iJRASET
International Journal For Research in Applied Science and Engineering Technology



# INTERNATIONAL JOURNAL FOR RESEARCH

IN APPLIED SCIENCE & ENGINEERING TECHNOLOGY

**Volume:** 14 **Issue:** V **Month of publication:** May 2026

**DOI:** https://doi.org/10.22214/ijraset.2026.81618

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International Journal for Research in Applied Science & Engineering Technology (IJRASET)
*ISSN: 2321-9653; IC Value: 45.98; SJ Impact Factor: 7.538*
*Volume 14 Issue V May 2026- Available at www.ijraset.com*

# Erased from the Public Square: Women's Political Participation under Taliban Rule (2021–2025): *A Human Rights Law Perspective*

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***Abstract:*** ***Since the Taliban's return to power in August 2021, Afghanistan has witnessed the systematic dismantlement of women's political rights, a regression unprecedented in the post-Cold War era. This article examines the Taliban's policies on women's political participation through the prism of international human rights law, with particular focus on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), UN Security Council Resolution 1325 on Women, Peace and Security, the Universal Declaration of Human Rights (UDHR), and the International Covenant on Civil and Political Rights (ICCPR). Analysing over one hundred Taliban edicts issued between 2021 and 2025, alongside the 2024 Law on the Propagation of Virtue and Prevention of Vice (PVPV), the article argues that the systematic exclusion of women from political life constitutes not merely a series of discrete human rights violations but an institutionalised regime of gender-based oppression meeting the legal threshold of gender persecution as a crime against humanity under the Rome Statute. It further examines the doctrine of gender apartheid, emerging accountability mechanisms, including International Criminal Court (ICC) arrest warrants issued in July 2025, and inter-State proceedings before the International Court of Justice (ICJ) and critically evaluates the structural limitations of existing international legal frameworks in addressing non-compliant de facto authorities. The article concludes with recommendations for strengthening accountability and legal protection for Afghan women.***

***Keywords: Taliban, Women's Political Rights, CEDAW, Gender Apartheid, Gender Persecution, Human Rights Law, Afghanistan, International Criminal Court, UNSCR 1325, De Facto Authorities.***

## I. INTRODUCTION

On 15 August 2021, Taliban forces entered Kabul as the internationally recognised Afghan government collapsed, bringing to an abrupt end two decades of constitutional governance during which women had slowly, haltingly, built a presence in public and political life. By 2021, women constituted approximately 27 per cent of the Afghan National Assembly — a figure achieved through constitutional guarantee and quota mechanisms. Within weeks of the Taliban takeover, that presence was entirely extinguished.

The period from August 2021 to 2025 has been defined by the systematic, documented, and accelerating exclusion of women from every sphere of public life.

The Taliban have issued over one hundred edicts curtailing women's rights, culminating in the August 2024 Law on the Propagation of Virtue and Prevention of Vice (PVPV), which codified this architecture of exclusion into formal law. UN Women's August 2025 Gender Alert concluded starkly that not a single decree restricting women's rights had been repealed in four years, and that measures once framed as temporary have become entrenched as permanent policy.

These developments are not merely a domestic Afghan concern. Afghanistan ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 2003, adopted the 2004 Constitution guaranteeing gender equality, and committed to implementing UN Security Council Resolution (UNSCR) 1325 on Women, Peace and Security. The Taliban's post-2021 governance has rendered each of these commitments a nullity, presenting a fundamental challenge to the authority, coherence, and enforcement capacity of international human rights law.

This article proceeds in six sections. Following this introduction, Section II sets out the international human rights law framework governing women's political participation. Section III provides a systematic analysis of Taliban restrictions on that participation. Section IV examines the doctrinal characterisation of these restrictions, including as gender persecution and gender apartheid. Section V surveys the international accountability mechanisms that have been activated or proposed. Section VI critically evaluates the structural limitations of these mechanisms and offers recommendations. The article closes with a conclusion.

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## II. THE INTERNATIONAL HUMAN RIGHTS LAW FRAMEWORK: WOMEN'S POLITICAL PARTICIPATION

### *A. The Foundational Architecture*

The right of women to participate in political life on equal terms with men is one of the most thoroughly elaborated rights in international human rights law. Its normative foundation rests upon several interlocking instruments.

The Universal Declaration of Human Rights (1948) establishes in Article 21 that everyone has the right to take part in government, directly or through freely chosen representatives, and that the will of the people — expressed through genuine elections — is the basis of governmental authority. Critically, Article 2 prohibits discrimination on grounds including sex, while Article 7 guarantees equality before the law. Together, these provisions establish a non-discriminatory framework for political participation that is universal in application and foundational in character.

