic recognition) to the third country's adherence to certain conditions or norms, including human rights and democracy.⁵⁷ It follows a logic of consequences, meaning target governments are positively induced to change policies in exchange for EU benefits (offering rewards for compliance) or negatively to avoid sanctions (withholding benefits or imposing costs for non-compliance).⁵⁸ F. Schimmelfennig notes that the effectiveness of conditionality depends on the credibility of EU incentives, the size of its rewards, and the cost-benefit calculus of the target regime (high/low domestic adoption cost).⁵⁹

⁵⁴ SCHIMMELFENNIG, F. *Europeanization beyond Europe. Living Reviews in European Governance* [online]. 2009, 4(3) [viewed 29 May 2025], p. 13. Available from: <https://edoc.vifapol.de/opus/volltexte/2011/2487/>

⁵⁵ SCHIMMELFENNIG, F. *Europeanization beyond Europe. Living Reviews in European Governance* [online]. 2015, 10(1) [viewed 29 May 2025], p. 18. Available from: <https://doi.org/10.3929/ethz-b-000107421>

⁵⁶ SCHIMMELFENNIG, F. *Europeanization beyond Europe...* 2015, pp. 9-10.

⁵⁷ *Ibid.*, pp 9, 16-18.

⁵⁸ *Ibid.*, p. 8.

⁵⁹ *Ibid.*

Intergovernmental socialization means that, beyond material incentives, the EU's efforts to “teach” and persuade third parties of the appropriateness and legitimacy of European norms, ideas, and policies.⁶⁰ It aligns with what scholars term communicative or constructive impacts of governance. Instead of coercion, the EU projects its values (such as respect for human rights) and engages in dialogue or criticism to encourage voluntary adaptation.⁶¹

Support to NGOs and civil society represents a significant transnational channel of EU external governance. The EU may offer incentives (“*transnational incentives*”) or aim to socialize these actors into EU norms (“*transnational socialization*”).⁶² The EU funds and engages with non-state actors, such as non-governmental organizations (NGOs), firms, and civil society networks, in the target country. Rather than working through the de facto authorities, the EU may bolster them to promote women’s rights or provide services, thus keeping normative agendas alive and exerting bottom-up pressure.⁶³

F. Schimmelfennig notes that the EU’s promotion of democracy and human rights to third countries without a membership perspective has generally had a “*low impact*.”⁶⁴ This reduced effectiveness stems from several limiting factors, including an uneven application of its instruments (conditionality enforced only toward less strategically important states undermines the EU’s credibility and influence), the absence of a membership perspective, and high domestic costs for the target.⁶⁵

Another limiting factor, “cultural filter”, was highlighted by I. Manners’ concept of Normative Power Europe (NPE). The concept refers to the EU’s ability to “*shape conceptions of ‘normal’ in international relations*.”⁶⁶ It involves projecting core values and principles, such as democracy, human rights, and gender equality,⁶⁷ through example and persuasion rather than coercion.⁶⁸ This form of norm diffusion contributes directly to the “density of ties” (linkage) with third countries. The effectiveness is mediated by a cultural filter: “*the interplay between the construction of knowledge and the creation of social and political identity by the subjects*

⁶⁰ SCHIMMELFENNIG, F. *Europeanization beyond Europe...*, 2015, p. 9.

⁶¹ *Ibid.*, pp. 8-9, 12-13.

⁶² *Ibid.*, pp. 8-9.

⁶³ *Ibid.*, p. 9.

⁶⁴ *Ibid.*, p. 18.

⁶⁵ *Ibid.*

⁶⁶ MANNERS, I. Normative Power Europe: A Contradiction in Terms? *Journal of Common Market Studies* [online]. 2002, 40(2) [viewed 8 June 2025], p. 239. Available from: <https://doi.org/10.1111/1468-5965.00353>

⁶⁷ For example, Treaty on the European Union, Articles 2 and 21(1); Treaty on the Functioning of the European Union, Article 8.

⁶⁸ MANNERS, I. Normative Power Europe: A Contradiction in Terms..., p. 239.

of norm diffusion.”⁶⁹ Manners drew on C. Kinnvall’s work from 1995, who explained that cultural filters affect “*the impact of international norms and political learning in third states...leading to learning, adaptation or rejection of norms.*”⁷⁰ In other words, the cultural filter refers to how recipients, such as states or communities, internally interpret and process international norms. It is shaped by the recipient’s constructed understanding of the world and their social and political identities, reflecting their cultural and ideological background. It influences how international norms are received. If an external norm resonates with the recipient’s historically rooted domestic values and beliefs, it is more likely to be positively received and adopted.⁷¹

Research framework. Based on the introduced theories and concepts, the EU’s influence on third countries can be categorized into three groups:

- (i) *Diplomatic condemnation and high-level statements:* These mechanisms correspond with intergovernmental socialization and linkage, trying to persuade the Taliban to comply with the EU’s values, such as gender equality and human rights. It includes diplomatic pressure and statements, dialogue with the Taliban, and lobbying on an international stage.
- (ii) *Conditionality, non-recognition, and sanctions:* These mechanisms correspond with the intergovernmental conditionality and leverage and include rewards for compliance (“carrots”) and punishments for disobedience (“sticks”).
- (iii) *Support to Afghan civil society, NGOs, and Afghan women:* This group manifests the transnational incentives, transnational socialization, and linkage. For example, the EU provides humanitarian aid, funds projects to support women’s and girls’ empowerment and education, and supports diasporas in Europe.

The effectiveness of EU actions is explored in two dimensions:

- (i) *Formal Alignment.* Did the Taliban make any formal commitments, reversals, or gestures in response to EU demands (even if only symbolic or partial)?

⁶⁹ MANNERS, I. Normative Power Europe: A Contradiction in Terms..., p. 245.

⁷⁰ Ibid.

⁷¹ CHABAN, N. and S. PARDO. Understanding EU External Perceptions: Theorising Local ‘Cultural Filters’ in the Normative Power Approach (casestudy of textbooks). *Australian and New Zealand Journal of European Studies* [online]. 2018, 10(1) [viewed 1 June 2025], p. 66. Available from: <https://doi.org/10.30722/anzjes.vol10.iss1.15191>

- (ii) *Behavioral/On-the-ground change*: Did conditions for women and girls in Afghanistan measurably improve, or at least did certain worst-case outcomes avert, due to EU and international pressure?

The limitations of external influence are primarily explained through the concepts of leverage and linkage. Given that Afghanistan under Taliban rule is expected to represent a case of both low leverage and low linkage, emphasis is also placed on examining domestic factors shaping political outcomes.

1.2 The Concept of Gender Apartheid

In this thesis, the conceptualization of “gender apartheid” functions as both a legal-normative construct and a strategic discursive tool that enables the EU to reconfigure its external governance towards Afghanistan. Through the mechanisms of linkage and leverage, the EU can operationalize its normative identity by responding to systemic gender oppression not merely as a human rights issue, but as a form of apartheid, thereby elevating its policy engagement into the sphere of international obligation and legal responsibility.

The concept of gender apartheid was introduced in the 1990s to describe the systematic oppression and denial of women’s rights in Afghanistan under the Taliban’s first rule.⁷² Golesorkhi traced the historical emergence of gender apartheid in advocacy and legal discourse.⁷³ In 1995, Amnesty International publicized a report raising awareness of atrocities committed against Afghan women. The report catalyzed the conceptual emergence of gender apartheid, inspiring organizations and activists to adopt the term in response to documented acts.⁷⁴ At the European Union level, a mobilizing campaign called “A Flower for the Women of Kabul” was launched in 1998, while the European Parliament urged nations to take action and respond to the situation in Afghanistan.⁷⁵ In these early efforts, Emma Benino, an Italian politician behind the campaign, drew a direct “*parallel to racial apartheid in South Africa*,”⁷⁶

⁷² AMNESTY INTERNATIONAL. Global: Gender apartheid must be recognized as a crime under international law. *amnesty.org* [online]. 17 June 2024 [viewed 22 March 2025]. Available from: <https://www.amnesty.org/en/latest/news/2024/06/gender-apartheid-must-be-recognized-international-law/>

⁷³ GOLESORKHI, L.-Z. Gender Apartheid and Asylum: Establishing General Risks of Gender-Based Persecution in International Refugee Law. *Politics & Gender* [online]. 2024, 21(2) [viewed 23 March 2025], p. 7. Available from: <https://doi.org/10.1017/S1743923X24000436>

⁷⁴ *Ibid.*

⁷⁵ *Ibid.*

⁷⁶ *Ibid.*, pp. 7-8.

a pattern that has resurfaced since the Taliban's return to power in 2021, coinciding with growing pressure for the recognition of gender apartheid as a crime against humanity.⁷⁷

Even though, in the 1990s, the concept of gender apartheid and its connection to apartheid was established, both then and now, the precise definition remains contested across different sources.⁷⁸ For example, Karima Bennoune defines gender apartheid as “*a system of governance, based on laws and/or policies, which imposes systematic segregation of women and men and may also systematically exclude women from public spaces and spheres.*”⁷⁹ She creates analogies with apartheid and emphasizes that, like racial apartheid, gender apartheid denies one group of people full participation in society. It is an entire system of governance designed to institutionalize women's inferiority (not just discrimination).⁸⁰ In September 2023, during a United Nations Security Council (UNSC) Briefing on Afghanistan, she stated that the term can be effectively defined by modifying the apartheid definition in Article 7(2)(h) of the Rome Statute, incorporating "gender" into its framework.⁸¹ Recently, United Nations experts have mirrored this approach.

In February 2024, the UN Working Group on Discrimination against Women and Girls (UN WG on Discrimination) defined gender apartheid as “*inhumane acts (...) committed in the context of an institutionalized regime of systematic discrimination, oppression, and domination by one gender group over another gender group or groups, and committed with the intention of maintaining that regime*”.⁸² The Special Rapporteur on the situation of human rights in Afghanistan (Special Rapporteur) uses the same approach without mentioning the “discrimination,” copying verbatim the definition of apartheid.⁸³ R. de Silva de Alwis expanded

⁷⁷ For more information about who personally supported the recognition, see: BENNOUNE, K. UN Security Council Briefing on Afghanistan by Karima Bennoune. *womenpeacesecurity.org* [online]. 26 September 2023 [viewed 23 March 2025]. Available from: <https://www.womenpeacesecurity.org/resource/un-security-council-briefing-afghanistan-karima-bennoune/>

⁷⁸ AMNESTY INTERNATIONAL. Global: Gender apartheid must be recognized...

⁷⁹ BENNOUNE, K. The International Obligation to Counter Gender Apartheid in Afghanistan. *Columbia Human Rights Law Review* [online]. 2022, 54(1) [viewed 23 March 2025], p. 24. Available from: <https://hrlr.law.columbia.edu/hrlr/the-international-obligation-to-counter-gender-apartheid-in-afghanistan/>

⁸⁰ Ibid.

⁸¹ BENNOUNE, K. UN Security Council Briefing on Afghanistan by Karima Bennoune. *womenpeacesecurity.org* [online]. 26 September 2023 [viewed 23 March 2025]. Available from: <https://www.womenpeacesecurity.org/resource/un-security-council-briefing-afghanistan-karima-bennoune/>

⁸² WORKING GROUP ON DISCRIMINATION AGAINST WOMEN AND GIRLS. Draft articles on prevention and punishment of crimes against humanity n. A/HRC/WG.11/40/1 (2024), par. 9. Available from: <https://docs.un.org/en/A/HRC/WG.11/40/1>

⁸³ BENNETT, R. A/HRC/56/25: 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. *Office of the United Nations High Commissioner for Human Rights* [online]. 13 May 2024 [viewed 23 March 2025], par. 89. Available from: <https://docs.un.org/en/A/HRC/56/25>

and proposed to specify its practical manifestations, including the systematic deprivation of women’s rights, their exclusion from public spaces, and state-enforced subordination.⁸⁴ Her definition emphasizes that gender apartheid can be established both through formal laws (de jure) and informal policies and practices (de facto) and incorporates intersectionality, acknowledging that discrimination varies based on factors such as ethnicity, class, or disability, creating multiple layers of oppression.⁸⁵

The use of the term has not been universally accepted and remains subject to debate. Critics question whether it adds value beyond existing crimes, such as “gender persecution.”⁸⁶ Unlike gender apartheid, gender persecution is already recognized as a crime against humanity under the Rome Statute and can be prosecuted by the International Criminal Court (ICC).⁸⁷ A. A. Shariati argued that the “*challenge lies in effectively implementing existing legal frameworks rather than in the creation of new ones.*”⁸⁸ The supporters counterargue that these two crimes “*can and should coexist.*”⁸⁹ Recognizing gender apartheid can help address the full scope and gravity of the unlawful conduct in Afghanistan by capturing the structural and systematic nature of the oppression, much like the recognition that racial apartheid contributed to dismantling the regime in South Africa.⁹⁰ This is particularly important given two key distinguishing features of apartheid as a crime. Firstly, gender persecution does not reflect the institutionalized nature of the Taliban’s restrictive policies.⁹¹ Crimes against humanity “*must*

⁸⁴ DE SILVA DE ALWIS, R. Holding the Taliban Accountable for Gender Persecution: The Search for New Accountability Paradigms under International Human Rights Law, International Criminal Law and Women, Peace, and Security. *German Law Journal* [online]. 2024, 25(2) [viewed 23 March 2025], p. 315. Available from: <https://doi.org/10.1017/glj.2023.113>

⁸⁵ *Ibid.*, p. 315.

⁸⁶ SHARIATI, A. A. Gender Persecution and Gender Apartheid in Afghanistan: Seeking the Appropriate Legal Basis for International Accountability. *ejiltalk.org* [online]. 10 April 2024 [viewed 23 March 2025]. Available from: <https://www.ejiltalk.org/gender-persecution-and-gender-apartheid-in-afghanistan-seeking-the-appropriate-legal-basis-for-international-accountability/>

ABDULLAH, E. S. Examining Both Sides: Perspectives on Codification of Gender Apartheid. *cilj.co.uk* [online]. 17 July 2024 [viewed 23 March 2025]. Available from: <https://cilj.co.uk/2024/07/17/examining-both-sides-perspectives-on-codification-of-gender-apartheid/>

⁸⁷ DUTTON, Y. and M. STERIO. Prosecuting Gender Persecution at the ICC: Definitions, Policies, and Practice. *Fordham International Law Journal* [online]. 2022, 46(5) [viewed 23 March 2025], p. 577. Available from: <https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=2863&context=ilj>

⁸⁸ *Ibid.*

⁸⁹ ATLANTIC COUNCIL. Codifying Gender Apartheid as a Crime against Humanity under International Law. *endgenderapartheid.today* [online]. 2024 [viewed 23 March 2025], p. 2. Available from: <https://endgenderapartheid.today/download/PublicQAonGenderApartheidCodificationInCAHC.pdf>

⁹⁰ BENNETT, R. A/HRC/56/25: The phenomenon of an institutionalized system of discrimination..., par. 95.

⁹¹ THE GUARDIAN. What is gender apartheid – and can anything be done to stop it? *The Guardian* [online]. 9 October 2024 [viewed 23 March 2025]. Available from: <https://www.theguardian.com/global-development/2024/oct/09/what-is-gender-apartheid-activists-international-law-women-girls-rights-afghanistan-iran>

be committed as part of a widespread or systematic attack directed against any civilian population.”⁹² This definition does not cover the “institutionalized” part, as gender apartheid does. Secondly, gender apartheid implies an intent to maintain the regime, as the UN Special Rapporteur explained, “*an intent that may extend beyond the individuals who established the apartheid regime.*”⁹³ It means that gender persecution is about punishing offenders for specific crimes (prosecuting individuals), whereas gender apartheid is about condemning and dismantling an entire regime.⁹⁴ In essence, gender persecution and gender apartheid, while related, are legally distinct and complementary concepts.⁹⁵ As Bennoune notes, “*Gender apartheid is the institutionalized framework within which gender persecution takes place.*”⁹⁶

Given the absence of a universally accepted definition, it is essential to identify the key elements commonly found across existing conceptualizations. The elements used in the next analytical chapter draw from proposed definitions and a Declaration of Judge Brant from July 2024, who analyzed the definition of apartheid in the Apartheid Convention and the Rome Statute (as two main legal acts recognizing apartheid as a crime against humanity). He highlighted three key characteristics of apartheid: (i) the commission of inhumane acts, (ii) an institutionalized regime of systematic oppression and domination by one group, and (iii) the intent to maintain that system.⁹⁷ Each represents one element: material, contextual, and intentional.⁹⁸ Based on the given theoretical framework and current discussions, gender apartheid can be defined by the following four criteria, as captured in Table 3.

⁹² WORKING GROUP ON DISCRIMINATION AGAINST WOMEN AND GIRLS. Draft articles on prevention and punishment..., p. 6.

⁹³ BENNETT, R. A/HRC/56/25: The phenomenon of an institutionalized system of discrimination..., pp. 13-14.

⁹⁴ WORKING GROUP ON DISCRIMINATION AGAINST WOMEN AND GIRLS. Draft articles on prevention and punishment..., p. 6.

⁹⁵ Ibid.

⁹⁶ BENNOUNE, K. UN Security Council Briefing on Afghanistan..., p. 2.

⁹⁷ BRANT, Leonardo. Declaration of Judge Brant n. 186-20240719-ADV-01-11-EN (2024), par. 10. Available from: <https://www.icj-cij.org/node/204171>

⁹⁸ Ibid.

Table 3: Key characteristics of Gender Apartheid

1) Commission of inhuman acts against one gender group, with an emphasis on segregation and exclusion	Material element
2) Institutionalized regime 3) Regime of systemic discrimination, oppression, and domination by one gender group over another	Contextual element
4) Intent to maintain that regime	Intentional element

Source: own research based on various sources

Working with these key characteristics, we need to define “inhuman acts” (material element. The Rome Statute’s definition includes “*murder, extermination, enslavement, forcible transfer, imprisonment or other severe deprivation of physical liberty, torture, rape, forced pregnancy, sexual slavery, persecution based on group identity and other inhumane acts of a similar character.*”⁹⁹ The Apartheid Convention, however, provides more detailed insight, mainly referring to Article II(c), which enumerates specific political, social, economic, and cultural rights.¹⁰⁰ This thesis structures Taliban policies through the Article II on "inhuman acts" as defined in the Apartheid Convention: (i) denial of the right to life and liberty, (ii) imposition of physically destructive living conditions, (iii) denial of participation in political, social, economic, and cultural life, (iv) segregation, (v) exploitation and forced labor, and (vi) persecution of dissenters.

⁹⁹ WORKING GROUP ON DISCRIMINATION AGAINST WOMEN AND GIRLS. Draft articles on prevention and punishment..., par. 10.

¹⁰⁰ Ibid.

