WOMEN IN AFGHANISTAN: A COMPARATIVE LENS ON RIGHTS AND REALITIES

ADITI KULKARNI [1] & BHAVYA SHAW[2]

ABSTRACT

Afghan Society is being largely shaped by the patriarchal system, which keeps men in a position of leverage in comparison to women. The situation became even worse after the Taliban returned to power in 2021. In the education system, girls are only allowed to study until primary school, while secondary school and universities remain closed to them. Women are banned from working in Government Offices, law, and the media. They need a male guardian known as Mahran and must wear a burqa whenever they travel. This shows the obstacles and helplessness of the Afghan women. The research explores the National policies and International Agreements for women of Afghanistan. Further, it contains a comparative study of conditions, rules and implementations of National Policies of the women of Pakistan and Afghanistan. Moreover, it deals with the comparative study of rights, protection and policies for girl children and male children in Afghanistan. The research follows a comparative and analytical method based on secondary data from UN reports and aims to examine the legal and socio-political status of women. The research proposes that the International Court of Justice must ensure that fair laws are made in respect to women and children. Strict adherence and monitoring of the national laws for children to prevent child marriage, discrimination, and child trafficking in compliance with the Convention on the Rights of Children, aided by Optional Protocols. Finally, transforming leadership by shifting women from mere beneficiaries to autonomous agents and decision-makers.

Keywords: National Policies, International Agreements, Afghan Women, Children, Patriarchal System

I. INTRODUCTION

Afghanistan has undergone the cycles of reform and reversal for over a century, and each shift has affected the lives of women there. Conflict, foreign intervention, regime

[1] Aditi Kulkarni, 2nd Year, BBA LLB Student, Brainware University
[2] Bhavya Shaw, 1st Year , BA LLB (Hons), Student, University of Kalyani

changes, and ideological battles have all left deep scars on the Afghan society. Through all of it, women and children have paid the highest price, as they were the easy targets of deliberate policies designed to remove them from the public sphere.

Afghanistan has always been a deeply patriarchal society. Thus, Men have traditionally controlled family decisions, land, and community authority. Religious interpretations and tribal customs have often been used smartly to justify keeping women at home, which limits their education, and their movements. Few governments tried to reform things, those changes rarely reached the rural areas, where most of the population lives. Hence, maximum attention and reforms were required here to mitigate the issue. What stands out about the Afghan case is how directly women's rights have always been proportional to the government that is in power, which extends or withdraws, like a privilege rather than a guaranteed, protected right as something permanent. Laws and constitutions alone cannot protect people if political will is absent.

A. PRE-TALIBAN PERIOD

One of the earliest efforts to improve women's lives came under Amanullah Khan, who had led Afghanistan after independence in 1919. He encouraged girls' education, was against forced marriage, and wanted women to take part in public life. His wife, Queen Soraya Tarzi, was a strong voice for women's rights and openly supported girls going to school. But these changes made powerful enemies. Religious conservatives and tribal leaders saw them as an attack on Afghan culture. Faced with mounting opposition, Amanullah was removed from the power, girls' schools were shut down, and most of the reforms were abandoned.

During the reign of Mohammed Zahir Shah, the 1964 Constitution opened new doors for women.[3] Women could vote, attend university, and work in hospitals, schools, government offices, and the media. In Kabul and other cities, women became teachers, doctors, and journalists. In rural areas, though, little changed; poverty, child marriage, and strict traditions continued as before.

The Soviet backed government that followed tried to bring change even more rapidly by making education compulsory and encouraging women to enter professional life. But in many communities, especially in rural and conservative areas, these policies felt

[3] Huma Ahmed-Ghosh, 'A History of Women in Afghanistan: Lessons Learnt for the Future or Yesterdays and Tomorrow: Women in Afghanistan' (2003) 4(3) Journal of International Women's Studies 1.

imposed and was unwelcomed in the mass. The backlash contributed to the start of a long civil conflict that destabilised Afghanistan for decades.

B. First Taliban Regime and the Post-2001 Period

When the Taliban first came to power in the 1990s, the changes for women were swift and sweeping. Women were banned from working. The girls could not go to school. Leaving home without a male guardian was not allowed. Women had to wear the burqa in public. This period had the most complete exclusion of women from public life Afghanistan had ever seen.