The International Covenant on Civil and Political Rights (ICCPR, 1966), to which Afghanistan is a party, operationalises these principles in treaty form. Article 25 guarantees every citizen the right to take part in public affairs, to vote and to be elected, and to have access to public service — without any of the distinctions mentioned in Article 2, which expressly includes sex. The Human Rights Committee, in General Comment No. 25 (1996), has emphasised that states must ensure that laws and policies guaranteeing these rights are applied without discrimination, and that positive measures may be required to ensure women's effective participation.

The Convention on the Political Rights of Women (1953) was the first binding treaty devoted specifically to women's political rights, guaranteeing women the right to vote, to be elected to all publicly elected bodies, and to hold public office. Its significance for the Afghan situation lies in its focus on formal and substantive equality in political life.

### *B. CEDAW and Political Participation*

The most comprehensive international treaty instrument for women's rights is the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979). Afghanistan ratified CEDAW in 2003, placing itself under binding obligations of treaty law. CEDAW is distinctive for its dual focus on both de jure and de facto discrimination: Article 1 defines discrimination against women as any distinction, exclusion or restriction based on sex which impairs women's enjoyment of human rights, while Article 2 obliges states to pursue a policy of eliminating discrimination by all appropriate means, including through law and public policy.

Article 7 of CEDAW is of central importance: it requires states parties to take appropriate measures to eliminate discrimination against women in political and public life and, in particular, to ensure women's right to vote, to stand for election, to participate in the formulation of government policy, and to participate in public organisations. Article 8 extends this to women's representation at the international level. CEDAW's General Recommendation No. 23 (1997) on women in political life makes clear that political participation encompasses not only formal political office, but also participation in civil society, advocacy, and public affairs broadly conceived.

Article 5 of CEDAW imposes the important obligation on states parties to modify social and cultural patterns of conduct that perpetuate gender stereotypes or gender role ideology. This provision has direct bearing on the Taliban's claimed basis for restriction — namely, a particular interpretation of Islamic law and 'traditional' Afghan culture. Under CEDAW, no cultural or religious rationale can justify discriminatory conduct that impairs women's rights.

A UN Legal Review published in April 2026, conducted by OHCHR and UN Women, found that sixteen Taliban policies enacted between 2021 and 2025 constitute violations of core CEDAW principles, including non-discrimination, equality before the law, and the obligation to eliminate discriminatory practices. The review concluded that these measures form, in combination, a 'system of institutionalised discrimination' in which restrictions in one area reinforce and compound those in another.

### *C. UN Security Council Resolution 1325 and the Women, Peace and Security Framework*

UN Security Council Resolution 1325 on Women, Peace and Security (2000) represents a landmark normative development, connecting women's rights to questions of international peace and security. Though not binding in the same manner as a treaty, UNSCR 1325 and its successor resolutions (1820, 1888, 1889, 1960, and others) articulate clear expectations for all parties to conflicts and for the international community.

UNSCR 1325 specifically calls for women's equal participation and full involvement in all efforts for the maintenance and promotion of peace and security, including in peace negotiations. It calls upon all parties to armed conflict to respect international law applicable to the rights of women and girls, and urges states to increase women's representation at all decision-making levels. Afghanistan adopted a National Action Plan for UNSCR 1325 implementation in 2015.

The Taliban's post-2021 governance — which has excluded women entirely from political institutions, removed them from civil service positions, and barred them from participation in the Doha peace process — is antithetical to every aspiration of the WPS framework.

Of particular concern has been the UN's own conduct in relation to UNSCR 1325. In June 2024, the UN's Doha III process — aimed at resolving the Afghan crisis — excluded women from the proceedings at Taliban insistence and removed human rights from the agenda. Critics argued this accommodation not only violated UNSCR 1325 but emboldened the Taliban to intensify restrictions, with the PVPV law issued shortly after.

### *D. The Right to Political Participation as Customary International Law*

Beyond treaty law, there are strong grounds for arguing that the core content of women's right to political participation has crystallised as customary international law, binding upon all states and de facto authorities regardless of treaty ratification. The prohibition on systematic gender-based discrimination in political life is reflected across universal and regional instruments, endorsed by near-universal state practice (albeit imperfectly implemented), and affirmed repeatedly in UN General Assembly resolutions. For a de facto authority like the Taliban — which explicitly disclaims treaty obligations by rejecting the prior Afghan government's treaty practice — the customary law argument is not merely academic but operationally significant.