2 Analysis of Gender Apartheid in Afghanistan (post-2021)

This chapter aims to determine if the Taliban's gender policies since August 2021 constitute "gender apartheid," evaluating their impact on women's and girls' rights. A. Kotokey described the Taliban as a "*Pashtun nationalist movement or else as a radical Islamic movement.*"¹⁰¹ Its deeper roots can be traced to Islamic groups and networks of students and mullahs (Muslim religious scholars or clerics)¹⁰² who fought against the Soviets during the 1980s. As an organization, it formally arose in 1994 as a reaction to the inefficiency, brutality, and fragmentation of the mujahideen factions that controlled Afghanistan after 1992. The Afghan population, frustrated by factional warfare, rising crime, and lawlessness, sought an alternative, and the Taliban promised to bring security and stability. Its rise to power in the 1990s, during which it gained control of nearly 90% of the country, was significantly facilitated by support from Pakistan and internal ethnic conflicts within Afghanistan.¹⁰³

2.1 Evolution of Taliban Governance (1996–2021)

The first Taliban rule (from 1996 to 2001) implemented an intensely repressive system that enforced a rigid interpretation of Sharia law and systematically stripped Afghan women of their fundamental rights and freedoms.¹⁰⁴ Women were almost entirely excluded from public life, banned from education, employment, political participation, and basic social activities.¹⁰⁵ By the end of 2001, the enrollment rate of girls in primary education had dropped to zero.¹⁰⁶ Women were often unable to access healthcare services as male doctors were banned from treating women.¹⁰⁷ Socially, the Taliban enforced strict mobility and dress codes, requiring women to be accompanied when entering any public space by a close male relative (mahram) and to wear the burqa in public.¹⁰⁸ Any deviation from these rules was met with public whipping

¹⁰¹ BORTHAKUR, A., and A. KOTOKEY. Ethnicity or religion? The genesis of the Taliban movement in Afghanistan. *Asian Affairs* [online]. 2020, 51(4) [viewed 28 May 2025], p. 817. Available from: <https://doi.org/10.1080/03068374.2020.1832772>

¹⁰² MERRIAM-WEBSTER. mullah. *merriam-webster.com* [online]. [viewed 8 June 2025]. Available from: <https://www.merriam-webster.com/dictionary/mullah>

¹⁰³ BORTHAKUR, A., and A. KOTOKEY. Ethnicity or religion? The genesis of the Taliban..., pp. 817-822.

¹⁰⁴ MIRZAYI, Q. The Status of Women under the Taliban Ruling: A Comparative Research in Two Different Periods (1996-2001) to (2021- up to date). *Cognizance Journal of Multidisciplinary Studies* [online]. 2023, 7(3) [viewed 8 June 2025], p. 297. Available from: <https://doi.org/10.47760/COGNIZANCE.2023.V03I07.021>

¹⁰⁵ MIRZAYI, Q. The Status of Women under the Taliban Ruling..., p. 297.

¹⁰⁶ HANIF, K., AHMAD, M. A., RAEES, F., RIASAT, M. and A. ILYAS. Women's Rights In Afghanistan Under Taliban Rule 1996-2001 And 2021-2022: A Comparative Study. *Journal of Namibian Studies* [online]. 2022, 32 [viewed 8 June 2025], p. 321. Available from: <https://doi.org/10.59670/JNS.V32I.5192>

¹⁰⁷ MIRZAYI, Q. The Status of Women under the Taliban Ruling..., p. 298.

¹⁰⁸ SAMIM, S. Policing Public Morality: Debates on promoting virtue and preventing vice in the Taleban's second Emirate. *afghanistan-analysts.org* [online]. 15 June 2022 [viewed 8 June 2025]. Available from:

or even executions.¹⁰⁹ The Ministry for the Promotion of Virtue and Prevention of Vice acted as a religious police force, primarily targeting women for enforcement of the Taliban's moral code, often resulting in public beatings.¹¹⁰ The Taliban justified these policies through their interpretation of Islam, explicitly rejecting international human rights standards and opposing Western definitions of gender equality.¹¹¹ Their regime was widely condemned globally for these gender-based violations, which significantly contributed to their lack of international recognition and diplomatic engagement.¹¹²

In subsequent years, between 2001 and 2021, the situation of women was far from ideal but also far from gender apartheid. The military intervention of the United States of America in 2001¹¹³ led to formal advancements in women's rights. In 2003, Afghan officials accessed/ratified two major international treaties: the Rome Statute of the International Criminal Court (Rome Statute) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), signaling a commitment to uphold international human rights standards, particularly in relation to women's rights.¹¹⁴ In 2004, Afghanistan adopted a “*relatively liberal Islamic constitution*,”¹¹⁵ marking a pivotal step in the country's political reconstruction and formally guaranteeing gender equality before the law.¹¹⁶ Key bodies such as the Ministry of Women's Affairs, the Afghanistan Independent Human Rights Commission, and the Inter-Ministerial Commission on the Elimination of Violence Against Women were established.¹¹⁷ This progress continued in 2009 with the adoption of the Elimination of Violence Against Women law, which criminalized 22 forms of gender-based violence, including child marriages, forced marriages, and other harmful traditional

<https://www.afghanistan-analysts.org/en/reports/rights-freedom/policing-public-morality-debates-on-promoting-virtue-and-preventing-vice-in-the-talebans-second-emirate/>

¹⁰⁹ MIRZAYI, Q. The Status of Women under the Taliban Ruling..., p. 298.

¹¹⁰ SAMIM, S. Policing Public Morality: Debates on promoting virtue and preventing vice...

¹¹¹ MIRZAYI, Q. The Status of Women under the Taliban Ruling..., pp. 298-299.

¹¹² Ibid.

¹¹³ CONNAH, L. US intervention in Afghanistan. Justifying the Unjustifiable? *South Asian Research* [online]. 2021, 41(1) [viewed 8 June 2025], pp. 70-86. Available from:

<https://journals.sagepub.com/doi/pdf/10.1177/0262728020964609>

¹¹⁴ UNIVERSITY OF MINNESOTA. Ratification of International Human Rights Treaties – Afghanistan. *hrlibrary.umn.edu* [online]. [viewed 8 June 2025]. Available from: <http://hrlibrary.umn.edu/research/ratification-afghanistan1.html>

¹¹⁵ RUBIN, B. R. Crafting a constitution for Afghanistan. *Journal of democracy* [online]. 2004, 15(3) [viewed 8 June 2025], p. 5. Available from: <https://www.journalofdemocracy.org/articles/crafting-a-constitution-for-afghanistan/>

¹¹⁶ UN WOMEN. Ending violence against women and girls in Afghanistan. *asiapacific.unwomen.org* [online]. 2016 [viewed 8 June 2025], p. 3. Available from: <https://asiapacific.unwomen.org/en/digital-library/publications/2016/07/ending-violence-against-women-and-girls-in-afghanistan>

¹¹⁷ Ibid.

practices.¹¹⁸ Women gained improved access to education and employment, and increased political participation. The political landscape saw increased female participation, with women holding parliamentary seats and judicial positions and taking active roles in civil society and peacebuilding processes.¹¹⁹ However, challenges persisted due to security issues (ongoing conflict), entrenched patriarchal norms, and inconsistent enforcement of legal protections. Women in public roles were frequently targeted by violence, including threats, harassment, and assassinations.¹²⁰

With the Taliban's return to power in Afghanistan in August 2021, leading to the collapse of the Afghan government and the withdrawal of U.S. and NATO forces, the topic of gender apartheid has once again become a prominent concern. This regime change occurred quickly, with the Taliban entering Kabul on 15 August 2021, amid a broader U.S. military withdrawal announced by U.S. President Joe Biden.¹²¹ Since 15 August 2021, the Taliban has issued more than 70 decrees¹²² and a notable number of orders and edicts that systematically discriminate against and tightly control nearly every aspect of women's lives in Afghanistan. The takeover of power was also marked by the repeal of laws that did not align with Afghan traditions and Sharia law, such as the 2004 Constitution¹²³ or the Elimination of Violence Against Women Law that criminalized gender-based violence and protected its victims.¹²⁴ The change was also evident in the state's governance structure and its withdrawal from protecting human rights, particularly the rights of women and other marginalized groups. On 17 September 2021, a new Ministry for the Promotion of Virtue and Prevention of Vice, currently the institution responsible for implementing the law,¹²⁵ replaced the Ministry for Women's

¹¹⁸ UN WOMEN. Ending violence against women and girls..., p. 3.

¹¹⁹ MOUSSAVI, F. The Situation of Afghan Women during the Western Military Presence. In: POYA, A. (ed). *Afghanistan 2001-2021* [online]. Bielefeld: transcript Verlag, 2024 [viewed 8 June 2025], pp. 113, 116. Available from: <https://doi.org/10.1515/9783839473177>

¹²⁰ Ibid., pp. 113, 118-120.

¹²¹ INTERNATIONAL CRISES GROUP. Afghanistan Three Years after the Taliban Takeover. *crisisgroup.org* [online]. 14 August 2024 [viewed 23 March 2025]. Available from: <https://www.crisisgroup.org/asia/south-asia/afghanistan/afghanistan-three-years-after-taliban-takeover>

¹²² UN NEWS. Public execution in Afghanistan condemned as 'clear human rights violation'. *news.un.org* [online]. 13 November 2024 [viewed 23 March 2025]. Available from: <https://news.un.org/en/story/2024/11/1156926>

¹²³ BENNETT, R. A/79/330: Situation of human rights in Afghanistan – Report of the Special Rapporteur on the situation of human rights in Afghanistan, Richard Bennett. *Office of the United Nations High Commissioner for Human Rights* [online]. 30 August 2024 [viewed 23 March 2025], par. 60. Available from: <https://docs.un.org/en/A/79/330>

¹²⁴ MEHRAN, M. Recognition of Gender Apartheid in Afghanistan Justified. *peacerep.org* [online]. 2023 [viewed 23 March 2025], p. 7. Available from: https://peacerep.org/wp-content/uploads/2023/06/PeaceRep-Afghanistan-Research-Network-Reflection_06.pdf

¹²⁵ BENNETT, R. A/HRC/58/74: Study on the so-called “Law on the Promotion of Virtue and the Prevention of Vice” – Report of the Special Rapporteur on the situation of human rights in Afghanistan, Richard Bennett. *Office*

Affairs.¹²⁶ On 16 May 2022, Afghanistan's Human Rights Commission was dissolved.¹²⁷ The situation keeps deteriorating, the discussions on gender apartheid are growing, and parallels with apartheid are being drawn.

2.2 Applying the Apartheid Convention to Taliban Gender-Based Policies

This chapter analyzes whether the Taliban’s post-2021 gender-based policies constitute gender apartheid based on four previously established criteria.

- (i) Commission of inhuman acts targeting a gender group, with particular emphasis on exclusion and segregation.
- (ii) Institutionalized regime.
- (iii) Regime of systematic oppression and domination by one gender group over another.
- (iv) Intent to maintain that regime.

It examines each category of inhuman acts defined in Article II of the Apartheid Convention. Ranging from restrictions on life and liberty to the persecution of dissenters, they are mapped against documented Taliban policies and practices. Table 4 provides an overview of these dimensions, synthesizing evidence of Taliban practices and policies to assess their alignment with the definition of gender apartheid.

Table 4: Mapping Gender Apartheid in Afghanistan to the Apartheid Convention (Post-2021)

Article of the Apartheid Convention	Specific Violations Under Taliban Rule
1) Article II(a): Denial of the Right to Life and Liberty	a) Murders and extrajudicial killings b) Arbitrary arrests and detentions c) Torture and ill-treatment in and out of detention
2) Article II(b): Imposition of Physically Destructive Living Conditions	a) Gender-based violence, e.g., forced / child marriage b) Denial of reproductive and maternal healthcare c) Suicidality among women due to systemic exclusion
3) Article II(c): Denial of Participation in Political, Social, Economic, and Cultural Life	a) The Right to Education: education banned beyond Grade 6; universities, private institutions, and NGOs barred from enrolling or teaching women b) The Right to Work: women removed from government roles, NGOs, and most jobs

of the United Nations High Commissioner for Human Rights [online]. 25 February 2025 [viewed 23 March 2025], par. 26. Available from: <https://www.ohchr.org/sites/default/files/2025-02/a-hrc-58-74-pvpv-study.pdf>

¹²⁶ MEHRAN, M. Recognition of Gender Apartheid in Afghanistan Justified..., p. 7.

¹²⁷ Ibid.

	<ul style="list-style-type: none"> c) The Right to Freedom of Movement: restrictions on travel without a mahram d) The Right to Leave and to Return to Country, and the Right to a Nationality: denial of access to passports, identity documents e) The Right to Freedom of Expression and Opinion: restrictions on women’s appearance in media, dress codes, and speech in public f) The Right to Freedom of Peaceful Assembly and Association: total ban on public protests and gatherings, especially targeting women-led movements
4) Article II(d): Segregation	<ul style="list-style-type: none"> a) Segregation in Schools and Workplaces b) Public Space Restrictions (women banned from parks, gyms, public baths) c) Healthcare Segregation (women banned from being treated by male doctors)
5) Article II(e): Exploitation and Forced Labor	<ul style="list-style-type: none"> a) Informal Labor Exploitation due to exclusion from formal work b) Forced Labor in Detention c) Trafficking into Marriage / Sex Work
6) Article II(f): Persecution of those Opposing Gender Apartheid (Dissenters)	<ul style="list-style-type: none"> a) Suppression of Women Protesters b) Detention of Activists and Journalists c) Enforced Disappearances of Opponents

Source: own research

The following sections provide a detailed examination of these inhuman acts, as outlined in Table 4, commencing with the denial of the right to life and liberty.

1. Denial of the Right to Life and Liberty

The Taliban regime in Afghanistan systematically denies women the right to life and liberty. This denial is manifested through a range of inhuman acts, such as murders, extrajudicial killings, arbitrary arrests, detentions, torture, and ill-treatment, all carried out without due process or access to justice. Female legal professionals, including lawyers, judges, and prosecutors, encounter substantial risks and systemic exclusion from the legal system.¹²⁸ In November 2021, the Taliban dissolved the Afghanistan Independent Bar Association and

¹²⁸ SATTERTHWAITE, M. and R. BENNETT. UN experts: legal professionals in Afghanistan face extreme risks, need urgent international support. *Office of the United Nations High Commissioner for Human Rights* [online]. 20 January 2023 [viewed 23 March 2025]. Available from: <https://www.ohchr.org/sites/default/files/documents/issues/ijudiciary/statements/2023-01-17/202301-stm-sr-ijl-sr-afghanistan-day-endangered-lawyer.pdf>

integrated it into the Ministry of Justice.¹²⁹ Consequently, lawyers are now required to undergo a reapplication process for their professional licenses, a process that is only accessible to men, effectively erasing women from legal practice and denying them representation.¹³⁰

1a) In the first year, Ettela-e-Rooz (2022) reported that the Taliban, its forces, or armed men have killed over 159 women.¹³¹ More recently, the Centre of Information Resilience's Afghan Witness project (2024) has recorded 840 cases of gender-based violence between 2022 and June 2024, with the Taliban allegedly responsible for 422 of them; at least 332 of these women were killed, 54 by Taliban members.¹³² These numbers are believed to be significantly underreported due to media restrictions and the oppressive environment.¹³³ In connection, a disturbing pattern of unresolved deaths has emerged, where women's bodies are discovered in random locations, such as roadsides or streams, with no investigation or accountability.¹³⁴ A former defense lawyer suggests two primary explanations for this trend. First, killings are linked to the Taliban, as there have been documented cases of Taliban officials and soldiers abusing women and then murdering them to prevent exposure. Second, the lawless environment under Taliban rule has enabled individuals to commit violence against women for personal reasons or revenge. Women may have been kidnapped or subjected to honor killings by relatives or other individuals.¹³⁵ Nevertheless, the lack of motive, known perpetrators, or investigations strongly suggests that the killings/murders are either state-sanctioned or deliberately ignored by authorities.¹³⁶ The situation is exacerbated by the fact that no independent investigative bodies exist to examine crimes against women, granting the Taliban impunity.¹³⁷ The absence of independent investigative bodies allows the Taliban to not only evade accountability but also manipulate narratives to conceal their crimes.¹³⁸

¹²⁹ SATTERTHWAITE, M. and R. BENNETT. UN experts: legal professionals in Afghanistan...

¹³⁰ Ibid.

¹³¹ ETILAATROZ. In the Dungeon of Suffering: A Report on the Arrest, Torture, and Murder of Women in a Year of Taliban Rule. *etilaatroz.com* [online]. 20 February 2023 [viewed 23 March 2025]. Available from: <https://www.etilaatroz.com/166247>

¹³² AFGHAN WITNESS. The Erasure of Women. *Centre for Information Resilience* [online]. 14 August 2024 [viewed 23 March 2025], pp. 2, 16-17. Available from:

https://uploads.guim.co.uk/2024/08/14/240814_Erasure_of_Women.pdf

¹³³ Ibid., p. 2.

¹³⁴ ETILAATROZ. In the Dungeon of Suffering: A Report on the Arrest, Torture...

¹³⁵ Ibid.

¹³⁶ Ibid.

¹³⁷ Ibid.

¹³⁸ One such case, documented by the Zan Times, involves a young YouTuber named Hora Sadat. In July 2023, she and her two sisters were arrested by the Taliban on charges of "moral corruption" related to their YouTube activities. During their detention, they reportedly faced severe torture and were threatened with future harm upon release. On 22 August 2023, Hora received a phone call summoning her to the Kabul Police Headquarters. She

1b) Widespread arbitrary arrests and detention further reinforce these systematic violations of the right to life and liberty.¹³⁹ The International Commission of Jurists reports a rising number of arbitrary arrests and detentions, with women and girls being the primary targets.¹⁴⁰ Reasons for arrest include protesting, violating mahram restrictions, such as appearing in public without a male guardian (mahram),¹⁴¹ dress code violations, purchasing contraceptive pills, or even begging.¹⁴² In November 2023, The Guardian reported on women arrested for begging in Kabul who later died in detention, with signs of rape and torture on their bodies.¹⁴³ Teenage girls have been reportedly detained for wearing the "wrong" hijab and subjected to sexual violence and physical assaults during detention.¹⁴⁴

1c) Conditions in Taliban-run detention centers and facilities are degrading and life-threatening. Women endure severe sexual violence, psychological abuse, and physical assaults. Testimonies gathered by Amnesty International reveal brutal practices such as being chained, beaten with cables or hoses, receiving electric shocks, and death threats. Detainees are held in overcrowded, unsanitary cells with no heating, insufficient food, and minimal access to medical care, resulting in the spread of diseases such as scabies and lice.¹⁴⁵ The UN Special Rapporteur

complied but was later found dying, claiming that she was poisoned by the Taliban, with her body showing signs of torture, including wounds on her chest and neck and severe bruising on her back. The Taliban claimed her friends had poisoned her, but sources indicate she was killed by the Taliban, who then coerced her family into supporting their narrative. Source: GHANI, F. and NADER Z. The Taliban killed a female Youtuber, then invented a story to cover up the murder. *Zan Times* [online]. 5 August 2024 [viewed 23 March 2025]. Available from: <https://zantimes.com/2024/08/05/the-taliban-killed-a-female-youtuber-then-invented-a-story-to-cover-up-the-murder/>

¹³⁹ SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS IN AFGHANISTAN and WORKING GROUP ON DISCRIMINATION AGAINST WOMEN AND GIRLS. A/HRC/53/21: Situation of women and girls in Afghanistan - Report of the Special Rapporteur on the situation of human rights in Afghanistan and the Working Group on discrimination against women and girls. *Office of the United Nations High Commissioner for Human Rights* [online]. 15 June 2023 [viewed 23 March 2025], par. 92. Available from: <https://docs.un.org/en/A/HRC/53/21>

¹⁴⁰ AMNESTY INTERNATIONAL and ICJ. THE TALIBAN'S WAR ON WOMEN: The crime against humanity of gender persecution in Afghanistan. *icj.org* [online]. 18 March 2024 [viewed 23 March 2025], p. 20. Available from: <https://www.icj.org/wp-content/uploads/2023/05/The-Talibans-war-on-women-the-crime-against-humanity-of-gender-persecution-in-Afghanistan-FINAL-VERSION.pdf>

¹⁴¹ Ibid.