After the Taliban fell in 2001, things changed dramatically. Millions of girls returned to school. Women entered universities, stood for parliament, became doctors, journalists, and civil servants. The 2004 Constitution included strong protections for gender equality, and international donors poured money into women's programmes. These were real gains and real improvements in real life. But they were also sectional. Progress was concentrated in cities. Many rural areas were barely touched. The reforms depended heavily on international funding and the presence of foreign troops rather than being rooted in the strong Afghan institutions.

In August 2021, the Taliban returned. Within months, much of what had been built over twenty years vanished . Women were removed from government jobs, girls were barred from secondary school, and restrictions on movement and dress were reimposed. Today, Afghanistan consistently ranks as the most restrictive country in the world for women.

II. Women's Status: A Comparative Analysis

The situation of women in Afghanistan today is unlike anywhere else in the world. Since 2021, women have been shut out of secondary and higher education, most jobs, politics, and large parts of public space. The United Nations has used the term *gender apartheid* to describe what is happening : a state-enforced system of exclusion based entirely on gender.

According to UNESCO and UNICEF,[4] blocking girls from education does not just affect them today but it shapes the rest of their lives. Without education, women cannot find

[4] UNESCO, 'Fields of Expertise' <https://www.unesco.org/en/expertise> accessed 25 May 2026; UNICEF, 'Afghanistan' https://www.unicef.org/afghanistan accessed 25 May 2026.

work, manage their health, or participate in decisions that affect them. When skilled female doctors, teachers, and civil servants are forced out of their jobs, the whole country suffers. In a society where many women feel more comfortable seeing a female doctor, removing women from healthcare creates a serious public health problem, especially for women and children.

Beyond education and work, women's freedom of movement has been severely curtailed. A woman cannot travel long distances without a male guardian. Parks, gyms, and many other shared spaces are out of their limits. Women who experience domestic violence, already a serious and widespread problem, have almost nowhere to seek for help or legal protection.

A. How Girl and Boy Children Are Treated Differently

In Afghanistan today, a child's gender shapes almost every aspect of their life from a very young age. The gap between what is available to boys and what is available to girls is huge and unjust.

Boys can attend school at every level, move freely in public, and look forward to choosing a career. As they grow up, they face no legal restrictions on their education, employment, or participation in civic life. Girls, on the other hand, can only attend school up to primary level. Since 2021, secondary schools and universities have been closed to them by Taliban decree. A teenage girl in Afghanistan today cannot plan for a future built on her own choices. Her path is shaped instead by the expectation of early marriage, domestic responsibilities, and dependence on the male family members.

Child marriage is a serious and widespread problem for girls in Afghanistan. The country has one of the highest rates of the same in comparison with the rest of the world, with many girls married off before they are sixteen, results in leaving school, facing pregnancy at a young age, and losing any financial independence. Boys do not face the same expectations or consequences. The Afghan state's failure to stop these practices, even when laws existed that should have prevented them, shows how deeply embedded gender inequality is within the system itself, not just in individual households.

This is not simply a matter of tradition or culture. Under the Taliban, the unequal treatment of boys and girls has been written into policy and enforced by the state. The

result is that Afghan girls are systematically denied the rights to education, health, safety, and a voice in their own future, rights that Afghan boys take for granted.

B. *AFGHANISTAN AND PAKISTAN: A COMPARISON*

Comparing Afghanistan with Pakistan helps show how extreme the restrictions in Afghanistan really are. In Pakistan, women make up about 24% of the workforce. In Afghanistan, that figure is barely 6%.[5] Female literacy in Pakistan stands at around 47%, compared to a declining and increasingly restricted figure in Afghanistan. Among young women, Pakistan's literacy rate is roughly 55%, against 45% in Afghanistan, and that gap will keep growing as Afghan girls continue to be denied schooling.

Pakistani women also have a greater say in household decisions and are more present in public and political life. Afghanistan's government is now entirely male. Maternal health outcomes are worse in Afghanistan, partly because women can no longer easily train as doctors or midwives. Both countries face real gender inequality, but Afghanistan stands apart because its government actively enforces that inequality by law.