## III. DISMANTLING WOMEN'S POLITICAL PARTICIPATION: THE SYSTEMATIC RECORD

### *A. Institutional Erasure*

The most immediate and comprehensive act of political exclusion occurred at the institutional level. Upon seizing power, the Taliban suspended the 2004 Afghan Constitution, the primary legal instrument guaranteeing gender equality and mandating women's political representation. They dissolved the Ministry of Women's Affairs and replaced it with the Ministry for the Propagation of Virtue and Prevention of Vice — the institutional vehicle for enforcing gender-based restrictions. The Afghanistan Independent Human Rights Commission (AIHRC) was abolished, eliminating the principal domestic accountability mechanism for rights violations. The Human Rights Support Unit within the Ministry of Justice was similarly dismantled.

Women were removed from all positions in the civil service, the judiciary, and law enforcement. The National Assembly, within which women had held approximately 27 per cent of seats under constitutional quota provisions, was effectively dissolved. No mechanism for women's political representation, formal or informal, was established in its place. Afghan women who had spent decades building careers in governance, diplomacy, and public administration found themselves abruptly excluded from public life.

### *B. The Architecture of Edicts: 2021–2025*

Between August 2021 and 2025, the Taliban issued over one hundred edicts regulating women's conduct, dress, movement, and participation in public life. The trajectory of these edicts is significant: they represent not an initial period of restriction followed by gradual relaxation, but rather a steady intensification over time. UN Women's 2025 Gender Alert confirmed that not one decree restricting women's rights had been repealed in four years.

The edicts cover an interconnected web of restrictions that cumulatively eliminate women's capacity for political participation. Women have been barred from working in the civil service, with limited exceptions in healthcare and education that are themselves heavily constrained. They have been prohibited from working with UN agencies, NGOs, and international organisations — directly eliminating a significant avenue for civil society participation and advocacy. Women have been required to travel only with a male guardian (mahram) for distances greater than 72 kilometres, severely curtailing freedom of movement essential to any meaningful public activity. Mandatory face coverings and dress codes have been imposed and enforced with increasing severity.

The prohibition on women's voices in public — encapsulated in provisions of the PVPV law equating a woman's voice with her 'private parts' — functions as a direct suppression of the most elementary prerequisite for political participation: the ability to speak and be heard. Eighty of the 122 edicts issued by 2024 focused specifically on curtailing women's dress, mobility, education, and employment.

### *C. The 2024 Law on the Propagation of Virtue and Prevention of Vice*

In August 2024, the Taliban enacted the Law on the Propagation of Virtue and Prevention of Vice, which codified and extended the restrictive edicts that had accumulated since 2021. This legislative act is jurisprudentially significant: it represents the formalisation of a gender-discriminatory legal order, moving from rule by decree to rule by enacted law.

The PVPV law requires women to fully cover their faces in public, prohibits women's voices from being heard in public settings (including prohibitions on singing and reciting hymns), severely limits women's freedom of movement, mandates male accompaniment, and imposes restrictions on women's use of public transport.

UN experts immediately condemned the law as reminiscent of Taliban repression in the 1990s and as constituting a deepening of discrimination against women. The PVPV law has been described by scholars as the legal architecture of an institutionalised gender hierarchy — not merely a collection of discrete restrictions, but a coherent normative regime designed to perpetuate women's subordination in all spheres of life.

In January 2026, the Taliban endorsed a new criminal code that further reinforced and broadened the discriminatory vice and virtue laws, formalising a caste-like social hierarchy and reinforcing coerced confessions as an enforcement mechanism. The trajectory from August 2021 to January 2026 is unambiguous: each new legal instrument tightens, rather than relaxes, the constraints on women's participation in public life.

### *D. The Compound Effect: Education, Employment, and Political Exclusion*

The UN Legal Review's characterisation of Taliban restrictions as forming a system — rather than a series of individual violations — reflects a crucial analytical insight. Women's political participation is not an isolated capacity that can be curtailed while other rights remain intact. It is structurally dependent upon access to education, freedom of movement, freedom of expression, access to employment and economic resources, and the ability to associate and organise.