¹⁴² UNITED NATIONS. Afghanistan: Taliban's crackdown on women over 'bad hijab' must end. *UN News* [online]. 2 February 2024 [viewed 23 March 2025]. Available from: <https://news.un.org/en/story/2024/02/1146177>

¹⁴³ THE GUARDIAN. Women arrested by Taliban for begging report rape and killings in Afghan jails. *The Guardian* [online]. 29 November 2024 [viewed 23 March 2025]. Available from: <https://www.theguardian.com/global-development/2024/nov/29/afghanistan-taliban-women-children-arrested-begging-rape-torture-killings-jails-destitution-work-ban>

¹⁴⁴ THE GUARDIAN. Afghan girls accuse Taliban of sexual assault after arrests for 'bad hijab'. *The Guardian* [online]. 25 June 2024 [viewed 23 March 2025]. Available from: <https://www.theguardian.com/global-development/article/2024/jun/25/afghan-women-girls-accuse-taliban-sexual-assault-after-arrests-bad-hijab-suicide>

¹⁴⁵ AMNESTY INTERNATIONAL and ICJ. THE TALIBAN'S WAR ON WOMEN..., p. 25.

emphasizes that the violence, including sexual violence, inflicted on detained women protesters, is so extreme that it qualifies as torture under international law.¹⁴⁶ Additionally, cases of rape, forced marriages, and coerced abortions resulting from detention were recorded.¹⁴⁷

Women face attacks also in public spaces, such as markets, for actions like traveling without a mahram, not wearing the "proper" hijab, or even using taxis alone.¹⁴⁸ Furthermore, in March 2024, the Taliban officially announced the reinstatement of the death penalty through public stoning, flogging, and burying under a wall.¹⁴⁹ The Supreme Leader explicitly justified these practices as adhering to their interpretation of Allah's will, directly contrasting them with "*democratic principles*."¹⁵⁰ UN experts have confirmed these practices constitute torture and ill-treatment.¹⁵¹ Furthermore, UNAMA has documented numerous instances where women (and men) accused of moral offenses were subjected to corporal punishments.¹⁵² The most common reasons for these punishments are adultery and theft, but it is possible to punish people even for homosexuality or running away from home.¹⁵³

2. Imposition of Physically Destructive Living Conditions

2a) Gender-based violence might also be categorized under the violation of the right to life and liberty, where it certainly belongs. However, its scale and devastating consequences require separate consideration, as they point directly to the intentional infliction of living conditions that threaten the physical integrity and survival of women. Between January 2022 and June 2024, the Centre of Information Resilience's Afghan Witness (CIRAW) recorded

¹⁴⁶ SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS IN AFGHANISTAN and WORKING GROUP ON DISCRIMINATION AGAINST WOMEN AND GIRLS. A/HRC/53/21: Situation of women and girls in Afghanistan..., par. 30.

¹⁴⁷ AFGHAN WITNESS. *The Erasure of Women...*, p. 18.

¹⁴⁸ ETILAATROZ. *In the Dungeon of Suffering: A Report on the Arrest, Torture...*

¹⁴⁹ UNHR OHCHR. Afghanistan: UN experts appalled by Taliban announcement on capital punishment. *Office of the United Nations High Commissioner for Human Rights* [online]. 11 May 2023 [viewed 23 March 2025]. Available from: <https://www.ohchr.org/en/press-releases/2023/05/afghanistan-un-experts-appalled-taliban-announcement-capital-punishment>

¹⁵⁰ BHATTACHARYA, S. Afghan women: The silent victims of Taliban brutality. *lowyinstitute.org* [online]. 19 April 2024 [viewed 23 March 2025]. Available from: <https://www.lowyinstitute.org/the-interpreter/afghan-women-silent-victims-taliban-brutality>

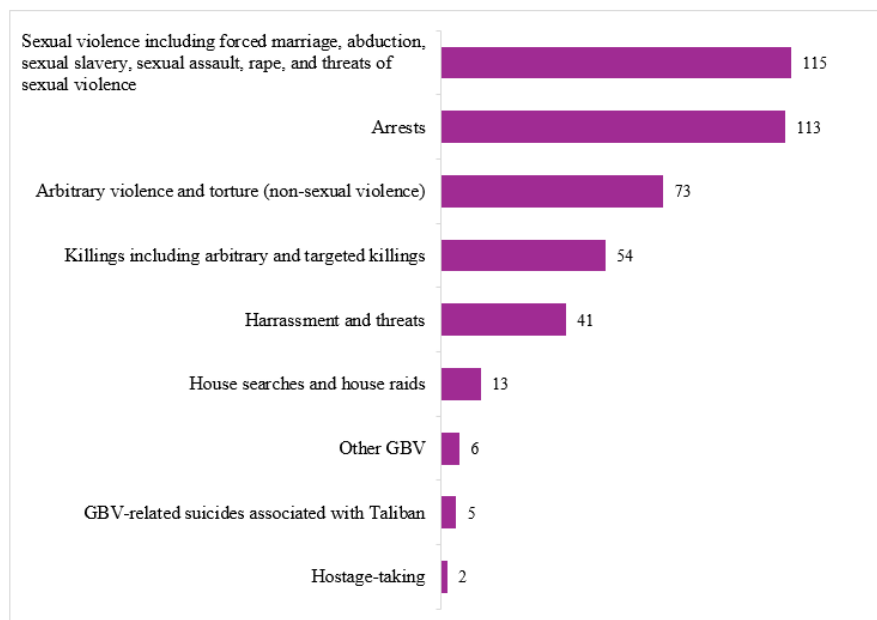
¹⁵¹ BENNETT, R. A/HRC/51/6: Situation of human rights in Afghanistan - Report of the Special Rapporteur on the situation of human rights in Afghanistan. *Office of the United Nations High Commissioner for Human Rights* [online]. 9 September 2022 [viewed 24 March 2025], p. 13. Available from: <https://docs.un.org/A/HRC/51/6>

¹⁵² AMNESTY INTERNATIONAL and ICJ. *THE TALIBAN'S WAR ON WOMEN...*, p. 21.

¹⁵³ BENNETT, R. A/79/330: Situation of human rights in Afghanistan..., p. 13.

840 cases of gender-based violence, with Taliban members implicated in over half, specifically 422 cases.¹⁵⁴

Figure 1: Number of claims of GBV allegedly perpetrated by Taliban members from January 2022 to June 2024



Source: AFGHAN WITNESS. *The Erasure of Women...*, p. 17. Available from: https://uploads.guim.co.uk/2024/08/14/240814_Erasure_of_Women.pdf

As shown in Figure 1, the largest category of reported gender-based violence cases is sexual violence, with forced marriage being one of its most distinct and systematic forms. A decree banning this practice was issued on 28 December 2021. It reaffirmed women's inheritance rights, the right to a dowry in a new marriage, and the principle that women are not property.¹⁵⁵ Despite this theoretical protection, the Guardian obtained testimony from a former prosecutor, who stated that the decree is not being enforced and claimed that since the Taliban banned girls from education, the number of forced marriages has significantly increased.¹⁵⁶ The connected issue is forced marriages of underage girls. The CIRAW recorded cases of Taliban members forcibly marrying underage girls and cases of forced marriages in detention.¹⁵⁷ The primary drivers for the rise in child marriages are worsening economic conditions and the lack of access to education for girls.¹⁵⁸ Special Rapporteur highlights a loophole in the legislation. The

¹⁵⁴ AFGHAN WITNESS. *The Erasure of Women...*, pp. 2, 16-17.

¹⁵⁵ AMNESTY INTERNATIONAL and ICJ. *THE TALIBAN'S WAR ON WOMEN...*, p. 10.

¹⁵⁶ THE GUARDIAN. 'No escape' for Afghan girls forced out of education and into early marriage. *The Guardian* [online]. 9 February 2023 [viewed 23 March 2025]. Available from: <https://www.theguardian.com/global-development/2023/feb/09/no-escape-for-afghan-girls-forced-out-of-education-and-into-early-marriage>

¹⁵⁷ AFGHAN WITNESS. *The Erasure of Women...*, p. 18.

¹⁵⁸ BENNETT, R. A/HRC/51/6: Situation of human rights in Afghanistan..., par. 31.

minimum marriage age is not legally defined, meaning that under the Shia Personal Status Law, girls younger than 15 can legally be married.¹⁵⁹

2b) Young brides face elevated risks of maternal mortality and complications due to inadequate access to healthcare.¹⁶⁰ Based on data collected by the United Nations Population Fund (UNFPA), a trained healthcare professional assists in only 14 % of births, constituting a horrific mortality rate—1 in 14 women die either during pregnancy or childbirth.¹⁶¹ Women cannot travel longer distances without a male escort (mahram), which limits their access to essential medical services. This is concerning, given that nearly 10 % of Afghanistan’s population must travel over two hours to reach a medical facility.¹⁶² In documented cases, women in labor who arrived at hospitals without a mahram were denied medical attention, leading to preventable deaths.¹⁶³ The decreasing number of women working in healthcare services further limits access to healthcare, and the situation is expected to worsen in the coming years, as women have now been banned from studying medicine and related professions (see Right to Education). In addition, women often cannot even pick up prescriptions from pharmacies without a mahram.¹⁶⁴

2c) With deteriorating living conditions, women are experiencing severe psychological distress, which in many cases is turning fatal. Suicide rates among women continue to rise, with GBV and forced marriages among the most frequent causes.¹⁶⁵ Unlike global trends, where men typically account for more suicides than women, in Afghanistan, “*around 80% of the total suicide attempts (...) are done by women.*”¹⁶⁶ Among other factors, the systematic exclusion from education and employment has fostered economic dependence, contributing to the rise of depression among women.¹⁶⁷

¹⁵⁹ BENNETT, R. A/HRC/51/6: Situation of human rights in Afghanistan..., par. 31 and 32.

¹⁶⁰ FORE, H. Girls increasingly at risk of child marriage in Afghanistan: Statement by UNICEF Executive Director Henrietta Fore. *UNICEF* [online]. 12 November 2021 [viewed 24 March 2025]. Available from: <https://www.unicef.org/press-releases/girls-increasingly-risk-child-marriage-afghanistan>

¹⁶¹ THARWANI, Z. H., ESSAR, M. Y., FARAHAT, R. A. and J. SHAH. The urgency of suicide prevention in Afghanistan: challenges and recommendations. *The Lancet Regional Health-Southeast Asia* [online]. 2022, 8 [viewed 24 March 2025]. Available from: <https://doi.org/10.1016/j.lansea.2022.100082>

¹⁶² FORE, H. Girls increasingly at risk of child marriage in Afghanistan...

¹⁶³ ZAMAN S. Despite restrictions, Afghan women provide health care. *voanews.com* [online]. 27 February 2025 [viewed 24 March 2025]. Available from: <https://www.voanews.com/a/despite-restrictions-afghan-women-provide-health-care-/7990705.html>

¹⁶⁴ Ibid.

¹⁶⁵ THARWANI, Z. H., ESSAR, M. Y., FARAHAT, R. A. and J. SHAH. The urgency of suicide prevention in Afghanistan: challenges and recommendations. *The Lancet Regional Health-Southeast Asia* [online]. 2022, 8 [viewed 24 March 2025]. Available from: <https://doi.org/10.1016/j.lansea.2022.100082>

¹⁶⁶ Ibid.

¹⁶⁷ Ibid.

3. Denial of Participation in Political, Social, Economic, and Cultural Life

3a) The Taliban systematically implemented decrees and directives stripping women and girls of all educational opportunities beyond 6th grade. On 29 August 2021, co-education was banned at all levels, prohibiting boys and girls from being educated together, and male teachers were forbidden from teaching girls.¹⁶⁸ By 17 September 2021, secondary schools were reopened only for boys. Girls' secondary education remained closed with vague, unfulfilled promises of reopening.¹⁶⁹ This pattern of postponements continued through 2022 and 2023, as exemplified by the last-minute reversal on 23 March 2022, which kept girls above 6th grade at home despite earlier announcements of school reopening.¹⁷⁰

Restrictions extended beyond school closures to outright bans on women's access to higher education and other learning environments. On 29 September 2021, women were banned from attending and teaching at Kabul University.¹⁷¹ In April 2024, strict gender segregation was mandated, requiring universities to hold classes on alternate days for male and female students, and on 29 August 2022, women were ordered to cover their faces in classrooms.¹⁷² By 20 December 2022, women were banned from public and private universities, religious learning centers, and tutoring (private) facilities.¹⁷³ This systematic denial was cemented at the beginning of 2023 by forbidding private universities from enrolling women for new semesters, excluding women from professional examinations (e.g., medical exams), and even closing institutions like the women's library in Kabul.¹⁷⁴ By May and July 2023, Afghan women were barred from participating in public university entrance exams and supplementary exams, ensuring that even those who had previously made educational progress were effectively cut off from further opportunities.¹⁷⁵ Recently, on 2 December 2024, the Taliban banned women

¹⁶⁸ ACAPS. AFGHANISTAN: Taliban directives and decrees affecting human rights and humanitarian actors. *acaps.org* [online]. 21 April 2023 [viewed 24 March 2025], p. 13. Available from: https://www.acaps.org/fileadmin/Data_Product/Main_media/20230424_acaps_thematic_report_afghanistan_taliban_directives_and_decrees_0.pdf

¹⁶⁹ Ibid.

¹⁷⁰ GREENFIELD, CH. Taliban orders girls' high schools to remain closed, leaving students in tears. *reuters.com* [online]. 24 March 2022 [viewed 24 March 2025]. Available from: <https://www.reuters.com/world/asia-pacific/taliban-orders-girl-high-schools-remain-closed-leaving-students-tears-2022-03-23/>

¹⁷¹ UNITED STATES INSTITUTE OF PEACE. Tracking the Taliban's (Mis)Treatment of Women. *usip.org* [online]. [viewed 24 March 2025]. Available from: <https://www.usip.org/tracking-talibans-mistreatment-women>

¹⁷² Ibid.

¹⁷³ ACAPS. AFGHANISTAN: Taliban directives and decrees..., p. 13.

¹⁷⁴ UNITED STATES INSTITUTE OF PEACE. Tracking the Taliban's (Mis)Treatment...

¹⁷⁵ ACAPS. AFGHANISTAN: Update on Taliban decrees and directives affecting the humanitarian response. *acaps.org* [online]. 1 December 2023 [viewed 24 March 2025], p. 5. Available from: <https://gisf.ngo/wp-content/uploads/2023/12/ACAPS-Thematic-Report-Afghanistan-Update-on-Taliban-decrees-and-directives-affecting-the-humanitarian-response-01-December-2023.pdf>

from attending medical and semi-professional institutions, including midwifery and nursing programs, eliminating one of the last avenues for women's professional education.¹⁷⁶ Beyond formal institutions, other learning environments were also restricted. Educational programs provided by foreign NGOs were banned on 8 June 2023, community-based educational centers were ordered to shut down on 13 November 2024, and specific classes supporting young girls funded by UNICEF were ordered to close on 17 November 2024.¹⁷⁷ These policies, coupled with curriculum changes (aligning education with the Taliban's interpretation of Islamic law by removing non-compliant subjects from curricula),¹⁷⁸ have profound implications, denying half the population access to knowledge and leading to significant talent and workforce gaps, especially in critical sectors like healthcare.

3b) Deeply connected to the right to education is the right to work. In the initial days following the Taliban's return to power, there were mixed messages regarding women's roles in the workforce. On 17 August 2021, a member of the Taliban's cultural commission encouraged women to join the government. However, within a week, spokesperson Zabiullah Mujahid ordered female employees, including former ministers, to stay home due to safety concerns while claiming that Taliban soldiers do not know how to behave near women and suggesting that the ban was temporary.¹⁷⁹ Instead, these assurances proved to be temporary. Throughout 2021, the Taliban implemented extensive bans that excluded women from various sectors, beginning with orders for women teachers to stay home (17 September 2021) and a ban on female staff and students at Kabul University (29 September 2021).¹⁸⁰ Female flight attendants were repeatedly ordered to stay home, including on 18 September 2021, March 2022, and 8 October 2022.¹⁸¹

By 2022, these restrictions intensified, prohibiting women from working in national and international NGOs (24 December 2022), a ban extended to Afghan women working for

¹⁷⁶ ACAPS. AFGHANISTAN: Third update on Taliban decrees and directives relevant to the humanitarian response (July–December 2024). *acaps.org* [online]. 24 December 2024 [viewed 24 March 2025], p. 7. Available from: https://www.acaps.org/fileadmin/Data_Product/Main_media/20241224_ACAPS_Afghanistan_Third_update_on_Taliban_decrees_and_directives_.pdf

FETRAT S. Afghanistan's Taliban Ban Medical Training for Women. *Human Rights Watch* [online]. 3 December 2024 [viewed 24 March 2025]. Available from: <https://www.hrw.org/news/2024/12/03/afghanistans-taliban-ban-medical-training-women>

¹⁷⁷ UNITED STATES INSTITUTE OF PEACE. Tracking the Taliban's (Mis)Treatment...

¹⁷⁸ ACAPS. AFGHANISTAN: Taliban directives and decrees..., p. 13.

¹⁷⁹ Ibid.

¹⁸⁰ Ibid.

¹⁸¹ Ibid.