III. LEGAL FRAMEWORK FOR WOMEN'S AND CHILDREN'S RIGHTS

The legal protections available to women and children in Afghanistan have always been depended on who was in power. Under governments that valued reform, constitutions offered strong protections. Under extremist rule, those same protections were swept aside. This inconsistency is itself a problem; rights that depend entirely on political circumstances are not really rights at all.

Afghanistan's 2004 Constitution was the strongest legal framework for women's rights the country had ever had. It stated clearly that all citizens : men and women, had equal rights and duties before the law.[6] It recognised education as a right for everyone (Article 43) and specifically required the government to work toward improving female literacy, especially in rural areas (Article 44). It also reserved seats for women in both houses of parliament, giving women a formal role in governance for the first time in Afghan history.

[5] World Bank, Gender Data Portal, 'Pakistan' https://genderdata.worldbank.org/en/economies/pakistan accessed 25 May 2026.

[6] Constitution of Afghanistan 2004, art 22.

The Elimination of Violence Against Women (EVAW) Law, passed in 2009, went further by making forced marriage, child marriage, domestic violence, and the denial of inheritance criminal offences.[7] It was far from perfectly enforced, but it was significant. It was the first time Afghan law formally said that violence against women was wrong and punishable. Since 2021, both the Constitution and the EVAW Law have been effectively abandoned.

Afghanistan also signed up to several important international human rights treaties. It ratified CEDAW in 2003, committing to eliminate discrimination against women in education, work, health, and politics. It is bound by the ICCPR, which protects freedom of movement and equality before the law, and by the ICESCR, which guarantees the right to education and decent work. These treaties are still technically in force, even though the Taliban ignores them.

A. THE CONVENTION ON THE RIGHTS OF THE CHILD (CRC)

Afghanistan ratified the Convention on the Rights of the Child (CRC) in 1994.[8] The CRC sets out clear standards for how states must treat all children. Article 2 says children cannot be discriminated against on the basis of their sex. Article 3 says the best interests of the child must come first. Article 6 protects every child's right to life and development. Article 28 guarantees the right to education on an equal basis.

When Afghanistan's government closes schools to girls, it is not acting in line with tradition or religion alone.It is breaking a legal obligation it chose to take on in 1994. The CRC is not ambiguous: banning girls from school because of their gender is discrimination, and the state is responsible for it.

Afghanistan also ratified two additional agreements linked to the CRC, one on the sale of children and child trafficking, and one on children in armed conflict. Child marriage, child trafficking, and the use of children in fighting are all happening in Afghanistan, and all of them are violations of commitments Afghanistan made on the international stage. The CRC Committee has called on Afghanistan repeatedly to act on these issues. The Taliban's refusal to do so is not just a political position; it is a legal failure that the international community needs to take more seriously.

[7] Constitution of Afghanistan 2004, arts 43–44; Law on Elimination of Violence Against Women 2009 (Afghanistan).
[8] Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3.

B. The Sustainable Development Goals and Afghanistan

In 2015, every member of the United Nations agreed to work toward seventeen Sustainable Development Goals by 2030.[9] Two of them matter enormously for Afghan women and children.

SDG 4 calls for quality education for everyone, including girls, at every level of schooling. Afghanistan is not behind on this goal; it is actively moving in the opposite direction. Girls who were in secondary school in 2020 can no longer attend. Girls who were young children in 2021 will now grow up without access to the education they need and are entitled to.

SDG 5 calls for gender equality and the empowerment of women and girls. It specifically targets harmful practices like child marriage. Again, Afghanistan is not simply falling short, it has reversed what progress was made. The Taliban's policies represent a level of regression that is without parallel among UN member states.

The SDGs are not legally binding treaties, but they represent what the world agreed was the right direction. Afghanistan's departure from that direction is complete and should be clearly named when international bodies report on progress.

IV. Effectiveness of International Frameworks

Afghanistan has signed many of the world's most important human rights agreements. On paper, women and children have strong protections. In practice, those protections have rarely worked as intended.[10] The gap between what international law promises and what Afghan women and girls actually experience is vast, and understanding why that gap exists matters if we want things to change.