The Taliban's education bans — prohibiting girls from secondary and higher education, cancelling university courses including women's studies, midwifery, and gender-related disciplines — have been characterised by the UN Legal Review as violations of a 'gateway right' whose denial produces cascading harms across employment, economic independence, healthcare, and political participation. Nearly 80 per cent of young Afghan women have been excluded from education, employment, or training. A generation of potential political actors has been systematically prevented from acquiring the knowledge, credentials, and networks necessary for civic engagement.

The prohibition on women working with NGOs and UN agencies eliminated a critical pathway through which Afghan women had historically developed leadership skills, built professional networks, and participated in advocacy and civil society work. The closure of women-led organisations, or the forced transfer of their leadership to men, has further dismantled the organisational infrastructure of women's political agency.

## IV. LEGAL CHARACTERISATION: FROM VIOLATIONS TO PERSECUTION AND APARTHEID

### *A. Gender Persecution as a Crime Against Humanity*

Article 7(1)(h) of the Rome Statute of the International Criminal Court defines persecution on gender grounds as a crime against humanity when committed as part of a widespread or systematic attack directed against any civilian population. Persecution is defined as the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectively. Gender is explicitly included as a prohibited ground.

The application of this provision to the Afghan situation has received authoritative legal support. In January 2025, ICC Prosecutor Karim Khan applied for arrest warrants against Taliban Supreme Leader Hibatullah Akhundzada and Chief Justice Abdul Hakim Haqqani on charges of the crime against humanity of gender persecution. The Pre-Trial Chamber II of the ICC issued those arrest warrants in July 2025 — the first time the Court has acted on gender persecution at this scale and the first arrest warrants issued in the Afghanistan situation.

The legal case for gender persecution rests on three elements: first, that the Taliban's policies constitute severe deprivation of fundamental rights — including the right to political participation, education, freedom of movement, and freedom of expression; second, that these deprivations are intentional, as evidenced by the deliberate legislative and administrative architecture described above; and third, that they are directed against women and girls as a group, based on gender. All three elements are satisfied by the documented record.

Amnesty International's 2023 report 'The Taliban's War on Women' reached the same conclusion, characterising the Taliban's conduct as gender persecution under international criminal law.

The CEDAW Committee's unprecedented 2025 review of Afghanistan — conducted without engagement from Taliban authorities — urged cooperation with ICC and ICJ accountability mechanisms and called for remedies and reparations for survivors of gender persecution.

### *B. Gender Apartheid: Doctrine, Definition, and Gap*

Beyond the individual crime of persecution, many scholars, UN experts, and Afghan women's rights defenders have argued that the appropriate characterisation of the Taliban's governance is gender apartheid an institutionalised system of gender-based oppression and domination analogous to the racial apartheid criminalized under international law.

The Rome Statute's Article 7(1)(j) defines the crime of apartheid as inhumane acts committed in the context of an institutionalised regime of systematic oppression and domination by one racial group over any other racial group, with the intention of maintaining that regime. The limitation to racial groups represents a significant gap in international criminal law: a systematic regime of gender-based domination of the character exhibited in Afghanistan falls outside the Statute's current ambit.

The call to codify gender apartheid as a crime against humanity has attracted broad support. UN Special Rapporteur Richard Bennett described Afghanistan's situation as gender apartheid in his June 2023 and June 2024 reports to the Human Rights Council. The UN Working Group on Discrimination Against Women and Girls stated in February 2024 that existing forms of gender-specific crimes 'do not fully capture the institutionalised and widespread nature of the deprivation of rights involved in systems of gender apartheid,' and that 'only the apartheid framework can fully grasp the role of intent, ideology and institutionalisation in gender apartheid regimes as seen in Afghanistan.'

The comparison with racial apartheid in South Africa is analytically instructive. In both contexts, the oppressed group is systematically cut off from equal education, employment, healthcare, justice, political power, and freedom of movement. The deliberate design of the system — its institutionalisation, its intentionality, its comprehensiveness — is precisely what distinguishes apartheid from isolated discrimination. As Afghan lawyer Azadah Raz Mohammed told the UN Security Council in March 2025: 'No term better describes the crimes the Taliban are committing against Afghan women and girls.'

The January 2026 UN preparatory committee process for a proposed crimes against humanity treaty presented a specific opportunity to codify gender apartheid in binding international law. The outcome of that process, and subsequent negotiations, will determine whether international law closes this doctrinal gap.