UN organizations by 4 April 2023.¹⁸² However, reports show some mild exceptions in the healthcare area. A report by the Gender in Humanitarian Action (GiHA) and Humanitarian Access Group (HAG), based on data collected in March 2024 from 127 respondents representing NGOs, INGOs, and UN agencies operating in Afghanistan, shows that despite the official ban, many organizations continued to engage female staff under altered and often restrictive conditions.¹⁸³ According to the report, 45% of organizations operate partially and 27% fully with both male and female staff. 18% of female employees work remotely. Some organizations secured authorizations allowing 50% of female staff to work in the field and exemptions permitting 35% to work in office settings. National-level exemptions in the health and education sectors were partially utilized by 33% of organizations and fully by 37%. While significant operational barriers include challenges in registering gender-related projects, movement restrictions linked to dress code enforcement, and the fear of arrest reported by 60% of organizations.¹⁸⁴ However, by December 2024, the Taliban's Ministry of Economy warned NGOs that employing women would result in the suspension of activities and revocation of licenses.¹⁸⁵

Furthermore, women were pushed out of professional roles and eliminated from traditionally female-friendly sectors like beauty salons, which were entirely banned by July 2023.¹⁸⁶ The Taliban also imposed targeted bans in specific provinces and sectors, such as prohibiting female journalists from participating in TV and radio programs with male presenters (17 June 2023),¹⁸⁷ and banning female staff from private photography companies during weddings in the Faryab and Samangan provinces (25 October 2023, 19 November 2023).¹⁸⁸ By 11 November 2023, male tailors were banned from producing women's clothing in Herat.¹⁸⁹ According to the Special Rapporteur, since 31 August 2021, no women have held top leadership

¹⁸² ACAPS. AFGHANISTAN: Taliban directives and decrees..., p. 13.

¹⁸³ GiHA and HAG. Tracking Impact Report on the ban on women working with NGOs, INGOs and UN in Afghanistan - Eighth snapshot (March 2024). *UN Women* [online]. 30 April 2024 [viewed 21 May 2025]. Available from: <https://reliefweb.int/report/afghanistan/tracking-impact-report-ban-women-working-ngos-ingos-and-un-afghanistan-eighth-snapshot-march-2024>

¹⁸⁴ Ibid.

¹⁸⁵ AP. The Taliban say they will close all NGOs employing Afghan women. *edition.cnn.com* [online]. 30 December 2024 [viewed 24 March 2025]. Available from: <https://edition.cnn.com/2024/12/30/asia/afghanistan-taliban-ngos-women-intl-hnk>

¹⁸⁶ BENNETT, R. A/HRC/56/25: The phenomenon of an institutionalized system of discrimination..., par. 29.

¹⁸⁷ ACAPS. AFGHANISTAN: Update on Taliban decrees and directives..., p. 6.

¹⁸⁸ ACAPS. AFGHANISTAN: Second update on Taliban decrees and directives relevant to the humanitarian response. *acaps.org* [online]. 25 July 2024 [viewed 24 March 2025], p. 4. Available from: https://www.acaps.org/fileadmin/Data_Product/Main_media/20240725_ACAPS_Second_update_on_Taliban_Decrees_01.pdf

¹⁸⁹ Ibid.

positions in the Taliban government, been appointed to political or public office, and only a small number remain in the civil service.¹⁹⁰ In June 2024, the Taliban imposed a monthly salary of AFN 5,000 (approximately 70 USD) on former female civil servants to keep them home.¹⁹¹ Women were also excluded from the judicial system. Female judges and lawyers were removed from their positions, leaving many women vulnerable in legal matters, often unable to advocate for their rights in court.¹⁹²

3c) Women, even those employed, face severe and systematic restrictions on their freedom of movement. By December 2021, the Taliban announced that women could not travel more than 72 kilometers without a male chaperone (mahram).¹⁹³ However, enforcement of this policy is arbitrary. Women are reportedly questioned even when travelling much shorter distances without a mahram,¹⁹⁴ and mahrams (close family members) are often required to provide proof of relationship, such as marriage certificates or identification documents.¹⁹⁵ The UN Special Rapporteur reports that without a mahram, women are harassed, denied passage at checkpoints, and often cannot access essential services like healthcare or workplaces.¹⁹⁶ Public spaces are also largely off-limits. Women were banned from public spaces, such as parks, gyms, and public baths, and restricted from free movement without a “proper hijab.”¹⁹⁷ These practices have trapped many women in their homes, particularly widows or those without available male relatives.

3d) Travel outside Afghanistan (the right to leave and to return to the country) is severely curtailed. In 2022, the Taliban restricted women from traveling by ordering that women must be accompanied by a male chaperone (mahram) when boarding international or

¹⁹⁰ SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS IN AFGHANISTAN and WORKING GROUP ON DISCRIMINATION AGAINST WOMEN AND GIRLS. A/HRC/53/21: Situation of women and girls in Afghanistan. ..., par. 24.

¹⁹¹ ACAPS. AFGHANISTAN: Second update on Taliban decrees..., p. 4.

¹⁹² EUAA. Afghanistan - Country Focus. *euaa.europa.eu* [online]. 11 November 2024 [viewed 23 March 2025], p. 113. Available from: <https://euaa.europa.eu/publications/afghanistan-country-focus-0>

¹⁹³ EUAA. Afghanistan - Country Focus..., p. 102.

¹⁹⁴ DAVIDIAN, A. Back to basics: Fighting for women’s rights under the Taliban. *UN Women* [online]. 17 September 2024 [viewed 24 March 2025]. Available from: <https://www.unwomen.org/en/news-stories/op-ed/2024/09/back-to-basics-fighting-for-womens-rights-under-the-taliban>

¹⁹⁵ BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR. 2023 Country Reports on Human Rights Practices: Afghanistan. *U.S. Department of State* [online]. 2023 [viewed 24 March 2025]. Available from: <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/afghanistan/>

¹⁹⁶ SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS IN AFGHANISTAN and WORKING GROUP ON DISCRIMINATION AGAINST WOMEN AND GIRLS. A/HRC/53/21: Situation of women and girls in Afghanistan. ..., par. 54.

¹⁹⁷ *Ibid.*, par. 51 and 55.

domestic flights.¹⁹⁸ Beyond chaperone requirements, obtaining an Afghan passport is reportedly "*virtually impossible*."¹⁹⁹ Afghanistan's legal documentation system has historically struggled with inefficiency, corruption, and limited accessibility, particularly in rural areas.²⁰⁰ Acquiring an ID or a passport requires presenting birth certificates, proof of residence, and other legal documents that women may not have or cannot easily obtain without male assistance.²⁰¹ The Taliban's restrictions on female employment in government offices mean that women seeking documentation often find themselves in uncomfortable or inaccessible environments.²⁰² Without legal identification, Afghan women are unable to travel, work, exercise their right to nationality (e.g., change their nationality), or access essential services such as healthcare and education. Without an ID (tazkira), they cannot obtain passports, blocking any chance to seek asylum or escape persecution.²⁰³ This lack of documentation also makes them vulnerable to exploitation, including forced marriage and human trafficking, as they cannot legally prove their age or identity.²⁰⁴

3e) Beyond the mentioned restrictions, the Taliban systematically enforces strict dress codes and appearance regulations (freedom of expression). On 26 December 2021, drivers were banned from transporting female passengers who were not wearing a hijab.²⁰⁵ The Taliban's Ministry for the Propagation of Virtue and Prevention of Vice (MPVPV), known for its role in restricting women's freedoms, issued a five-point directive for government employees outlining dress requirements for both genders on 22 February 2022.²⁰⁶ Based on this directive, women working in government offices were required to wear the Islamic hijab, gender-segregated workspaces were mandated, and male employees were instructed to maintain an appearance that followed the "prophetic way." Female visitors without proper hijab were denied entry to government buildings, and repeated violations led to warnings, detentions, and legal consequences.²⁰⁷ Beyond workplace regulations, dress codes for women in public spaces have

¹⁹⁸ EUAA. Afghanistan - Country Focus..., pp. 102-103.

¹⁹⁹ HUTCHINSON, S. Afghan Women's Rights Defenders. *Australian Institute of International Affairs* [online]. 9 March 2023 [viewed 24 March 2025]. Available from:

<https://www.internationalaffairs.org.au/australianoutlook/afghan-womens-rights-defenders/>

²⁰⁰ HALL, S. Afghans' Right to Identity: The Quest For Legal Documentation in Afghanistan. *Samuel Hall Stories* [online]. 16 August 2023 [viewed 24 March 2025]. Available from: <https://medium.com/samuel-hall-stories/afghans-right-to-identity-the-quest-for-legal-documentation-in-afghanistan-68b0ffd141b1>

²⁰¹ HUTCHINSON, S. Afghan Women's Rights Defenders...

²⁰² HALL, S. Afghans' Right to Identity: The Quest For Legal Documentation...

²⁰³ Ibid,

²⁰⁴ MEHRAN, M. Recognition of Gender Apartheid in Afghanistan..., pp. 11-12.

²⁰⁵ Ibid., p. 13.

²⁰⁶ ACAPS. AFGHANISTAN: Taliban directives and decrees..., p. 7.

²⁰⁷ Ibid., p. 14.

intensified. On 7 May 2022, an inter-ministerial committee introduced an official hijab standard, defining acceptable forms of coverings and instructing authorities on enforcing compliance.²⁰⁸ Over time, provincial-level decrees have further tightened these restrictions.

Other measures aimed at silencing women's voices include the ban on women appearing in television dramas (21 November 2021)²⁰⁹, the requirement that female students cover their faces on campus (29 August 2022)²¹⁰, and media directives mandating that female TV guests also cover their faces (26 September 2022).²¹¹ The Taliban has further restricted social and cultural expression by prohibiting singing, dancing, and clapping at weddings. In January 2024, a new directive in Nangarhar banned these traditions, threatening punishment for both women and their male guardians.²¹² Most notably, the controversial and heavily discussed Law on the Propagation of Virtue and Prevention of Vice (LPVPV) was codified in July 2024. Under Articles 13 and 14 of the LPVPV, the Taliban further codified dress codes and behavioral regulations. The law mandates entire body covering for women, prohibits thin, short, or tight clothing, and requires women to hide their faces to “*prevent social disorder.*”²¹³ In public, women's voices must be concealed. Singing, reciting hymns, or speaking loudly at gatherings is prohibited.²¹⁴

3f) The systemic suppression of women's rights extends beyond expression to encompass a complete denial of the right to peaceful assembly and association. On 8 September 2021, the Ministry of Interior issued a decree banning all demonstrations and gatherings.²¹⁵ While this decree did not explicitly mention gender, its enforcement has been heavily gendered, primarily targeting women's protests. The regime has used excessive force to suppress demonstrations, including gunfire, tear gas, electroshocks, whipping, and physical beatings. Women protesters and their families have been subjected to arbitrary arrests, cruel punishments, and torture.²¹⁶ The Taliban has also attacked journalists covering these protests, seizing their equipment and suppressing media coverage of the women's rights movement.²¹⁷ As an example, on 27 September 2023, Taliban security forces arrested Julia Parsi, a prominent

²⁰⁸ ACAPS. AFGHANISTAN: Taliban directives and decrees..., pp. 7, 14.

²⁰⁹ Ibid., p. 13.

²¹⁰ MEHRAN, M. Recognition of Gender Apartheid in Afghanistan..., p. 14.

²¹¹ Ibid.

²¹² ACAPS. AFGHANISTAN: Second update on Taliban decrees..., pp. 7-8.

²¹³ ACAPS. AFGHANISTAN: Third update on Taliban decrees..., p. 8.

²¹⁴ Ibid.

²¹⁵ MEHRAN, M. Recognition of Gender Apartheid in Afghanistan..., p. 15.

²¹⁶ Ibid.

²¹⁷ Ibid.

women's rights activist and the founder of a grassroots women's protest movement. Her detention followed the arrest of her colleague, Neda Parwani, highlighting the regime's targeted strategy to dismantle leadership within the women's protest movement.²¹⁸ Furthermore, the Taliban has curtailed freedom of association by restricting the operation of political parties and opposition groups since its takeover. On 16 August 2023, the Taliban's Minister of Justice declared a ban on political parties, attributing the country's historical conflicts to their existence.²¹⁹

4. Segregation

4a) Segregation as an inhuman act is closely linked to the aforementioned restrictions. Initially, women got separated from the rest of the population. Over time, the word "excluded" gained popularity. In 2023, the Special Rapporteur stated that women "*are excluded from all forms of participation in political and public life.*"²²⁰ This physical and social exclusion is evident in severe restrictions on their rights to study, work, receive healthcare, move freely, express themselves, and participate in legal systems. For instance, gender-segregated workspaces are mandated for government employees, and women have been systematically removed from government roles, NGOs, and most jobs, including teaching positions and female flight attendants. Education is also heavily segregated, with co-education banned, dress code restrictions for girls, and education banned beyond 6th grade for girls and women.

4b) Furthermore, the Taliban has implemented stringent public space restrictions, confining women primarily to private domains. In April 2022, women could only visit public parks on two specific days.²²¹ However, as this segregation could not be consistently enforced, the Taliban eventually banned women from entering parks altogether. By November 2022, women and girls were prohibited from accessing public parks and sports venues (e.g., gyms).²²² These restrictions, coupled with a ban on women using public baths, not only impacted women's physical and mental health but also reinforced their confinement to private spaces.²²³ More recently, in December 2024, Taliban officials decreed a ban on constructing windows in

²¹⁸ BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR. 2023 Country Reports on Human...

²¹⁹ Ibid.

²²⁰ SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS IN AFGHANISTAN and WORKING GROUP ON DISCRIMINATION AGAINST WOMEN AND GIRLS. A/HRC/53/21: Situation of women and girls in Afghanistan..., par. 28.

²²¹ MEHRAN, M. Recognition of Gender Apartheid in Afghanistan..., p. 15.

²²² Ibid.

²²³ ACAPS. AFGHANISTAN: Taliban directives and decrees..., pp. 8, 14.

residential buildings that have a view of areas “usually used by women,” such as kitchens, courtyards, etc. They also ordered existing windows to be blocked.²²⁴

4c) In the healthcare sector, strict gender segregation prevents patients from receiving treatment from healthcare workers of the opposite sex.²²⁵ Further exacerbating this crisis, ACAPS researchers reported that in May 2023, women were entirely banned from accessing healthcare facilities in Kandahar province. However, they added that the ban was only announced verbally and could not be independently verified.²²⁶

5. Exploitation and Forced Labor

5a) With all these bans in practice, Afghan women face severe exploitation and forced labor. The Taliban’s decrees restricting women’s rights to work, education, clothing, and freedom of movement have forced many women into the informal labor market, where they endure poor working conditions and low pay, constituting labor exploitation.²²⁷

5b) The 2023 Trafficking in Persons Report highlights that the Taliban detain women, including sex trafficking victims accused of “moral crimes,” and compel them into forced labor within detention facilities. These women face harsh treatment with little to no legal recourse.²²⁸

5c) Beyond detention centers, economic hardship resulting from the Taliban’s gender-based restrictions has forced many families into desperate situations. The widespread poverty and economic vulnerability have led to a surge in child and forced marriages, as families marry off their daughters to reduce financial burdens or secure dowries.²²⁹ Many Afghan women and girls are trafficked into forced marriages, sexual exploitation, and domestic servitude, also across borders to India, Iran, and Pakistan.²³⁰ In January 2022, UN experts expressed deep concerns

²²⁴ NEWS WIRES. Taliban leader bans windows overlooking places 'usually used by women'. france24.com [online]. 29 December 2024 [viewed 24 March 2025]. Available from: <https://www.france24.com/en/live-news/20241229-taliban-leader-bans-windows-overlooking-women-s-areas>

²²⁵ MACDONALD KC, A., JURATOWITCH KC, B., SANDER, A. and N. HART. RE: CRIME OF GENDER APARTHEID. *ishr.ch* [online]. 6 March 2023 [viewed 24 March 2025], p. 9. Available from: <https://ishr.ch/wp-content/uploads/2023/06/Gender-apartheid.-Final-2023-03-06-1.pdf>

²²⁶ ACAPS. AFGHANISTAN: Update on Taliban decrees and directives..., p. 3.

²²⁷ OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS. 2023 Trafficking in Persons Report: Afghanistan. *U.S. Department of State* [online]. 2023 [viewed 24 March 2025]. Available from: <https://www.state.gov/reports/2023-trafficking-in-persons-report/afghanistan/>

²²⁸ Ibid.

²²⁹ IOM. Child Marriage, Drug Smuggling and Forced Prostitution — An Afghan Trafficking Experience. *weblog.iom.int* [online]. [viewed 24 March 2025]. Available from: <https://weblog.iom.int/child-marriage-drug-smuggling-and-forced-prostitution-afghan-trafficking-experience>

²³⁰ Ibid.

over the increasing exploitation of women and girls, including trafficking for forced marriages, sexual exploitation, and forced labor.²³¹

6. Persecution of Dissenters

6a) Finally, as was already outlined, data show that the Taliban is systematically targeting those opposing the regime, whether protesters, activists, human rights defenders, journalists, or former government officials.²³² Protesters face intimidation, violence, arbitrary arrests, imprisonments, and sometimes even enforced disappearances, with the UN documenting numerous such cases.²³³ Detained protesters are frequently subjected to torture, inhuman treatment, and gender-based violence, including sexual violence, while in custody.²³⁴ One of the most high-profile cases of arbitrary arrest and detention occurred in January 2022 when two prominent women's human rights defenders and protesters, Tamana Paryani and Parwana Ibrahimkhel, were abducted from their homes after participating in peaceful protests in Kabul. Witnesses reported that Taliban fighters forcibly entered their homes and took them away, with their whereabouts remaining unknown for weeks.²³⁵

6b) Journalists in Afghanistan face severe restrictions, threats, harassment, and detention under Taliban rule, especially those reporting on human rights and violations against women and girls.²³⁶ **6c)** Political opponents, particularly those affiliated with the former government, remain key targets of the Taliban regime. Numerous documented cases of deaths among former officials have been reported, although the Taliban consistently denies responsibility.²³⁷ In

²³¹ UNHR OHCHR. Afghanistan: Taliban attempting to steadily erase women and girls from public life – UN experts. *Office of the United Nations High Commissioner for Human Rights* [online]. 17 January 2022 [viewed 24 March 2025]. Available from: <https://www.ohchr.org/en/press-releases/2022/01/afghanistan-taliban-attempting-steadily-erase-women-and-girls-public-life-un>

²³² ETILAATROZ. In the Dungeon of Suffering: A Report on the Arrest, Torture...

²³³ SPECIAL RAPporteur ON THE SITUATION OF HUMAN RIGHTS IN AFGHANISTAN and WORKING GROUP ON DISCRIMINATION AGAINST WOMEN AND GIRLS. A/HRC/53/21: Situation of women and girls in Afghanistan..., par. 29.

²³⁴ Ibid., par. 30.