After 2001, the international community invested heavily. Millions of girls went back to school, and women entered parliament, business, and the judiciary. These were real achievements, but they were built on shaky foundations , concentrated in cities,

[9] UN General Assembly, 'Transforming Our World: The 2030 Agenda for Sustainable Development' (A/RES/70/1, 25 September 2015).
[10] UN Women, 'FAQs: Afghan Women Three Years after the Taliban Takeover' https://www.unwomen.org/en/articles/faqs/faqs-afghanistan accessed 25 May 2026.

dependent on foreign funding, and rarely reaching rural areas were patriarchal customs and weak institutions meant the law seldom worked in practice.

The Doha peace negotiations between the United States and the Taliban made the situation worse. Women's rights were largely left off the table. The priority was getting foreign forces out of Afghanistan, and the rights of Afghan women were treated as a secondary concern. When the troops left in 2021, the protections that had depended on their presence collapsed almost immediately. This was a painful lesson: rights that are built on external support, without strong domestic institutions behind them, are very vulnerable.

Since 2021, the Taliban has restricted women's education, employment, movement, and political participation. International organisations have spoken out loudly, and the United Nations has used the phrase gender apartheid. But words alone have not changed the situation. The international community can condemn, sanction, and debate but it has no direct way to force the Taliban to change course inside Afghanistan.

The term *gender apartheid* matters beyond rhetoric. When apartheid was applied to South Africa, it signalled a collective obligation to act , not merely protest.

A. THE ROLE OF THE INTERNATIONAL COURT OF JUSTICE

The International Court of Justice is the highest judicial body in the international system. It mainly handles disputes between states, but it also has the power to give advisory opinions and can be reached through the complaints mechanisms built into international treaties.[11] Its potential role in holding Afghanistan accountable for what is happening to women and children is significant — and is beginning to be tested.

In 2023, Canada and the Netherlands filed a case against Afghanistan before the ICJ under CEDAW. This was the first time any country had used CEDAW's inter-state complaints mechanism. It was a meaningful step; it showed that some states are willing to use legal tools, not just diplomatic language, when human rights

[11] Canada and the Kingdom of the Netherlands v Islamic Republic of Afghanistan (Application instituting proceedings, ICJ, 2023); Convention on the Elimination of All Forms of Discrimination Against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13, art 29.

commitments are being systematically violated. If the ICJ engages seriously with this case, it could set an important precedent: that the wholesale exclusion of women from public life is not a cultural or political matter but a violation of binding international law.

The ICJ has a broader role to play beyond waiting for cases. An advisory opinion affirming that the systematic exclusion of women from education and public life violates customary international law would give the international community a firmer foundation for collective action. Extending that oversight to CRC obligations, on child marriage, educational exclusion, and trafficking, would strengthen the accountability framework further.

V. CONCLUSION

The story of women's rights in Afghanistan is one of promises made and broken, written into constitutions, backed by international treaties, supported by years of investment, and then swept away when the political winds changed. The Taliban's return in 2021 was the most dramatic reversal, but not the first, and that is part of the problem.

Rights in Afghanistan have always depended on whoever holds power , never truly secure. This paper has shown that legal frameworks are necessary but not sufficient. CEDAW, the CRC, and the ICCPR all apply to Afghanistan. But none of them protected Afghan women when the government decided they were inconvenient. Without political will and strong institutions, even the best laws remain on paper. Girl and boy children in Afghanistan do not grow up in the same country in any meaningful sense. Boys have access to education, work, and public life. Girls are systematically excluded from all three, by law and state enforcement. This is a clear violation of the CRC's non-discrimination principles, and the international community must say so plainly.

Afghanistan is not simply behind on gender equality ; it is actively moving in the wrong direction. The ICJ proceedings brought by Canada and the Netherlands under CEDAW offer a real opening for accountability. That opening should grow: through broader state participation, treaty body coordination, and a clear legal case that gender apartheid is an international wrong, not a domestic policy choice. Ultimately, no treaty and no court ruling will be enough on its own. What Afghan women need and deserve

is peace, functioning institutions, investment in education and health, and a genuine seat at the table in decisions that affect their lives.

VERDICT
VOICES
LAW. LEARN. LEAD.