### *C. State Responsibility and the CEDAW Inter-State Mechanism*

Parallel to individual criminal accountability, questions of state responsibility arise. Article 29 of CEDAW provides for inter-state dispute resolution, including reference to the International Court of Justice. In September 2024, Australia, Canada, Germany, and the Netherlands announced their intention to hold Afghanistan accountable under CEDAW for violations of women's rights, initiating a process that may culminate before the ICJ. By the time of writing, this initiative had attracted the support of a further 25 states.

The doctrinal complexities of this proceeding are significant. The Taliban's non-recognition by most states, their rejection of treaty commitments inherited from the prior Afghan government, and the absence of normal state-to-state relations all create procedural complications. Nevertheless, the ICJ's jurisdiction — if accepted — would provide a forum for authoritative determination of Afghanistan's international legal obligations and the Taliban's departures from them. The Special Rapporteur on human rights in Afghanistan has specifically encouraged Muslim-majority states to join this initiative, recognising that broad participation would strengthen both the legal and political weight of the proceedings.

### *D. The Sovereignty Defence and Its Limits*

The Taliban have consistently invoked Islamic Sharia and national sovereignty in response to international criticism. Taliban spokesperson Zabihullah Mujahid stated on International Women's Day 2025 that 'all fundamental rights afforded to Afghan women have been safeguarded in strict accordance with Islamic Sharia law, as well as the cultural and traditional frameworks of Afghan society.'

The Taliban rejected the ICC arrest warrants on similar grounds, citing national sovereignty and religious traditions.

International human rights law admits no such defence. The principle of universality — articulated in the Vienna Declaration and Programme of Action (1993) — holds that human rights are universal, indivisible, interdependent, and interrelated, and that the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, but that it is the duty of states to promote and protect all human rights, regardless of their political, economic and cultural systems. CEDAW Article 5, requiring states to modify discriminatory cultural patterns, directly anticipates and rejects the cultural relativism defence. The Human Rights Committee has similarly affirmed that ICCPR rights cannot be derogated from on grounds of cultural or religious practice.

## V. INTERNATIONAL ACCOUNTABILITY MECHANISMS: PROGRESS AND CONSTRAINTS

### A. *The International Criminal Court*

The ICC's July 2025 arrest warrants for Akhundzada and Haqqani represent the most significant formal accountability measure taken to date. The warrants charge both individuals with the crime against humanity of gender persecution under Article 7(1)(h) of the Rome Statute, based on the Taliban's targeting of women, girls, and individuals non-conforming with the Taliban's gender policies, as well as persecution of persons perceived as 'allies' of women. This is the first time the ICC has issued warrants in the Afghanistan situation and the first prosecution for gender persecution at this scale.

The practical enforcement challenge is considerable. The Taliban are not likely to surrender accused persons voluntarily; ICC member states are obliged to arrest the wanted if they encounter them on their territory, but Taliban leaders' international travel is limited and strategically planned. Russia's July 2025 recognition of the Taliban government — the first formal state recognition — and China's and Pakistan's moves toward normalisation further complicate the diplomatic environment. Nevertheless, the arrest warrants carry important symbolic and normative weight: they signal the international community's characterisation of the Taliban's gender policies as international crimes, create risks for Taliban leaders in international contexts, and may deter further escalation.

An independent investigative mechanism for Afghanistan (IIM-A), established by the UN Human Rights Council in October 2025, represents a complementary accountability tool. The IIM-A is mandated to collect, preserve, and analyse evidence of international crimes and other serious violations of international law in Afghanistan, becoming the only international body examining abuses committed by the Taliban, former government officials, international forces, and other armed groups. Evidence gathered by the IIM-A may ultimately support ICC proceedings or other accountability processes.

### B. *The CEDAW Committee*

In a landmark procedural development, the CEDAW Committee in June 2025 conducted an unprecedented review of Afghanistan's compliance with CEDAW obligations without engagement from Taliban authorities. The Committee stated its solemn legal, international, and moral obligation to examine developments in Afghanistan with unflinching clarity and uncompromising resolve. Its conclusions urged Taliban authorities to restore constitutional and legislative protections for women's rights, reinstate anti-discrimination laws, cooperate with ICC and ICJ mechanisms, and provide remedies and reparations for survivors of gender-based violence and gender persecution. The CEDAW Committee's willingness to proceed without state cooperation sets an important precedent for monitoring compliance by de facto authorities and underscores that treaty obligations survive the collapse of a recognised government or the imposition of a non-compliant regime. Civil society organisations and UN Women played a critical role in providing shadow reports that substituted for the absent state report.