²³⁵ GOSSMAN, P. Afghan Women's Rights Activists Forcibly Disappeared: Unacknowledged Detentions Increase Risks of Harm. *Human Rights Watch* [online]. 24 January 2022 [viewed 24 March 2025]. Available from: <https://www.hrw.org/news/2022/01/24/afghan-womens-rights-activists-forcibly-disappeared>

²³⁶ SPECIAL RAPporteur ON THE SITUATION OF HUMAN RIGHTS IN AFGHANISTAN and WORKING GROUP ON DISCRIMINATION AGAINST WOMEN AND GIRLS. A/HRC/53/21: Situation of women and girls in Afghanistan..., par. 73.

²³⁷ RFE/RL. Taliban Denies Summary Killings Of Former Members Of Afghan Security Forces. *rferl.org* [online]. 5 December 2021 [viewed 24 March 2025]. Available from: <https://www.rferl.org/a/afghanistan-taliban-amnesty-killings-/31594380.html>

November 2021, the HRW reported that the Taliban was actively executing and “disappearing” former government officials, including police officers and intelligence officers.²³⁸

2.3 Applicability of the Concept of Gender Apartheid to Taliban Rule

In Afghanistan, the Taliban regime meets and exceeds the criteria for a system of apartheid. This underscores its status as one of the clearest and most extreme contemporary cases of gender apartheid. The following section will address each criterion individually.

(i) Commission of inhuman acts against one gender group, with an emphasis on segregation and exclusion

The Taliban’s policies amount to widespread and systematic violations of women’s fundamental rights, aligning with the “inhuman acts” outlined in the Apartheid Convention. Women are victims of murders, extrajudicial killings, arbitrary arrests, detentions, enforced disappearances, trafficking, torture, ill-treatment, sexual and gender-based violence, including forced marriages, sexual assaults, rape, etc. Their political, social, economic, and cultural rights are severely restricted. Women do not have access to education or employment, and their freedoms, including freedom of movement, expression, peaceful assembly, and association, are limited. They face segregation and exclusion in public spaces, healthcare, dress codes, and other areas. Women in Afghanistan are practically erased from public life.

(ii) Institutionalized regime

The system is not informal or incidental. It is legally codified and strictly enforced. For instance, the institutionalized character is evident from the constant issuance of new restrictive, legally binding decrees or the replacement of the Ministry of Women’s Affairs with the Ministry for the Promotion of Virtue and Prevention of Vice, an institution responsible for creating and enforcing gender-based restrictions. Furthermore, numerous examples throughout this chapter illustrate the enforcement of decrees, including arbitrary arrests of women for participating in protests or traveling without a mahram.

(iii) Regime of Systemic discrimination, oppression, and domination by one gender group over another

²³⁸ HRW. Afghanistan: Taliban Kill, ‘Disappear’ Ex-Officials: Raids Target Former Police, Intelligence Officers. *Human Rights Watch* [online]. 30 November 2021 [viewed 24 March 2025]. Available from: <https://www.hrw.org/report/2021/11/30/no-forgiveness-people-you/executions-and-enforced-disappearances-afghanistan>

This aspect is evident in the sweeping nature of the bans and the consistency with which they are enforced across the country. Women are systematically segregated from participation in political life as well as public life and severely punished for violations, even alleged ones. Essentially, the Taliban's restrictive policies dictate who women can see, where they can go, how they must dress, and whether they can access education or employment. This is underscored by the fact that in Afghanistan, men hold absolute power over women. Issued decrees position men as enforcers of Taliban laws, granting them authority (domination) over women's behavior and compliance.

(iv) Intent to maintain the regime:

The intent to dominate women is unequivocal. The ideology is built on the premise that women are inferior and must be kept out of sight and under control. The Taliban regime's continuous expansion of gender-based restrictions since 2021 demonstrates a clear intent to keep this system indefinitely. Their leaders have defended these policies, citing religious and ideological reasons,²³⁹ and have remained unmoved by international pressure to reverse their actions. They have persistently escalated restrictions over time rather than showing any willingness to ease them.

We have established that the situation in Afghanistan constitutes gender apartheid, and as such, should be recognized as a crime against humanity and formally codified in international law, much like racial apartheid in South Africa. International legal recognition of racial apartheid would not only acknowledge the severe violations of fundamental human rights and peremptory (*jus cogens*) norms but would also play a crucial role in exerting international pressure and supporting the eventual dismantling of the apartheid regime. Establishing a comparable legal framework for gender apartheid could similarly enhance the international community's ability to confront and challenge this institutionalized, systemic gender-based oppression, particularly in today's Taliban. Such recognition would provide actors like the European Union with stronger normative instruments to respond. The following chapter examines how the EU mobilizes its external governance toolbox—particularly through the mechanisms of linkage and leverage—to engage with and influence the gender situation in Afghanistan under this evolving normative landscape.

²³⁹ MEHRAN, M. Recognition of Gender Apartheid in Afghanistan..., p. 19.

3 Analysis of the EU’s Response to Gender Apartheid in Afghanistan (post-2021)

Upon the Taliban’s takeover in 2021, the European Union formulated a response that aimed to balance its principled defense of Afghan women’s and girls’ rights—a stance increasingly articulated through the use of the term “gender apartheid”—with the pragmatic challenge of its limited influence over the Taliban.

3.1 Typology of EU Measures in Response to Taliban Governance

The EU’s actions from August 2021 to January 2025 can be categorized into several interrelated strands, reflecting this dual objective.

Table 5: Mechanisms used by the EU to influence the Taliban

EU actions (divided into groups)	Specific EU actions	Mechanism of the EU External Governance / Leverage and Linkage
1) Diplomatic Condemnation and High-Level Statements	<ul style="list-style-type: none"> - Use of “gender apartheid” by EU leaders - European Parliament resolutions explicitly use the label “gender apartheid” - Council of the EU’s statements - Dialogue with the Taliban officials - UN engagement and resolutions - Support for ICC and ICJ actions 	<ul style="list-style-type: none"> - Intergovernmental Socialization - Leverage and Linkage
2) Condemnation, Non-Recognition, and Sanctions	<ul style="list-style-type: none"> - No official recognition of the Taliban - Conditional aid - Political benchmarks - Sanctions on Taliban officials (UN and Global Human Rights Sanctions Regime) 	<ul style="list-style-type: none"> - Intergovernmental Conditionality - Leverage
3) Support to Afghan Civil Society, NGOs, and Afghan Women	<ul style="list-style-type: none"> - Redirected humanitarian aid - Education and health programs - Scholarship and regional education funding - Support for civil society and platforms - Evacuation and asylum support 	<ul style="list-style-type: none"> - Transnational incentives and transnational socialization - Linkage

Source: own research

The specific EU actions and mechanisms outlined in Table 5 are further detailed in the following sections.

1. Diplomatic Condemnation and High-Level Statements

From the Taliban's return to power, the EU has consistently condemned their restrictions on women's rights, increasingly framing them as "gender apartheid." High Representative Josep Borrell explicitly used the term at international forums, such as the UN-NGO Forum for Human Rights²⁴⁰ and United Nations Security Council (UNSC) sessions,²⁴¹ legitimizing it in diplomatic discourse. For example, in December 2023, Josep Borrell stated: "*I think this is a good way of calling what is happening there: a "gender apartheid". Not by the colour of the skin, but by gender.*"²⁴²

The European Parliament (EP) has passed multiple resolutions on Afghanistan that decry the Taliban's actions and formally recognize those actions as "gender apartheid." While non-binding, these resolutions influence EU policy and discourse by keeping Afghanistan on the agenda, pressuring the European Commission, European Council, and member states, and advocating sanctions and legal actions against the Taliban. In a September 2021 resolution, the EP urged to end human rights violations, especially those targeting women and girls, and called for protection of their "*rights to education, work, sport, free movement, assembly and association.*"²⁴³ It condemned the dismantling of the Ministry of Women's Affairs, called for sanctions under the EU's Global Human Rights Sanctions Regime, and advocated for an UN investigation (a "*fact-finding mission*") of Taliban human rights violations.²⁴⁴ Through the April 2022 resolution, the EP condemned the Taliban's repression of women's rights, called for the release of detained women activists, demanded full rights for women, including education and healthcare, and reaffirmed the EU's policy of non-recognition.²⁴⁵ By November 2022, an EP resolution stated that the situation "*currently qualifies as a gender apartheid*".²⁴⁶ In a subsequent resolution from April 2023, the EP strongly condemned gender-based

²⁴⁰ EEAS. Human Rights: Speech by High Representative/Vice-President Josep Borrell at the 25th EU-NGO Forum for Human Rights. *eeas.europa.eu* [online]. 4 December 2023 [viewed 24 May 2025]. Available from: https://www.eeas.europa.eu/eeas/human-rights-speech-high-representativevice-president-josep-borrell-25th-eu-ngo-forum-human-rights_en

²⁴¹ EEAS. United Nations: Speech by High Representative Josep Borrell at the annual UN Security Council session on EU-UN cooperation. *eeas.europa.eu* [online]. 12 March 2024 [viewed 24 May 2025]. Available from: https://www.eeas.europa.eu/eeas/united-nations-speech-high-representative-josep-borrell-annual-un-security-council-session-eu-un_en

²⁴² EEAS. Human Rights: Speech by High Representative/Vice-President...

²⁴³ European Parliament Resolution n. 2021/2877(RSP) on the situation in Afghanistan from 16 September 2021, par. 9.

²⁴⁴ *Ibid.*, par. H and 10.

²⁴⁵ European Parliament Resolution n. 2022/2571(RSP) on the situation in Afghanistan, in particular the situation of women's rights, from 7 April 2022, par. 9.

²⁴⁶ European Parliament Resolution n. 2022/2955(RSP) on the human rights situation in Afghanistan, especially the deterioration of women's rights and attacks against educational institutions from 24 November 2022, par. 2.

persecution, the prohibition of female education at the secondary and university levels, as well as the ban on women's employment in NGOs and the United Nations.²⁴⁷ In October 2023, the EP explicitly condemned the “*policy of gender apartheid*.”²⁴⁸ It also reiterated its call for a UN-led accountability mechanism.²⁴⁹ A March 2024 resolution labeled women's erasure from public life as amounting to gender persecution and gender apartheid.²⁵⁰ The most current resolution from September 2024 condemned the Taliban's new so-called “morality law” (LPVPV) and called on “*the EU to support the recognition of gender apartheid as a crime against humanity*.”²⁵¹ The EP further emphasized the need for an ICC investigation, the existence of the UN Independent Investigative Mechanism, and new sanctions against the Taliban officials.²⁵²

The Council of the EU and the HR/VP (on behalf of the EU) have issued numerous statements condemning the Taliban's women's rights violations, labeling them as “institutionalized” and “systematic.” These declarations serve as the official voice of the EU's 27 member states, reinforcing international pressure and aligning with UN efforts to highlight Afghanistan's human rights situation. The Council's early response focused on advocating for an inclusive government and protecting women's rights.²⁵³ Later, the response shifted to explicit condemnation of policies like the ban on girls' secondary education (March 2022)²⁵⁴ and women's university education (December 2022).²⁵⁵ On 20 March 2023, the EU adopted

²⁴⁷ European Parliament Resolution n. 2023/2648(RSP) on the crackdown on the right to education and education rights activists in Afghanistan, including the case of Matiullah Wesa from 20 April 2023, par. 3.

²⁴⁸ European Parliament Resolution n. 2023/2881(RSP) on the human rights situation in Afghanistan, in particular the persecution of former government officials, from 5 October 2023, par. 1.

²⁴⁹ Ibid., par. 3.

²⁵⁰ European Parliament Resolution n. 2024/2617(RSP) on the repressive environment in Afghanistan, including public executions and violence against women, from 14 March 2024, par. 2.

²⁵¹ European Parliament Resolution n. 2024/2803(RSP) on the deteriorating situation of women in Afghanistan due to the recent adoption of the law on the “Promotion of Virtue and Prevention of Vice” from 19 September 2024, par. 7.

²⁵² Ibid.

²⁵³ COUNCIL OF THE EU. Afghanistan: Declaration by the High Representative on behalf of the European Union. *consilium.europa.eu* [online]. 17 August 2021 [viewed 24 May 2025]. Available from: <https://www.consilium.europa.eu/en/press/press-releases/2021/08/17/afghanistan-declaration-by-the-high-representative-on-behalf-of-the-european-union/>

²⁵⁴ COUNCIL OF THE EU. Afghanistan: Declaration by the High Representative on behalf of the European Union calling for the immediate re-opening of secondary schools for girls. *consilium.europa.eu* [online]. 28 March 2022 [viewed 24 May 2025]. Available from: <https://www.consilium.europa.eu/en/press/press-releases/2022/03/28/afghanistan-declaration-by-the-high-representative-on-behalf-of-the-european-union-calling-for-the-immediate-re-opening-of-secondary-schools-for-girls/>

²⁵⁵ COUNCIL OF THE EU. Afghanistan: Statement by the High Representative on behalf of the European Union on additional restrictions by the Taliban to the right of education of girls and women. *consilium.europa.eu* [online]. 21 December 2022 [viewed 24 May 2025]. Available from: <https://www.consilium.europa.eu/en/press/press-releases/2022/12/21/afghanistan-statement-by-the-high-representative-on-behalf-of-the-european-union-on-additional-restrictions-by-the-taliban-to-the-right-of-education-of-girls-and-women/>

conclusions strongly condemning the Taliban's systemic violations of human rights, particularly the institutionalized discrimination against women and girls, calling it unparalleled globally.²⁵⁶ They also denounced the ban on women working for the national and NGOs.²⁵⁷ By 26 August 2024, the EU took the strongest stance yet, declaring that these systematic abuses could amount to gender persecution, a crime under the Rome Statute of the International Criminal Court (ICC), to which Afghanistan is a State Party.²⁵⁸

Even though it denounced the Taliban's actions, the EU maintained a few channels for dialogue. EU Special Envoy for Afghanistan Tomas Niklasson and EU officials met Taliban representatives in Doha (where the Taliban have a political office).²⁵⁹ They also met during gatherings like the Oslo talks in January 2022 (hosted by Norway) to discuss humanitarian aid and human rights, including women's rights. This meeting brought together Taliban delegates, Western diplomats, and Afghan civil society members.²⁶⁰

At the United Nations, EU representatives were active in shaping resolutions (initiating and drafting) and issuing statements condemning the Taliban's policies. At UNHRC, a resolution 48/1 (October 2021) established the mandate of a UN Special Rapporteur on the situation of human rights to monitor human rights violations in Afghanistan, particularly those affecting women and girls.²⁶¹ Subsequent resolutions (51/20 in 2022, 54/1 in 2023, and 57/3 in 2024) increasingly adopted stronger language, identifying the Taliban's policies as potential crimes against humanity (gender persecution).²⁶² Currently, discussions are underway on establishing an independent investigation mechanism as a next step towards Taliban

²⁵⁶ COUNCIL OF THE EU. Afghanistan: Council approves conclusions. *consilium.europa.eu* [online]. 20 March 2023 [viewed 24 May 2025]. Available from: <https://www.consilium.europa.eu/en/press/press-releases/2023/03/20/afghanistan-council-approves-conclusions-on-afghanistan/>

²⁵⁷ COUNCIL OF THE EU. Afghanistan – Council conclusions (20 March 2023). *data.consilium.europa.eu* [online]. 20 March 2023 [viewed 24 May 2025]. Available from: <https://data.consilium.europa.eu/doc/document/ST-7264-2023-INIT/en/pdf>

²⁵⁸ COUNCIL OF THE EU. Afghanistan: Statement of the High Representative on behalf of the EU on latest restrictions imposed by the Taliban on the people. *consilium.europa.eu* [online]. 26 August 2024 [viewed 24 May 2025]. Available from: <https://www.consilium.europa.eu/en/press/press-releases/2024/08/26/afghanistan-statement-of-the-high-representative-on-behalf-of-the-eu-on-latest-restrictions-imposed-by-the-taliban-on-the-people/>

²⁵⁹ EEAS. Afghanistan: EU held talks in Doha with representatives of the Taliban declared Afghan interim government. *eeas.europa.eu* [online]. 28 November 2021 [viewed 24 May 2025]. Available from: https://www.eeas.europa.eu/eeas/afghanistan-eu-held-talks-doha-representatives-taliban-declared-afghan-interim-government_en

²⁶⁰ EURACTIV and AFP. Taliban, Western officials meet for talks in Oslo. *euractiv.com* [online]. 24 January 2022 [viewed 24 May 2025]. Available from: <https://www.euractiv.com/section/politics/news/taliban-western-officials-meet-for-talks-in-oslo/>

²⁶¹ UN Human Rights Council Resolution n. A/HRC/RES/48/1 from 13 October 2021, PP. 12.

²⁶² UN Human Rights Council Resolution n. A/HRC/54/L.16 from 6 October 2023, OP. 12, PP. 22.

accountability.²⁶³ However, the EU's efforts to clearly define this mechanism (or generally strengthen language) in resolutions are inherently constrained by the need to navigate diverse political interests, reach consensus among member states, and accommodate geopolitical sensitivities through compromise. Apart from resolutions, the EU delivers statements on international forums. During the 78th UNGA session in October 2023, the EU condemned the systematic oppression of women and stated it may constitute gender-based persecution, a crime against humanity under the Rome Statute.²⁶⁴ At UNGA 79 (fall 2024), the EU delegation supported a joint statement on the situation of Afghan women and girls, which warned of severe economic costs to Afghanistan of excluding women.²⁶⁵ However, the Taliban routinely dismisses such external statements as interference in Afghan internal affairs, calling the international statements a “*failed policy of pressure.*”²⁶⁶

Furthermore, the EU and several member states support holding the Taliban accountable through international legal mechanisms. In January 2025, the ICC Prosecutor filed arrest warrant applications naming the Taliban Supreme Leader and Chief Justice for “*the crime against humanity of persecution on gender grounds.*”²⁶⁷ Nine countries, including four EU member states (France, Denmark, Greece, and Slovenia), officially expressed their support for the ICC's request for arrest warrants against two senior Taliban leaders.²⁶⁸ In September 2024, a coalition of Germany, the Netherlands (EU member states), Canada, and Australia filed a case at the ICJ, the first-ever case when “*one country takes another to the (...) ICJ (...) for its*

²⁶³ AMNESTY INTERNATIONAL. Geneva: UN HRC resolution on Afghanistan fails to deliver an adequate response to the escalating human rights crisis. *amnesty.org* [online]. 10 October 2024 [viewed 24 May 2025]. Available from: <https://www.amnesty.org/en/latest/news/2024/10/geneva-un-hrc-resolution-on-afghanistan-fails-to-deliver-an-adequate-response-to-the-escalating-human-rights-crisis/>

²⁶⁴ DELEGATION TO THE UN IN NEW YORK. EU Intervention – UN General Assembly 3rd Committee: Interactive dialogue on Human Rights in Afghanistan. *eeas.europa.eu* [online]. 24 October 2023 [viewed 24 May 2025]. Available from: https://www.eeas.europa.eu/delegations/un-new-york/eu-intervention-%E2%80%93-un-general-assembly-3rd-committee-interactive-dialogue-human-rights-afghanistan_en

²⁶⁵ DELEGATION TO THE UN IN NEW YORK. UNGA 79 Joint Statement on the situation of women and girls in Afghanistan. *eeas.europa.eu* [online]. 8 October 2024 [viewed 24 May 2025]. Available from: https://www.eeas.europa.eu/delegations/un-new-york/unga-79-joint-statement-situation-women-and-girls-afghanistan_en

²⁶⁶ AFP. Taliban leader says ‘pressure’ won’t work after UN blasts its treatment of women. *timesofisrael.com* [online]. 28 April 2023 [viewed 24 May 2025]. Available from: <https://www.timesofisrael.com/taliban-leader-says-pressure-wont-work-after-un-blasts-its-treatment-of-women/>

²⁶⁷ JELEN, B. EU Court Recognizes Taliban's Discriminatory Measures Against Afghan Women as Acts of Persecution. *asil.org* [online]. 28 April 2023 [viewed 24 May 2025]. Available from: <https://www.asil.org/ILIB/eu-court-recognizes-talibans-discriminatory-measures-against-afghan-women-acts-persecution>

²⁶⁸ SIRAT, S. Nine countries back ICC request for arrest warrants against Taliban leaders. *amu.tv* [online]. 11 March 2025 [viewed 24 May 2025]. Available from: <https://amu.tv/162347/>

violations of CEDAW and gender persecution.”²⁶⁹ As the first legal action of this kind since the Taliban’s takeover, Afghanistan is expected to have six months to respond before the ICJ holds a hearing, during which provisional measures may be considered.²⁷⁰ Advocates argue that even if the Taliban refuses to accept the ICJ’s authority, a ruling by the court could discourage other countries from establishing diplomatic relations with them since states that recognize the ICJ are expected to follow its decisions.²⁷¹ As of June 2025, no publicly available information indicates that Afghanistan has responded to the legal proceedings. Overall, these actions lay the groundwork for justifying stronger actions.