### C. *The UN Human Rights Council and Special Rapporteur*

The UN Special Rapporteur on the human rights situation in Afghanistan, Richard Bennett, has provided sustained, authoritative documentation of Taliban violations and has been a leading voice in calling for gender apartheid to be codified as an international crime. His reports to the Human Rights Council in 2023, 2024, and 2025 have characterised the Taliban's institutionalised system of sex and gender discrimination, segregation, and oppression as gender persecution constituting a crime against humanity.

The Taliban's response has been obstructive: in June 2024, the Taliban banned the Special Rapporteur from entering Afghanistan — a measure that, ironically, underscores the regime's awareness of international scrutiny and its systematic effort to avoid accountability. The Human Rights Council's establishment of the IIM-A in October 2025, notwithstanding Taliban opposition, reflects a measure of institutional resolve.

### D. *Civil Society and the People's Tribunal*

Alongside formal international mechanisms, Afghan civil society has sustained remarkable advocacy in extraordinarily difficult conditions. Women activists inside Afghanistan have continued to document violations, conduct clandestine education programmes, and maintain international networks at severe personal risk. The Taliban's crackdown on dissent — including arbitrary arrest, imprisonment, and reports of disappearance — has intensified over the period under review.

In October 2025, the People's Tribunal for the Women of Afghanistan — convened by a coalition of Afghan civil-society organisations — heard testimony from Afghan women and girls and examined evidence framing the Taliban's rule as a system of gender persecution amounting to gender apartheid. While without formal legal force, the People's Tribunal served important functions: providing a forum for survivor testimony, developing an evidentiary record, and maintaining public attention on the situation.

International women's rights organisations, including Human Rights Watch, Amnesty International, and the Afghan Women's Network, have provided critical shadow reporting, legal analysis, and advocacy that has informed and supported intergovernmental accountability efforts.

## VI. CRITICAL EVALUATION: GAPS, FAILURES, AND THE WAY FORWARD

### *A. The Enforcement Gap*

The most fundamental challenge revealed by the Afghan situation is the enforcement gap at the heart of international human rights law. The normative framework — CEDAW, ICCPR, UNSCR 1325, the Rome Statute — is impressively developed, universally endorsed in the abstract, and increasingly precise in its application to gender-based discrimination. Yet enforcement against a non-compliant de facto authority that exercises effective territorial control has proven elusive.

The Taliban's political survival does not depend upon international approval. They have demonstrated a consistent willingness to absorb international opprobrium while continuing to consolidate their internal control. Sanctions — including UN Security Council travel bans on Taliban leaders — have not altered gender policy. Diplomatic isolation, where it exists, has been attenuated by bilateral engagement from neighbouring states. Frozen Afghan state assets in foreign banks have not been converted into effective leverage on women's rights.

The Yale Journal of International Law's 2025 analysis of this situation concluded that 'the international community has not yet been able to agree on and devise effective solutions for the international implementation and enforcement' of women's rights in non-compliant regimes. This is not merely a problem of political will — though political will is clearly insufficient — but of structural design: international human rights law was built around the compliance of sovereign states, not the coercion of non-compliant ones.

### *B. The Doha Process: Accommodation and Complicity*

The UN's management of the Doha process has attracted sustained and well-founded criticism from Afghan women's rights defenders and international law scholars. The exclusion of women from the Doha III talks in June 2024 — accommodated at Taliban insistence — directly violated UNSCR 1325 and undermined the normative framework the UN is mandated to uphold. The removal of human rights from the agenda represented a further retreat from principle.

Critics including the Afghan Organization for Policy Research and Development Studies (DROPS) argued that UN accommodation normalised the Taliban's position and emboldened further restrictions. The sequence of events — Doha III exclusion in June 2024 followed by the PVPV law in August 2024 — lends empirical support to this argument. International organisations that accommodate gender-discriminatory conditions in order to achieve access or engagement risk legitimising the conditions they purport to challenge.

There is a broader lesson here about the coherence of international institutional conduct. When the UN Security Council, acting through UNSCR 1325, requires women's equal participation in peace processes, and the UN Secretariat simultaneously facilitates their exclusion, the credibility and authority of the normative framework is damaged. Institutional coherence — aligning operational conduct with normative commitments — is a prerequisite for effective human rights diplomacy.

### *C. The De Facto Authority Problem*

International human rights law is primarily addressed to states. The Taliban, while exercising effective control over Afghan territory, has not been formally recognised by most states as Afghanistan's legitimate government. This creates a doctrinal gap: the Taliban disclaims treaty obligations inherited from the former Afghan government, and formal state-to-state accountability mechanisms presuppose a recognised interlocutor.