2. Conditionality, Non-Recognition and Sanctions

The EU has coupled its words with policy measures that signal zero tolerance for the Taliban’s gender apartheid. Early on, the EU, like other international actors, e.g., the United States of America, has begun leveraging diplomatic instruments to advocate for women’s rights in Afghanistan.²⁷² Employing mechanisms such as the rejection of formal recognition, coupled with conditional engagement, the suspension of development aid, and sanctions against Taliban officials.

The EU has maintained a consistent policy of withholding formal diplomatic recognition from Afghanistan’s self-declared government and explicitly conditioned any potential future engagement on progress concerning the rights of Afghan women and girls. On 21 September 2021, the Council of the EU adopted conclusions outlining five benchmarks guiding future engagement with the Taliban without legitimizing the regime, with the rights of women and girls singled out as “*of a particular concern*.”²⁷³ Specifically, these five conditions include 1) safe passage of foreign nationals and at-risk Afghans, 2) respect human rights (particularly for women, girls, children, and minorities, upholding the rule of law and freedom of speech and

²⁶⁹ FMF STAFF. Four Countries Take Afghanistan to the International Court of Justice Over Violations of CEDAW. *feminist.org* [online]. 30 September 2024 [viewed 24 May 2025]. Available from: <https://feminist.org/news/four-countries-to-take-taliban-to-the-international-court-of-justice-over-gender-apartheid/>

²⁷⁰ WINTOUR, P. Taliban to be taken to international court over gender discrimination. *The Guardian* [online]. 25 September 2024 [viewed 24 May 2025]. Available from: <https://www.theguardian.com/world/2024/sep/25/taliban-to-be-taken-to-international-court-over-gender-discrimination>

²⁷¹ Ibid.

²⁷² MALEJACQ, R. and N. TERPSTRA. Why International Leverage Has Failed With the Taliban. *lawfaremedia.org* [online]. 30 July 2023 [viewed 24 May 2025]. Available from: <https://www.lawfaremedia.org/article/why-international-leverage-has-failed-with-the-taliban>

²⁷³ COUNCIL OF THE EU. Council conclusions on Afghanistan. *data.consilium.europa.eu* [online]. 15 September 2021 [viewed 24 May 2025], par. 7 and 9. Available from: <https://data.consilium.europa.eu/doc/document/ST-11713-2021-REV-2/en/pdf>

media), 3) humanitarian aid access, 4) counterterrorism, and 5) inclusive government.²⁷⁴ The HR/VP described this as “*an operational engagement [that] will increase depending on the behaviour of this government.*”²⁷⁵ The EU was dangling the possibility of greater engagement (and potentially aid or other benefits) if the Taliban moderated their policies. This reflects the classic leverage strategy: using conditional inducements.

Another form of leverage the EU has used is financial. Afghanistan had been the world's largest recipient of EU development assistance between 2002 and 2021, when the EU and its members contributed around €12.8 billion to Afghanistan's reconstruction, making Europe collectively the top donor (even more than the U.S. in multilateral aid).²⁷⁶ This aid was premised on Afghanistan's (imperfect) progress toward democracy and human rights.²⁷⁷ Following the takeover, the EU suspended all development aid to Afghanistan, freezing €1.2 billion in pledged funding for 2021–2024.²⁷⁸ Member states like Germany echoed this stance by suspending their bilateral development aid.²⁷⁹ The objective was to avoid legitimizing the regime while using this money as leverage to pressure Afghanistan to follow the five benchmarks; as was declared, any resumption of aid would be “*strictly conditioned on fulfilling political conditions.*”²⁸⁰ Also, there was no guarantee that development funds could be spent accountably under Taliban rule.

One of the more concrete tools at the EU's disposal in responding to human rights violations is the imposition of restrictive measures (sanctions). Firstly, the EU has mirrored the United Nations Security Council sanctions (which have long listed Taliban individuals associated with terrorism or extremist activity). Aligned with the UN Security Council Resolution 1988 (2011), the EU has imposed sanctions on individuals and groups, including the Taliban and their affiliates, who pose a threat to Afghanistan's peace, stability, and

²⁷⁴ COUNCIL OF THE EU. Council conclusions on Afghanistan..., par. 9.

²⁷⁵ BRZOZOWSKI, A. EU sets five conditions for future ‘operational engagement’ with Taliban. *euractiv.com* [online]. 3 September 2021 [viewed 24 May 2025]. Available from: <https://www.euractiv.com/section/defence/news/eu-sets-five-conditions-for-future-operational-engagement-with-taliban/>

²⁷⁶ HASSAN, O. Reassessing the European Strategy in Afghanistan. *carnegieendowment.org* [online]. 17 November 2021 [viewed 24 May 2025]. Available from: <https://carnegieendowment.org/research/2021/11/reassessing-the-european-strategy-in-afghanistan?lang=en¢er=europe>

²⁷⁷ Ibid.

²⁷⁸ KUGIEL, P. and J. SZYMAŃSKA. Afghan Refugees in the European Union: Experiences and Perspectives. *pism.pl* [online]. 25 November 2021 [viewed 24 May 2025]. Available from: <https://pism.pl/publications/afghan-refugees-in-the-european-union-experiences-and-perspectives>

²⁷⁹ FEDERAL FOREIGN OFFICE. Germany and Afghanistan: Bilateral relations. *auswaertiges-amt.de* [online]. 19 March 2025 [viewed 24 May 2025]. Available from: <https://www.auswaertiges-amt.de/en/aussenpolitik/afghanistan/209228>

²⁸⁰ KUGIEL, P. and J. SZYMAŃSKA. Afghan Refugees in the European Union...

security.²⁸¹ These measures include an arms embargo, restrictions on military-related assistance, travel bans, and asset freezes.²⁸² Currently, 135 individuals and five entities are subject to this sanction regime.²⁸³ Apart from the UN-mandated sanctions, the EU autonomously imposed human rights-based sanctions under the EU Global Human Rights Sanctions Regime. Since August 2021, the EU has sanctioned five individuals; no entities have been sanctioned under the Regime yet.²⁸⁴ More specifically, on 7 March 2023, on the eve of International Women’s Day, the EU imposed a round of sanctions focusing on perpetrators of sexual violence and women’s rights violations.²⁸⁵ This package blacklisted nine individuals worldwide, including two Taliban officials directly involved in the repression of Afghan women.²⁸⁶ Further steps were taken on 20 July 2023, when sanctions were issued against three senior Taliban officials.²⁸⁷ Based on Articles 2 and 3 of the Council Decision (CFSP) 2020/1999, all funds and economic resources belonging to the listed individuals within the EU are frozen, prohibiting any access to financial assets (asset freeze); they are banned from entering or transiting through EU member states, restricting their international mobility (travel ban); and EU citizens and entities are prohibited from providing funds or economic resources, directly or indirectly, to or for the benefit of the listed individuals.²⁸⁸

3. Support to Afghan Civil Society, NGOs, and Afghan Women

The EU has coupled its punitive and accountability (top-down) measures with bottom-up resilience, supporting Afghan women and civil society through funding, platforms, and advocacy. This is both a moral imperative (to assist those fighting for rights) and a strategic means to maintain linkages with Afghan society despite the Taliban’s repression. However, opportunities to provide help in the country are limited, largely due to a physical drawdown of

²⁸¹ EUROPEAN COUNCIL and COUNCIL OF THE EU. Afghanistan. *consilium.europa.eu* [online]. 4 December 2024 [viewed 24 May 2025]. Available from: <https://www.consilium.europa.eu/en/policies/afghanistan-eu-response/#sanctions>

²⁸² Ibid.

²⁸³ EUROPEAN COUNCIL and COUNCIL OF THE EU. Afghanistan...

²⁸⁴ EUROPEAN COMMISSION. EU sanctions tracker. *data.europa.eu* [online]. June 2025 [viewed 19 June 2025]. Available from: <https://data.europa.eu/apps/eusanctionstracker/>

²⁸⁵ REGULATION (EU) No 2023/500 of the Council of the European Union of 7 March 2023 implementing Regulation (EU) 2020/1998 concerning restrictive measures against serious human rights violations and abuses.

²⁸⁶ REUTERS. EU sanctions 9 people over sexual violence and violating women's rights. *reuters.com* [online]. 7 March 2023 [viewed 19 June 2025]. Available from: <https://www.reuters.com/world/europe/eu-sanctions-9-people-over-sexual-violence-violating-womens-rights-2023-03-07/>

²⁸⁷ REGULATION (EU) No 2023/1499 of the Council of the European Union of 20 July 2023 implementing Regulation (EU) 2020/1998 concerning restrictive measures against serious human rights violations and abuses, p. 3.

²⁸⁸ Council Decision (CFSP) No 2020/1999 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses, Article 2 and 3.

the EU's presence in Afghanistan. In August 2021, EU member states evacuated their diplomats and nationals from Kabul, and most embassies were shuttered for security reasons. The EU's delegation in Kabul was evacuated as well.²⁸⁹ These acts had significant implications for linkage. As the EU had no on-the-ground diplomats, this withdrawal significantly limited direct engagement with Afghan society, reducing the EU's ability to monitor human rights violations, support civil society groups, and coordinate humanitarian efforts.²⁹⁰ Recognizing this handicap, the EU partially re-established a physical presence in Kabul in January 2022 by deploying a small delegation focused on aid coordination and humanitarian engagement without granting legitimacy to the Taliban.²⁹¹ Still, the scale of presence is tiny compared to the pre-2021 delegation. Member-state embassies remain closed, even though in July 2024, discussions arose about several European nations, including Italy and Spain, considering reopening their embassies in Afghanistan to address humanitarian concerns and maintain a strategic presence.²⁹²

Addressing the humanitarian concerns, the EU redirected its development aid to humanitarian and reinforced aid programs to target Afghan women and girls as beneficiaries. In 2021, the EU quadrupled the aid from €50 million to €200 million (later raised to €300 million), and in October of that year, announced an almost €1 billion Afghan Support Package.²⁹³ These funds are channeled through the UN, the World Bank, and non-governmental organizations (NGOs), and in line with a principle “*for women by women*,” which requires Afghan women to be involved in all aspects of aid delivery, where assistance is provided.²⁹⁴ To enhance coordination and monitor the implementation of the principle, the EU also co-chairs the Afghanistan Coordination Group, an international grouping aimed at managing

²⁸⁹ RIEKELS, G. E. and M. S. CHIHAIA. EU lessons from the evacuation of Kabul: Part 1 – What went wrong? The decision-making moments. *European Policy Centre* [online]. 17 August 2023 [viewed 19 June 2025]. Available from: http://archive.epc.eu/content/PDF/2023/Afghanistan_Report_-_Paper_1.pdf

²⁹⁰ COUNCIL OF THE EU. Afghanistan – Council conclusions (20 March 2023...)

²⁹¹ EURACTIV and AFP. EU re-establishing ‘minimal presence’ in Kabul. *euroactiv.com* [online]. 21 January 2022 [viewed 1 June 2025]. Available from: <https://www.euractiv.com/section/global-europe/news/eu-re-establishing-minimal-presence-in-kabul/>

²⁹² FRACASSI, G. EU countries at work to restart diplomatic relations with Afghanistan. *europeaninterest.eu* [online]. 18 July 2024 [viewed 1 June]. Available from: <https://www.europeaninterest.eu/eu-countries-at-work-to-restart-diplomatic-relations-with-afghanistan/>

²⁹³ KUGIEL, P. and J. SZYMAŃSKA. Afghan Refugees in the European Union...

²⁹⁴ DELEGATION OF THE EUROPEAN UNION TO AFGHANISTAN. EU support to the Afghan people: addressing their basic needs and livelihoods opportunities. *European Commission* [online]. September 2024 [viewed 1 June 2025]. Available from: https://international-partnerships.ec.europa.eu/document/download/9faade90-41c9-40b0-87b1-a69bede97806_en?filename=eu-del-afghanistan-results-factsheet_en.pdf

humanitarian and basic assistance in Afghanistan.²⁹⁵ Following the Taliban's ban on Afghan women from working for national and international NGOs in December 2022, which was extended to the UN agencies in April 2023, the EU froze some funding streams. In February 2023, the FAC agreed to provide aid only in sectors and regions where the principle “*for women by women*” is followed. After six months of monitoring and evaluation of the principle, €140 million was released in September 2023 to basic needs and livelihood assistance. It focused on sectors like education, health, and women's economic empowerment.²⁹⁶

As a part of the humanitarian aid allocated to Afghanistan, the EU continued to reinforce gender-focused programming. For example, in September 2024, the EU and the United Nations Population Fund (UNFPA) launched a €15 million initiative funded by the EU to strengthen women's healthcare services in Afghanistan over three years.²⁹⁷ The initiative is part of a broader €161 million EU humanitarian aid allocated to Afghanistan in 2024 (up from €156.5 million in 2023).²⁹⁸ These funds prioritize food assistance, healthcare, emergency education, access to water, hygiene and shelter, and protection services for the most vulnerable, especially women and children.²⁹⁹ In December 2024, the EU launched a €22 million economic resilience project with the Aga Khan Foundation to improve women's livelihoods and job opportunities.³⁰⁰ In collaboration with UN Women and UNESCO, the EU is funding a project aiming to provide illiterate and semi-literate Afghan women and adolescent girls with access to education, skills development, and counseling services.³⁰¹ European funding also supports Afghan refugee women in neighboring countries³⁰² and scholarships for Afghan women and

²⁹⁵ EUROPEAN COMMISSION. EU releases €140 million to support the Afghan people, in particular women and girls. *ec.europa.eu* [online]. 20 September 2023 [viewed 1 June 2025]. Available from: https://ec.europa.eu/commission/presscorner/detail/en/ip_23_4524

²⁹⁶ EUROPEAN COMMISSION. EU releases €140 million to support the Afghan people...

²⁹⁷ UNITED NATIONS. The European Union and UNFPA join forces to strengthen women's health in Afghanistan. *unfpa.org* [online]. 24 September 2024 [viewed 1 June 2025]. Available from: <https://www.unfpa.org/updates/european-union-and-unfpa-join-forces-strengthen-womens-health-afghanistan>

²⁹⁸ EUROPEAN COMMISSION. Afghanistan. *civil-protection-humanitarian-aid.ec.europa.eu* [online]. 17 June 2025 [viewed 19 June 2025]. Available from: https://civil-protection-humanitarian-aid.ec.europa.eu/where/asia-and-pacific/afghanistan_en

²⁹⁹ Ibid.

³⁰⁰ EU Allocates €22 Million To Empower Afghan Women. *afintl.com* [online]. 16 December 2024 [viewed 21 May 2025]. Available from: <https://www.afintl.com/en/202412168928>

³⁰¹ UNESCO. With funding from the European Union, UN Women and UNESCO partner to support literacy and skills development for women in Afghanistan. *unesco.org* [online]. 24 January 2024 [viewed 21 May 2025]. Available from: <https://www.unesco.org/en/articles/funding-european-union-un-women-and-unesco-partner-support-literacy-and-skills-development-women>

³⁰² EUROPEAN COMMISSION. EU releases €61 million in humanitarian aid for people in Afghanistan and Afghan refugees in Pakistan. *ec.europa.eu* [online]. 7 November 2023 [viewed 21 May 2025]. Available from: https://ec.europa.eu/commission/presscorner/detail/en/ip_23_5591

girls. In January 2023, the German Academic Exchange Service (DAAD), funded by the German Federal Ministry for Economic Cooperation and Development, launched a scholarship program to support approximately 5,000 Afghan women in pursuing higher education in neighboring countries, including Bangladesh, Kyrgyzstan, and Pakistan.³⁰³ This initiative aims to provide educational opportunities to Afghan women denied access to higher education within their home country following the ban prohibiting them from attending universities in December 2022.³⁰⁴

In addition to funding, the EU has also supported platforms for inclusive dialogue and advocacy. In March 2022, with the support of the EU Afghanistan Peace Support Mechanism II, the EU facilitated the establishment of the Afghan Women Leaders Forum (AWLF). This forum brings together Afghan women leaders from diverse backgrounds, including activists, former officials, journalists, entrepreneurs, and community leaders.³⁰⁵ The first two meetings took place in Brussels in March and May 2022.

Furthermore, the EU and member states took steps to protect individual Afghan women at acute risk. In the weeks of August 2021, European countries (as well as the U.S. and others) scrambled to evacuate Afghans who had worked with them or were in danger. This included many women, politicians, journalists, judges, and NGO workers, who are known to be at particular risk from the Taliban.³⁰⁶ By giving refuge to Afghan women, the EU preserved some of the human capital and voices of Afghan civil society in exile. For instance, Afghan women's networks in Europe, such as EMAlumni Association, have lobbied the EU for more pressure on the Taliban, for aid for women, and more.³⁰⁷ The issue is that many high-risk Afghan women were left behind; as acknowledged by advocacy groups, there was “*no contingency plan...to continue meaningful support*” for many women who had championed their rights.³⁰⁸

³⁰³ BMZ and DAAD. Germany offers scholarships for Afghan female students. *daad.de* [online]. 10 January 2023 [viewed 21 May 2025]. Available from: https://www.daad.de/en/the-daad/communication-publications/press/press_releases/deutschland-foerdert-stipendien-fuer-afghanische-studentinnen/

³⁰⁴ BMZ and DAAD. Germany offers scholarships for Afghan female students...

³⁰⁵ EEAS. EU supports Afghan Women : First meeting of Afghan Women Leaders Forum in Brussels. *eeas.europa.eu* [online]. 9 March 2022 [viewed 21 May 2025]. Available from: https://www.eeas.europa.eu/eeas/eu-supports-afghan-women-first-meeting-afghan-women-leaders-forum-brussels_en

³⁰⁶ JAMSHIDI, N. The EU and protection of women's rights in Afghanistan. *vidc.org* [online]. 17 June 2022 [viewed 21 May 2025]. Available from: <https://www.vidc.org/detail/the-eu-and-protection-of-womens-rights-in-afghanistan>

³⁰⁷ EMALUMNI. Urgent Call for EU Action on Afghan Women's Rights. *emalumni.org* [online]. 27 February 2025 [viewed 21 May 2025]. Available from: <https://emalumni.org/eu-action-afghan-womens-rights/>

³⁰⁸ CONE, D. “Now, There is Nothing Safe”: A Roadmap for Investing in Afghan Women and Girls. *Refugees International* [online]. 1 April 2022 [viewed 21 May 2025], p. 4. Available from:

While some EU countries have adopted broad protections for Afghan women, others have taken a more restrictive stance, creating challenges for a unified response. In August 2021, the UN High Commissioner for Refugees urged a ban on deportations to Afghanistan, recommending that all asylum procedures for Afghan nationals, including rejected cases, be suspended.³⁰⁹ In response, by December 2021, several EU+ countries, including Germany, Finland, the Netherlands, Norway, Sweden, and Switzerland, paused deportations and return processes for unsuccessful Afghan asylum seekers.³¹⁰ With the Qualification Directive recognizing gender-based persecution as a valid criterion for asylum, several Northern European countries, Sweden, Finland, and Denmark, have explicitly recognized that the deterioration of rights for Afghan women and girls constitutes gender-based persecution. As a result, they have granted refugee status to all Afghan female asylum seekers based on gender.³¹¹ A major legal milestone came in October 2024, when the European Court of Justice (ECJ) ruled that Afghan women can be granted asylum under EU law solely based on gender and nationality.³¹² While this ruling establishes a legal standard for protection, practical implementation still depends on national asylum authorities, and discrepancies among member states may persist despite the court's guidance.

3.2 Assessment of the EU's Engagement with the Taliban

The evidence from August 2021 to January 2025 suggests that EU (and broader international) efforts have had limited success in securing meaningful change in Taliban policies, even though they did achieve some narrow concessions and provided relief to many Afghans. This subchapter distinguishes between formal alignment (instances where the Taliban modulated their rhetoric or took superficial steps seemingly to appease demands) and actual behavioral change (substantive, sustained improvements in women's rights on the ground). It finds that formal gestures were rare and mostly cosmetic. An actual change was almost entirely absent, with the trajectory for women's rights remaining sharply negative despite EU interventions.

<https://www.refugeesinternational.org/reports-briefs/now-there-is-nothing-safe-a-roadmap-for-investing-in-afghan-women-and-girls/>

³⁰⁹ ORAV, A. and N. BARLAOURA. Refugee status for all female Afghan asylum-seekers. *European Parliamentary Research Service* [online]. May 2023 [viewed 21 May 2025], p. 1. Available from: [https://www.europarl.europa.eu/RegData/etudes/ATAG/2023/747913/EPRS_ATA\(2023\)747913_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2023/747913/EPRS_ATA(2023)747913_EN.pdf)

³¹⁰ Ibid.

³¹¹ Ibid., p. 2.

³¹² AH and FN v. Bundesamt für Fremdenwesen und Asyl, ECJ, Judgement, 4 October 2024, par. 34.

Formal alignment. The only formal policy the Taliban touts as addressing women’s rights was a decree from December 2021 on women’s rights in marriage (e.g., forbidding forced marriage).³¹³ Notably, that decree mentioned nothing about women’s rights to education or work and focused on a relatively narrow issue. Analysts saw this as a token gesture to show “we respect women’s rights” while evading the core issue.³¹⁴ The decree could have been viewed as a small positive step had it been effectively implemented. Testimonies suggest it was largely disregarded and not enforced by the Taliban.³¹⁵ The lack of international “cheering” for this hollow decree may have signaled to the Taliban that tokenism would not satisfy the EU or others because there is no available information of another similar attempt. In essence, Taliban formal alignment amounted to empty promises (for example, about reopening secondary schools for girls) and minor paper decrees, with no genuine policy shift on the major demands (education and employment).

One area where EU and donor pressure did (temporarily) yield, albeit partial, Taliban concession, was on women’s role in humanitarian work, particularly in the healthcare field. After the Taliban’s December 2022 ban on Afghan women working in NGOs, a ban that was extended on 4 April 2023 to include female UN staff, there was an immediate backlash. Major international NGOs (e.g., CARE, Save the Children, IRC) suspended operations, and donors, including the EU, suspended funding, as noted earlier.³¹⁶ Faced with the prospect of critical service halting, and probably pressure from the UN and other international actors (such as the EU), the Taliban leadership spoke about being close to issuing guidance by early 2023 that women could resume work in health aid programs and education-related programs.³¹⁷ However, no formal, widely disseminated written guidance was ever publicly issued. Instead, reports showed some existing exceptions, particularly in healthcare and healthcare-related education.³¹⁸ Recently, in December 2024, the Taliban has probably reconsidered its approach when the supreme leader ordered a ban on women attending medical training programs, and the Taliban’s

³¹³ AMNESTY INTERNATIONAL and ICJ. THE TALIBAN’S WAR ON WOMEN..., p. 10.

³¹⁴ MACKINTOSH, E. Taliban decree on women’s rights, which made no mention of school or work, dismissed by Afghan women and experts. *CNN World* [online]. 4 December 2021 [viewed 21 May 2025]. Available from: <https://edition.cnn.com/2021/12/03/asia/afghanistan-taliban-decree-womens-rights-intl/index.html>

³¹⁵ THE GUARDIAN. ‘No escape’ for Afghan girls forced out of education...

³¹⁶ AHMED, K. Afghan women face further harm if donor funding is withdrawn – report. *The Guardian* [online]. 23 February 2023 [viewed 21 May 2025]. Available from: <https://www.theguardian.com/global-development/2023/feb/23/afghan-women-face-further-harm-if-donor-funding-is-withdrawn-report>

³¹⁷ DAWI, A. Taliban Guidelines for Women’s Work ‘Nearly Complete’. *voanews.com* [online]. 24 May 2023 [viewed 21 May 2025]. Available from: <https://www.voanews.com/a/taliban-guidelines-for-women-s-work-nearly-complete-/7107355.html>

³¹⁸ For example: Ibid. or GiHA and HAG. Tracking Impact Report on the ban on women working with NGOs...

Ministry of Economy warned NGOs that employing women would result in the suspension of activities and revocation of licenses. We saw that the Taliban was willing to provide concessions in critical humanitarian sectors, but this flexibility proved temporary and has since been replaced by even greater restrictions. Despite that, A. Nasari et. al. in their recent article recommends that the EU and other international actors, such as the UN, the US, etc., “*should pressure the authorities to allow humanitarian exemptions for women health-care workers and students, leveraging aid or negotiating through third-party mediators.*”³¹⁹

Actual Behavior Change. In terms of actual behavioral change measured against the EU’s benchmarks, none of the EU’s key asks (respect for human rights, particularly for women’s rights, inclusion of women in governance, etc.) were met in a meaningful way. The EU’s emphasis on formal alignment vs. behavioral change thus finds that the Taliban didn’t even engage in much formal window-dressing beyond rhetoric, and certainly did not implement changes that would improve women’s daily lives. One might ask if the situation could have been even worse without the EU’s response. Possibly, yes. The Taliban might have moved even faster and more brutally if they hadn’t faced any international repercussions. The EU, along with others, prevented formal recognition of the Taliban regime, which is significant. To date, no country recognizes the “Islamic Emirate” as the legitimate government.³²⁰ This diplomatic non-recognition is a leverage of a sort because the Taliban crave legitimacy. Many Taliban officials even feel entitled to recognition “*as a right,*” while international conditions are viewed as unjust interference.³²¹ Furthermore, the EU provides significant humanitarian aid. In this context, the EU prioritizes damage control over transformation because cutting aid and isolating the Taliban to punish them for women’s rights abuses also risks hurting Afghan women by contributing to economic collapse and reducing resources.

The ineffectiveness of the EU’s efforts in changing Taliban behavior can be explained by a confluence of factors that align with the theoretical expectations about influencing third countries under unfavorable conditions. Here, we analyze three key variables observed while

³¹⁹ NASARI, A., MARZOUK, S. and N. SAFI. A health emergency: Afghanistan's nursing and midwifery ban. *Elsevier Ltd.* [online]. 2025, 405(10477) [viewed 2 June 2025]. Available from: [https://doi.org/10.1016/s0140-6736\(25\)00130-8](https://doi.org/10.1016/s0140-6736(25)00130-8)

³²⁰ MILLS, C., LOFT, P. and J. CURTIS. Recent developments in Afghanistan. *commonslibrary.parliament.uk* [online]. 18 March 2025 [viewed 2 June 2025]. Available from: <https://commonslibrary.parliament.uk/research-briefings/cbp-10215/>

³²¹ MALEJACQ, R. and N. TERPSTRA. Why International Leverage Has Failed...

researching the EU’s response: 1. limited leverage, 2. limited linkage, and 3. domestic factors (based on Levitsky and Way’s framework).

Table 6: EU Influence in Afghanistan under Taliban Rule (2021–2025)

Category	Assessment
1) Leverage	Low
2) Linkage	Low
3) Domestic factors	Unfavorable

Source: my own research

The following section examines each of these three categories in greater detail, as outlined in Table 6, to assess the specific mechanisms that limited the EU’s capacity to exert meaningful influence under Taliban rule.

1. Limited Leverage

Unlike in contexts where the EU has successfully induced reforms (e.g., Eastern Europe pre-accession, or countries in the EU Neighborhood Policy to a lesser extent), in the case of Afghanistan, the EU possesses very little leverage. The EU’s main material lever was development aid, which it used by suspending it. However, withholding aid was insufficient to force policy reversals. According to analysts, this approach overestimated the Taliban’s dependence on international assistance, failing to recognize their ability to generate revenue through taxation and maintain governance without prioritizing public services (and the well-being of Afghans).³²² The foreign aid, instead of creating leverage, has allowed the Taliban to avoid responsibility, as they remain unwilling to compromise despite worsening conditions.³²³ Moreover, alternative partnerships with China, Russia, Iran, and Pakistan provide the Taliban with economic opportunities and diplomatic support, reducing reliance on Western aid.³²⁴ China seeks to integrate Afghanistan into its Belt and Road Initiative, while regional players prioritize stability and trade over human rights concerns.³²⁵ For instance, according to the report by the European Parliament, Afghanistan has significant mineral resources (iron, copper, cobalt, lithium, etc.) and countries like Pakistan, Russia, and China are engaging to access

³²² MALEJACQ, R. and N. TERPSTRA. Why International Leverage Has Failed...

³²³ Ibid.

³²⁴ Ibid.

³²⁵ Ibid.

them.³²⁶ As one policy brief noted, the rise of alternative powers unwilling to link aid to human rights (like China) has “*dampened the effect of many of the total that EU has used*”³²⁷ in such situations. Therefore, the Taliban has proven resilient to aid conditions, sustaining its governance without making policy concessions, challenging the assumption that financial pressure alone could influence its actions.³²⁸

Furthermore, the EU has no security leverage. After NATO's withdrawal from Afghanistan, military intervention by the EU was effectively off the table, which exposed the EU's lack of independent security leverage in such crises. This situation sparked discussion within the EU about the need to develop its military capabilities separate from NATO.³²⁹ Trade leverage is also minimal. In 2024, the European Union imported approximately €39 million worth of goods from Afghanistan, while exporting about €263 million to the country.³³⁰ Afghanistan ranked 148th among the EU's import partners, accounting for a negligible share of total EU imports.³³¹ Given this trade volume, the EU's ability to exert significant leverage over the Taliban regime through trade sanctions or benefits is limited. Furthermore, the EU leverages diplomatic recognition as a tool (withholding it). Analysts argue that while many Taliban officials deeply value international recognition and view it as a right rather than a bargaining chip, relying on it as leverage is ineffective and potentially harmful. Using recognition as a diplomatic tool risks empowering hardliners within the regime who prefer isolation, which they see as a source of strength and ideological purity.³³²

Analysts further argue that sanctions (as well as aid conditionality and other forms of leverage the EU has used) have been ineffective because the Taliban prioritized internal cohesion and ideological consistency over external incentives. Some advocate for sustained diplomatic engagement as a more effective means of encouraging the Taliban to align with

³²⁶ HASSAN, O. Afghanistan: Lessons learnt from 20 years of supporting democracy, development and security. *europarl.europa.eu* [online]. January 2023 [viewed 2 June 2025], p. 58. Available from: https://www.europarl.europa.eu/cmsdata/266950/Study%20on%20Afghanistan_final.pdf

³²⁷ DENNISON, S. and DWORKIN, A. Towards an EU human rights strategy for a post-Western world. *ecfr.eu* [online]. 21 September 2011 [viewed 2 June 2025], p. 1. Available from: <https://ecfr.eu/archive/page/-/towards-an-EU-human-rights-strategy-for-a-post-western-world.txt.pdf>

³²⁸ MALEJACQ, R. and N. TERPSTRA. Why International Leverage Has Failed...

³²⁹ DE MAIO, G. Opportunities to deepen NATO-EU cooperation. *brookings.edu* [online]. December 2021 [viewed 2 June 2025], p. 2. Available from: https://www.brookings.edu/wp-content/uploads/2021/12/FP_20211203_nato_eu_cooperation_demaio.pdf

³³⁰ EUROPEAN COMMISSION. European Union, Trade in goods with Afghanistan. [online]. *webgate.ec.europa.eu* [online]. 8 May 2025 [viewed 2 June 2025], p. 2. Available from: https://webgate.ec.europa.eu/isdb_results/factsheets/country/details_afghanistan_en.pdf

³³¹ Ibid.

³³² MALEJACQ, R. and N. TERPSTRA. Why International Leverage Has Failed...

international norms.³³³ This outcome aligns with the concept of EU external governance, which emphasizes that the EU's leverage over third countries significantly diminishes without a credible membership incentive. In Levitsky and Way's framework of linkage and leverage, the EU's leverage over Afghanistan can be characterized as low. While Afghanistan is not a small country, it remains economically fragile and heavily aid-dependent. These are conditions that typically increase vulnerability to external pressure. However, this potential leverage is mitigated by Afghanistan's access to alternative major-power support, particularly from China, Russia, and regional actors, and the EU's dilemma between withholding aid to uphold human rights and its other interest in the country: addressing Afghanistan's worsening humanitarian crisis.

2. Limited Linkage

Economically, before 2021, the EU was Afghanistan's largest development aid donor, pledging over €5 billion at the 2016 Brussels Conference and providing substantial financial support through development cooperation instruments and budget support programs aimed at reforms, economic growth, and poverty reduction.³³⁴ However, after the Taliban takeover in August 2021, the EU discontinued direct development cooperation with Afghan government institutions, as development aid is traditionally channeled through recognized governments.³³⁵ Trade exchange between the EU and Afghanistan has dropped (the EU's imports have dropped more significantly),³³⁶ and foreign (also Western) businesses have largely exited Afghanistan due to security reasons.³³⁷ This decline in economic linkage severely limits the EU's ability to use economic incentives or sanctions as leverage.

The EU's geopolitical linkage with Afghanistan was formalized through the EU-Afghanistan Cooperation Agreement on Partnership and Development (CAPD), signed in 2017. This agreement established a comprehensive legal framework for cooperation between the EU and the Islamic Republic of Afghanistan (former, internationally recognized government), covering political dialogue, development cooperation, human rights, particularly those of

³³³ MALEJACQ, R. and N. TERPSTRA. Why International Leverage Has Failed...

³³⁴ HASSAN, O. Reassessing the European Strategy in Afghanistan...

³³⁵ PUSPITASARI, W. Money Talks: Mapping EU's Financial Engagement to Afghanistan Pre- and Post-Taliban Takeover. *kas.de* [online]. 22 June 2023 [viewed 2 June 2025], p. 12. Available from: <https://www.kas.de/en/web/mned-bruessel/single-title/-/content/money-talks-mapping-eu-s-financial-engagement-to-afghanistan-pre-and-post-taliban-takeover>

³³⁶ EUROPEAN COMMISSION. European Union, Trade in goods with Afghanistan..., pp. 2-3.

³³⁷ PALLINI, M. Afghanistan: Taliban takeover impact on businesses. *thebci.org* [online]. 18 August 2021 [viewed 2 June 2025]. Available from: <https://www.thebci.org/news/afghanistan-taliban-takeover-impact-on-businesses.html>

women and children, the rule of law, regional stability, and more.³³⁸ Since the Taliban takeover, the CAPD has been effectively suspended in practice, as Taliban's actions directly contradict the agreement's fundamental principles. Also, the EU has explicitly refused to recognize the Taliban as the legitimate government of Afghanistan, which means that formal cooperation under the agreement with Afghan governmental institutions is no longer possible. By this and a conditional engagement approach (conditioning cooperation on respecting human rights, etc.), Afghanistan under Taliban rule is diplomatically isolated from the West. Instead, it has fostered tentative ties with neighboring countries (Pakistan and Iran) and global powers, such as China and Russia. Therefore, the EU's non-recognition policy, engagement conditioned on respect for human rights and inclusive governance, and the Taliban's alternative alliances reduce the EU's geopolitical influence in Afghanistan.

Most social linkages have been dismantled due to the Taliban's bans on female education, employment, and mobility restrictions, leading many Western-educated Afghans and female professionals to either leave the country or be marginalized within the new political system. Despite this, the European Union maintains limited social linkage by funding and supporting Afghan exile groups advocating for women's rights and programs that promote Afghan women's education, livelihoods, and empowerment. Additionally, increased migration of Afghans to the EU has fostered new social connections. Refugees often establish diaspora communities that maintain connections with domestic Afghan NGOs, activists, and families.³³⁹ Overall, although traditional social linkages have been largely disrupted by Taliban policies, there is an ongoing, albeit limited and often indirect, maintenance and formation of new social ties through EU support and the emergence of diaspora communities.