This gap must be addressed through creative legal engineering. The customary international law argument — that the prohibition on systematic gender discrimination is binding regardless of treaty ratification — provides one avenue. The ICC's exercise of jurisdiction based on crimes committed on Afghan territory (rather than state consent) provides another. The CEDAW Committee's review without state cooperation sets a precedent for treaty body engagement with non-compliant de facto authorities. The IIM-A's evidence-gathering mandate extends to all actors, including the Taliban.

Scholars have proposed additional approaches: third-state extraterritorial jurisdiction over Taliban leaders present on their territory; the use of targeted sanctions tied to gender rights benchmarks; and conditioning any future recognition or normalisation of Taliban governance upon compliance with minimum human rights standards, including women's political participation.

### *D. The Risk of Normalisation*

UN Women's 2025 Gender Alert identified a specific danger that warrants attention: the normalisation of the women's rights crisis in Afghanistan. Four years on from the Taliban takeover, what were initially framed as temporary restrictions have become entrenched policy; what was initially characterised as crisis has begun to be treated as the status quo. International attention has shifted; donor funding has been reduced, particularly following significant cuts by the United States; and Taliban leaders have been received at international meetings while remaining on UN sanctions lists.

Russia's recognition of the Taliban government in July 2025 — the first formal state recognition — represents a qualitative development in normalisation. If recognition extends, the political conditions for effective international pressure will deteriorate further. The urgency of the Afghan women's rights situation requires that the international community resist the bureaucratic and diplomatic pressure toward normalisation and maintain a consistent normative posture that women's political participation is a non-negotiable component of any legitimate governance framework.

### *E. Recommendations*

The following recommendations emerge from the analysis above:

First, states parties to CEDAW should actively support the inter-state proceedings initiated by Australia, Canada, Germany, and the Netherlands, including through formal joinder and financial support. ICJ determination of Afghanistan's CEDAW obligations would provide authoritative legal clarity applicable to any authority exercising control over Afghan territory.

Second, states parties to the Rome Statute should support the ICC's gender persecution proceedings by cooperating with evidence gathering, implementing arrest warrant obligations if Taliban leaders travel to their territory, and contributing to the IIM-A's operational budget. The principle of complementarity should not be allowed to create impunity gaps for gender crimes committed by non-state authorities.

Third, the General Assembly's process for a crimes against humanity treaty should include the codification of gender apartheid as a distinct international crime. The existing doctrinal gap between racial apartheid (criminalised) and gender apartheid (not formally codified) is indefensible on principles of equality and reflects historical bias in the development of international criminal law.

Fourth, UN engagement with the Taliban — including in the Doha process and any other format — must be conditioned upon compliance with UNSCR 1325's requirements for women's inclusion and upon human rights being placed on the agenda. UN institutions should not accommodate gender discrimination in the conduct of their own processes.

Fifth, states providing humanitarian assistance to Afghanistan should establish mechanisms to ensure that aid reaches women and girls directly, without Taliban interference that would condition access upon compliance with discriminatory policies. The humanitarian imperative does not require acquiescence to gender apartheid as the price of assistance.

Sixth, Afghan women's rights defenders — both inside Afghanistan and in diaspora — require sustained financial, security, and diplomatic support. Their documentation work is critical to accountability efforts; their leadership is essential to any credible reconstruction of Afghan political life.

## VII. CONCLUSION

The Taliban's governance of Afghanistan since August 2021 represents one of the most comprehensively documented instances of systematic gender-based political exclusion in the post-war international order. Over one hundred edicts, culminating in the 2024 PVPV Law and the 2026 criminal code, have constructed an architecture of institutionalised gender discrimination that meets the legal threshold for gender persecution as a crime against humanity, and that many credible legal authorities characterise as gender apartheid.

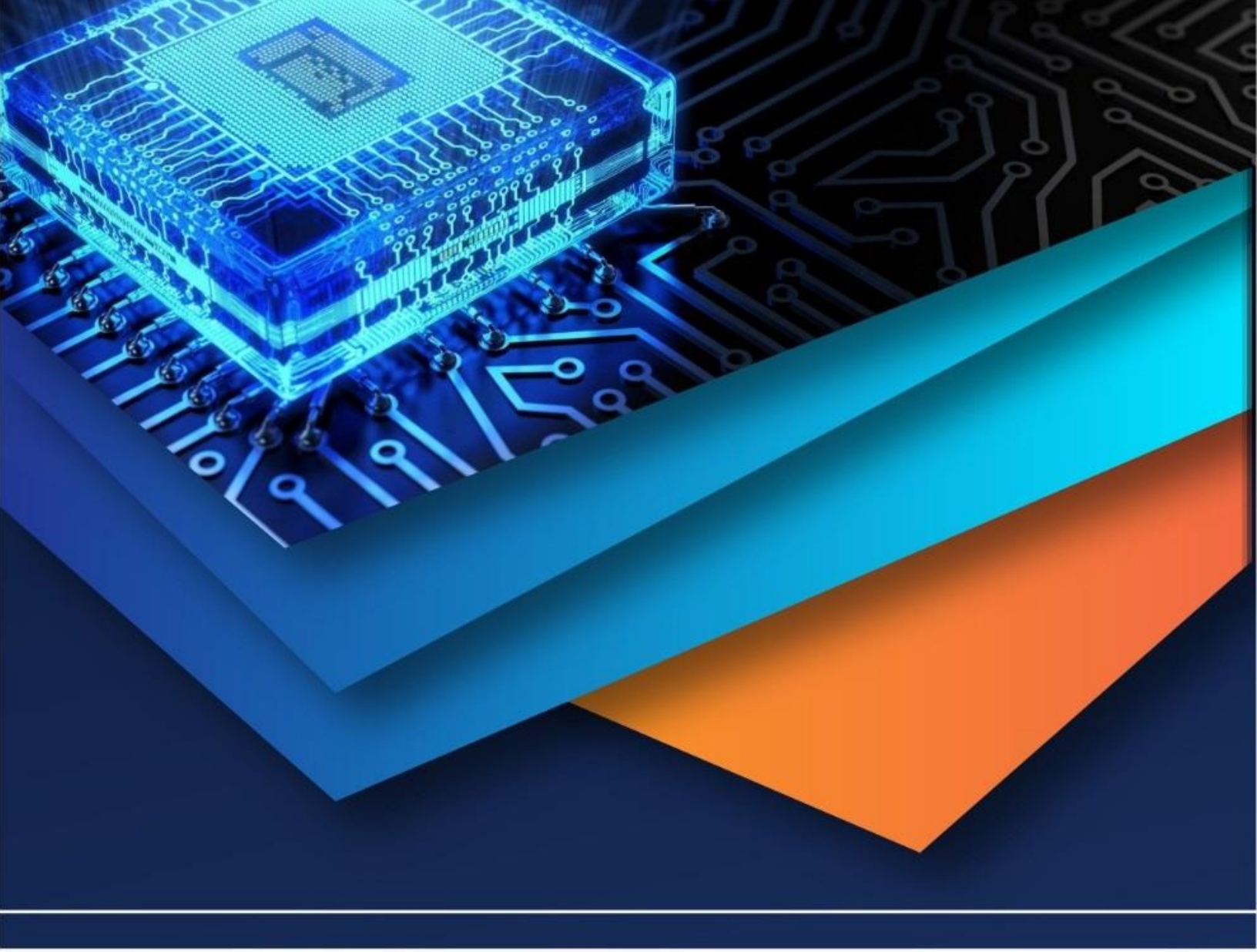
International human rights law — through CEDAW, the ICCPR, the Rome Statute, and UNSCR 1325 — provides a normative framework of considerable sophistication and clarity. Afghanistan's own prior commitments to these instruments are not extinguished by the Taliban's seizure of power. The gap is not normative but operational: the mechanisms for enforcing these norms against non-compliant de facto authorities are structurally underdeveloped, politically contested, and practically constrained.

The ICC arrest warrants of July 2025, the inter-state CEDAW proceedings before the ICJ, the CEDAW Committee's unprecedented review without state cooperation, and the establishment of the IIM-A collectively represent the most ambitious suite of accountability measures the international community has assembled against a gender-discriminatory regime. Whether these mechanisms will achieve results — whether Afghan women will, in their lifetimes, recover their right to participate in the political life of their country — depends upon sustained political will that has thus far been uneven and insufficient.

The stakes extend beyond Afghanistan. The response of the international community to the Taliban's gender policies will shape the expectations and conduct of authoritarian actors worldwide, and will determine whether the progressive development of international human rights law on gender equality continues or stalls. As the Afghan women who continue to resist at enormous personal cost have repeatedly insisted: they are not asking for rescue, but for the enforcement of rights that international law already recognises as theirs.

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