The Taliban is systematically working to disrupt the flow of information (communication linkage), leading to a dramatic decline in press freedom and numerous media outlet closures.³⁴⁰ The Taliban criminalize collaboration with independent or exiled media, coerce domestic outlets to comply with directives,³⁴¹ and heavily censor or ban international

³³⁸ EEAS. European Union and Afghanistan sign Cooperation Agreement on Partnership and Development. *eeas.europa.eu* [online]. 18 February 2022 [viewed 2 June 2025]. Available from: https://www.eeas.europa.eu/node/20834_en

³³⁹ For example, Network of Afghanistan Diaspora Organisations in Europe.

³⁴⁰ KERAMI, K. Silenced Voices: The Fall of Press Freedom in Afghanistan. *ohrh.law.ox.ac.uk* [online]. 20 May 2025. [viewed 2 June 2025]. Available from: <https://ohrh.law.ox.ac.uk/silenced-voices-the-fall-of-press-freedom-in-afghanistan/>

³⁴¹ Ibid.

media content, including social media platforms.³⁴² These comprehensive policies aim to isolate Afghan audiences from independent perspectives and suppress information that might challenge the regime. In response, the EU attempts to mitigate these restrictions and increase linkage through initiatives focused on strengthening independent Afghan media and providing training for journalists in areas such as conflict-sensitive reporting, digital safety, and community engagement.³⁴³ Despite the EU's mitigation efforts, the overall amount of communication linkage remains severely limited and actively suppressed by the Taliban regime's comprehensive control measures.

Regarding transnational civil society linkage, the regime has systematically weaponized legal frameworks to dismantle it. This includes stringent government oversight of aid projects and prohibiting the employment of women within NGOs, often under the threat of operational closure or license revocation. Consequently, many international NGOs and development agencies have either ceased or scaled down their operations. The reduction in internal linkages means there are fewer domestic channels through which European norms (such as gender equality) can penetrate Afghan society, and fewer Afghan stakeholders able to exert internal pressure on the regime in line with those norms. However, Afghan civil society and NGOs benefit from linkage to the EU through access to funding, training, and inclusion in regional and international advocacy networks, which helps them maintain operations and amplify their voices despite domestic repression and restrictions.³⁴⁴

Levitsky and Way argue that high leverage without high linkage often undermines full-scale authoritarianism but is insufficient for democratization.³⁴⁵ From the perspective of the European Union, Afghanistan currently represents a low-linkage and low-leverage environment. In such a context, international democratizing pressure on Afghanistan is minimal and unlikely to produce significant political change. Even serious human rights abuses or authoritarian consolidation by the Taliban may fail to elicit a strong or effective response from

³⁴² LIH YI, B. and RAHMANI, W. Two years into Taliban rule, media repression worsens in Afghanistan. *cpj.org* [online]. 14 August 2023 [viewed 2 June 2025]. Available from: <https://cpj.org/2023/08/two-years-into-taliban-rule-media-repression-worsens-in-afghanistan/>

³⁴³ UNESCO. Afghanistan: UNESCO and the European Union join forces to support media resilience. *UNESCO.org* [online]. 20 April 2023 [viewed 2 June 2025]. Available from: <https://www.unesco.org/en/articles/afghanistan-unesco-and-european-union-join-forces-support-media-resilience>

³⁴⁴ For example, the Coalitions of European NGOs on Afghan Refugee and Humanitarian Issues, or the European Network of NGOs in Afghanistan.

³⁴⁵ LEVITSKY, S. and L. A. WAY. Linkage versus Leverage..., p. 388.

the EU or Western actors. Consequently, the trajectory of Afghanistan’s political regime will depend on domestic factors rather than international influence.

3. Domestic Factors

Levitsky and Way's framework highlights “organizational power of incumbents” as a key domestic factor. For the Taliban, this power rests on two interconnected elements: their coercive capacity and their ruling structure. The Taliban heavily relies on its *coercive capacity*, effectively monitoring, intimidating, and suppressing dissent through security forces and restricted media. This instills fear, prevents opposition, and maintains strict control, even against international challenges.³⁴⁶ The Taliban significantly expanded their military and police personnel to strengthen control over the population and counter armed resistance, with estimates reaching up to 350,000 personnel by March 2024.³⁴⁷

Concurrently, the Taliban’s *ruling structure* is marked by internal divisions and factionalism,³⁴⁸ where key factions like the Kandahari Taliban and the Haqqani Network, along with various tribal groups, compete for influence, resources, and power.³⁴⁹ Although Supreme Leader Hubatullah Akhundzada has increasingly centralized power, creating new security forces and religious councils to oversee provincial officials and enforce his decrees, these internal rivalries persist and can undermine cohesion and complicate governance.³⁵⁰ This internal dynamic is directly linked to the *high costs for adapting to external demands*. From the Taliban’s perspective, adopting the changes demanded by the EU—such as enabling female education and employment or fostering inclusive governance—would incur an exceptionally high ideological cost. Having fought for 20 years to establish an Islamic government based on their interpretation of Sharia, these steps would be seen by many Taliban fighters and clerics as a betrayal of their core mission.³⁵¹ Their deeply patriarchal ideology leads the Taliban leadership to prioritize maintaining internal legitimacy and ideological purity over any potential economic or diplomatic benefits from external compliance. As analysts put it, “*ideologically*

³⁴⁶ MILLS, P. Taliban Governance in Afghanistan. *Institute for the Study of War* [online]. 29 March 2024 [viewed 2 June 2025], pp. 14-15. Available from: <https://www.understandingwar.org/backgrounder/taliban-governance-afghanistan>

³⁴⁷ MILLS, P. Taliban Governance in Afghanistan..., p. 15.

³⁴⁸ Ibid., pp. 8-9.

³⁴⁹ Ibid., p. 8.

³⁵⁰ MILLS, P. Taliban Governance in Afghanistan..., p. 10.

³⁵¹ MALEJACQ, R. and N. TERPSTRA. Why International Leverage Has Failed...

driven and ideologically consistent policymaking serves as a virtue-signaling mechanism to legitimate the regime's leadership to domestic audiences."³⁵²

Ideological rejection of EU norms is related to the adoption cost. The distinction is principled ideological opposition that the Taliban have toward liberal human rights norms. Many of the norms the EU promotes, such as gender equality, pluralistic governance, and individual liberties, are not just inconvenient but considered un-Islamic or morally corrupt.³⁵³ Thus, EU efforts hit a fundamental wall of norm incompatibility. The Taliban often framed international pressure as an attempt to impose Western values contrary to Afghan culture and Islam.³⁵⁴ As the Taliban spokesman said, "*The same rights that are common in the West, demanding them from the people of Afghanistan are not principled. We define the issue of human rights based on Afghan values and culture and beliefs.*" Additionally, they see their restrictions as righteous and necessary to enforce virtue and prevent vice, a stance reinforced by their replacement of the Women's Affairs Ministry with a Ministry for Promotion of Virtue and Prevention of Vice.³⁵⁵

Beyond the Taliban leadership's ideology, the broader Afghan context as a cultural filter must be considered. While millions of Afghans (especially in cities) value women's rights and have been devastated by their removal, there are also significant parts of Afghan society that either acquiesce to or support conservative gender norms.³⁵⁶ Manner's idea of the cultural filter suggests that external norms will be translated by local actors in light of their own identity. In the case of Afghanistan, decades of war have made people suspicious of external agendas. Given this and a combination of religious doctrine and traditional Pashtun conservatism, the cultural filter is extremely resistant to EU norms.³⁵⁷ Moreover, any local institutions that could internalize EU norms are absent. Unlike in some countries where pro-EU segments of the bureaucracy or civil society can champion changes, in Taliban-controlled Afghanistan, those people have been purged or silenced. For example, the Afghan Independent Human Rights Commission was disbanded, and women in the civil service were sent home.

³⁵² MALEJACQ, R. and N. TERPSTRA. Why International Leverage Has Failed...

³⁵³ AFINTL. Do Not Accept Human Rights Sought By Western Countries, Says Taliban. *afintl.com* [online]. 11 December 2024 [viewed 2 June 2025]. Available from: <https://www.afintl.com/en/202412119701>

³⁵⁴ Ibid.

³⁵⁵ JAMSHIDI, N. The EU and protection of women's rights in Afghanistan...

³⁵⁶ LECLERC, G. and R. SHREEVES. Women's rights in Afghanistan: An ongoing battle. *europarl.europa.eu* [online]. 16 September 2024 [viewed 2 June 2025], p. 6. Available from: [https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI\(2023\)747084](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2023)747084)

³⁵⁷ LIEVEN, A. An Afghan Tragedy: The Pashtuns, the Taliban and the State. *Survival* [online]. 2021, 63(3) [viewed 2 June 2025]. Available from: <https://doi.org/10.1080/00396338.2021.1930403>

In summary, the EU was trying to exercise influence in one of the most difficult scenarios: a hostile regime with opposite values, little mutual interdependence, and almost no incentive to heed external advice. In Lewitsky and Way's framework, Afghanistan under Taliban rule epitomizes a setting of low leverage and low linkage. The EU holds little to no economic or strategic sway over the regime, and there are minimal institutional, social, or cultural ties that could serve as channels for influence. In such an environment, conventional democratization tools, such as conditionality or sanctions, are largely ineffective when applied in isolation. Even symbolic gestures or pressure campaigns struggle to generate lasting behavioral change without deeper interdependence or credible incentives. Domestic conditions are therefore the determinative factor, but as was pictured, IEA is an example of unfavorable domestic factors, like the mid-strong organizational power of incumbents, high costs for adaptation of EU norms, strong ideological barriers, and a strong cultural filter.

It is also essential to point out that as some mechanisms complement, others weaken each other. The EU's strong rhetoric on sanctions was complemented by its factual imposition. On the other hand, closing embassies (leverage) weakened its connections with Afghan civil society (linkage). In this case, leverage weakened linkage. Furthermore, some gestures look great for the public, but in practice, the withdrawal of European delegates has weakened the ability to support Afghans on the ground or monitor the situation in the country. The provision of aid through NGOs is intended to prevent funds from falling into the hands of the Taliban. The question, however, is to what extent NGOs can distribute funds to those in need, as the Taliban significantly restricts their operations. Additionally, as important as the EU's non-recognition of the Taliban is, it hinders the functioning of formal bilateral frameworks such as the CAPD.

Going forward, experts and NGOs recommend maintaining dialogue with Taliban officials³⁵⁸ and involving European-based Afghan diaspora communities in these dialogues.³⁵⁹ An effective path forward could also involve coordinated efforts to pressure the Taliban within the international community. Because the European Union is not a UN member (it holds observer status), it might influence but mainly must act through its member states. This route is promising, particularly when combined with efforts for the recognition of gender apartheid as a crime against humanity. As R. Samim from Yale University noted: "*By elevating gender*

³⁵⁸ MALEJACQ, R. and N. TERPSTRA. Why International Leverage Has Failed...

³⁵⁹ JAMSHIDI, N. The EU and protection of women's rights in Afghanistan...

*apartheid to the status of a crime against humanity, the international community would be compelled to move beyond expressions of concern to concrete actions, including investigations, sanctions, and, where applicable, prosecutions.*³⁶⁰ In the case of South Africa, recognition of apartheid (racial apartheid) helped to dismantle the regime. This could also be the case in the Islamic Emirates of Afghanistan.

³⁶⁰ SAMIM, R. International Legal Mechanisms to Safeguard Women's Rights: An Analysis of Afghan Women's Rights Under Taliban Rule. *Yale Journal of International Law* [online]. 26 January 2025 [viewed 2 June 2025]. Available from: <https://yjil.yale.edu/posts/2025-01-26-international-legal-mechanisms-to-safeguard-womens-rights-an-analysis-of-afghan>

Conclusion

This thesis examined the Taliban's policies in Afghanistan post-August 2021 through the lens of the emerging international legal concept of gender apartheid, critically evaluated the European Union's response, and assessed whether the EU's advocacy for this concept can enhance its influence on regimes like the Taliban.

The primary findings are addressed under the main research question (RQ1): *"How can the EU exert influence over third countries where linkage and leverage are low?"* As anticipated within Levitsky and Way's framework, when linkage and leverage are low—a condition exemplified by the Taliban regime in Afghanistan—the European Union finds its traditional tools of influence largely ineffective. Unfavorable domestic factors within the target country further complicate this situation. Consequently, the EU's strategy in such challenging environments should focus on multiplying its indirect efforts, specifically through stronger cooperation with other international actors, advocating for collective international pressure, the application of available international mechanisms, and, in the context of the Islamic Emirate of Afghanistan and similar regimes, championing the recognition of "gender apartheid" as a crime against humanity.

Crucially, the sub-research question 1 (RQ2) provides a context for why the EU feels compelled to respond to the situation in Afghanistan and examines whether the new legal concept of gender apartheid applies to the Islamic Emirate of Afghanistan. The analysis of Taliban policies in Chapter Two, addressing the RQ2 (*"To what extent do the Taliban's post-2021 policies and practices constitute gender apartheid under emerging international legal frameworks?"*), unequivocally demonstrated that Afghanistan under Taliban rule presents a clear and extreme case of gender apartheid. The Taliban's actions align with the four key characteristics of gender apartheid: the commission of inhumane acts against one gender group (with an emphasis on segregation and exclusion), the existence of an institutionalized regime, a regime of systematic oppression and domination by one gender group over another, and the intent to maintain this regime. Detailed examination across categories of inhumane acts outlined in Article II of the Apartheid Convention, including denial of the right to life and liberty, imposition of physically destructive living conditions, denial of participation in political, social, economic, and cultural life, segregation, exploitation and forced labor, and persecution of dissenters, confirmed widespread, institutionalized and systematic violations of women's and girls' fundamental rights, enforced through legal codification and strict implementation.

Women are effectively erased from public life, facing severe restrictions on education, employment, movement, and expression, often leading to psychological distress and violence. With this understanding, such recognition could lead to the potential prosecution of the Taliban for this crime

The following RQ3 (*“How has the European Union responded—legally, diplomatically, and programmatically—to the Taliban’s treatment of women and girls since August 2021?”*) maps what the EU has done so far. Chapter Three identified three main categories of the EU’s tools: diplomatic condemnation and high-level statements, conditionality, non-recognition and sanctions, and support for Afghan civil society, NGOs, and Afghan women. The EU, including HR/VP Josep Borrell and the European Parliament, has repeatedly condemned the Taliban’s gender-based policies and increasingly used the term “gender apartheid” to describe the situation, signaling a strategic effort to legitimize the concept in international discourse. It has also employed financial leverage by suspending development aid, maintaining a policy of non-recognition of the Taliban government, and imposing sanctions on specific Taliban officials. Furthermore, the EU supports Afghan civil society through humanitarian aid, education programs, scholarships, and asylum support, aiming to maintain crucial linkages with Afghan society despite the restrictive environment.

The findings indicate that the EU’s impact on the Taliban’s behavior has been limited. The Taliban has largely not reversed its repressive policies, instead deepening restrictions on women’s rights despite international pressure. This ineffectiveness is attributed to several factors aligning with Levitsky and Way’s framework. The EU’s leverage is low due to the Taliban’s reduced dependence on Western aid, their ability to generate internal revenue, and alternative partnerships with countries like China. Security and trade leverage are also minimal. Linkage, encompassing economic, geopolitical, social, communication, and civil society ties, has been severely diminished since 2021 due to the Taliban’s policies and the withdrawal of many international actors. Domestically, the Taliban’s strong coercive capacity, the high costs of adopting EU norms, deeply entrenched ideological barriers, and a resistant “cultural filter” further impede external influence. Afghanistan under the Taliban thus represents a challenging environment of low linkage and low leverage, where the EU’s pressure for democratic or human rights change is minimal. Therefore, the EU has limited options. It can push for stronger joint international pressure and existing international mechanisms, and for the new promising mechanism, gender apartheid as a crime against humanity.

This leads us to the last research question (RQ4): “*Should the EU embrace the concept of 'gender apartheid' to enhance its influence on authoritarian gender-excluding regimes like the Taliban, particularly given the EU's limited linkage and leverage?*” Despite the limited immediate behavioral change, the EU's consistent advocacy for the concept of gender apartheid plays a crucial role in the international discourse and holds long-term implications. Promoting the legal concept of gender apartheid in international law would provide a clearer legal basis for denouncing institutionalized, systemic gender-based oppression. Drawing parallels with racial apartheid in South Africa, which eventually led to its dismantling, proponents argue that formal recognition of gender apartheid can contribute to similar long-term pressure. The EU's active support for its explicit recognition within the proposed UN Crimes Against Humanity Treaty and its backing of actions by the International Criminal Court (ICC) and International Court of Justice (ICJ) are vital steps towards strengthening the international legal framework and ensuring future accountability. Cooperation with the international community and the application of international legal instruments can increase the impact of EU external governance, where linkage and leverage remain low.

Given that the situation in Afghanistan remains fluid and subject to rapid change, future research could focus on assessing developments over a defined time horizon and examining how the legal, political, and humanitarian conditions for women and girls evolve under Taliban rule. An analysis could offer insight into whether the regime's policies have become more entrenched or whether internal or external pressures have led to any shifts in governance or enforcement. Future studies could also investigate the trajectory of international legal discourse surrounding gender apartheid. Specifically, research could evaluate whether progress has been made toward its formal recognition as a crime against humanity under international law, or whether the debate has fragmented or shifted toward alternative legal classifications. Regarding the European Union's role, future research could further investigate the effectiveness of the EU's strategy of multiplying indirect efforts, such as stronger cooperation with other international actors and championing the recognition of gender apartheid as a crime against humanity, in enhancing its influence over third countries characterized by low linkage and leverage.

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Abstract

This master's thesis addresses the issue of gender apartheid in Afghanistan following the Taliban's takeover in August 2021 and analyzes the European Union's (EU) response. The aim of the thesis is to 1) analyze whether the Taliban's policies in Afghanistan after August 2021 constitute the emerging legal concept of gender apartheid, 2) critically evaluate the European Union's response, and 3) assess whether the EU's advocacy for the international recognition of gender apartheid as a legal concept can enhance its influence on regimes like the Taliban. The study adopts a qualitative case study approach based on the analysis of primary and secondary sources and is grounded in the theoretical frameworks of Linkage and Leverage (Levitsky & Way) and EU External Governance.

Findings reveal that Taliban-ruled Afghanistan meets the criteria of gender apartheid preestablished in the thesis. The EU's influence on the Taliban remains minimal due to low leverage, low linkage, and unfavorable domestic conditions. Building on this case, the thesis concludes that despite the EU's limited ability to influence Taliban behavior, its advocacy for the concept of gender apartheid plays a crucial role in the international discourse and holds long-term implications. More broadly, when dealing with third countries characterized by low leverage and linkage, the EU should strengthen its indirect efforts—through deeper collaboration with other international actors, advocating for coordinated international pressure and application of existing international legal mechanisms, and, in cases such as the Taliban-ruled Afghanistan, championing the recognition of "gender apartheid" as a crime against humanity.

Keywords

gender apartheid, Afghanistan, Taliban, European Union (EU), women's rights, human rights, external governance, leverage, linkage