

AMNESTY INTERNATIONAL AND INTERNATIONAL COMMISSION OF JURISTS

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Afghanistan: Taliban's treatment of women and girls should be investigated as the crime against humanity of gender persecution – [new report](#)

The Taliban's severe restrictions and unlawful crackdown on women and girls' rights should be investigated as possible crimes under international law, including the crime against humanity of gender persecution, Amnesty International and the International Commission of Jurists said today in a new report.

The report, 'The Taliban's war on women: The crime against humanity of gender persecution in Afghanistan', presents a detailed legal analysis of how the Taliban's draconian restrictions on the rights of Afghanistan's women and girls, together with the use of imprisonment, enforced disappearance, torture and other ill-treatment, could amount to the crime against humanity of gender persecution under Article 7(1)(h) of the Rome Statute of the International Criminal Court (ICC).

Amnesty International and the International Commission of Jurists consider that the prosecutors of the International Criminal Court should include the crime against humanity of gender persecution in their ongoing investigation into the situation in Afghanistan. The organizations are also calling on other states to exercise universal jurisdiction or other lawful means to bring to justice Taliban members suspected of responsibility for crimes under international law.

"The Taliban's campaign of gender persecution is of such magnitude, gravity and systematic nature, that cumulatively the acts and policies form a system of repression which aims to subjugate and marginalize women and girls across the country. Our report indicates that this meets all the five criteria to qualify as a crime against humanity of gender persecution," said Santiago A. Canton, Secretary General of the International Commission of Jurists.

"Since their take over, the Taliban has imposed draconian restrictions on the rights of Afghanistan's women and girls. Let there be no doubt: this is a war against women – banned from public life; prevented from accessing education; prohibited from working; barred from moving freely; imprisoned, disappeared and tortured including for speaking against these policies and resisting the repression. These are international crimes. They are organized, widespread, systematic," said

Agnès Callamard, Secretary General at Amnesty International.

The report covers the period from August 2021 to January 2023 and bases its analysis on a growing body of evidence collected by credible sources, including Amnesty International's 2022 report [Death in Slow Motion](#), civil society organizations and UN authorities. It also provides a legal assessment of why women and girls fleeing persecution in Afghanistan should be presumptively considered refugees in need of international protection. It complements the work of UN experts and women's rights groups to lay the foundation for the robust response needed to ensure justice, accountability and reparation for the crimes against humanity of gender persecution.

'Second-class citizens'

Since the Taliban's takeover in August 2021, women have been excluded from political roles and most jobs in the public sector. Through a series of measures and announcements, women and girls have also been excluded from education beyond primary school, preventing them from continuing their studies at university and further restricting their professional opportunities.

The Taliban's dissolution of the institutional framework of support for survivors of gender-based violence has further undermined the rights of Afghan women and girls on the basis of their gender. The 24 December 2022 and 4 April 2023 decrees purporting to ban women from working in NGOs and the UN, respectively, provide further evidence of gender discrimination. The requirement that women travel with a *mahram*, or male chaperone, for long-distance journeys, a decree stipulating that women should stay at home unless necessary, and the Taliban's strict dress code violates women's freedom of movement and freedom to choose what to wear in public.

The discriminatory restrictions the Taliban have imposed on women and girls violate human rights guarantees contained in numerous international treaties to which Afghanistan is a party, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of all Forms of Discrimination against Women, and the Convention on the Rights of the Child.

Afghan women and girls have been arbitrarily arrested and detained by Taliban members for so-called "moral crimes" as a result of infringing the de facto authorities' discriminatory *mahram* restrictions, and for their participation in peaceful demonstrations. Women who have protested against the Taliban's abusive and restrictive policies have faced excessive force, unlawful arrests, torture and other ill treatment to ensure their compliance, leading to violations of the rights to freedom of expression, association, peaceful assembly and public

participation.

“The restrictions against women and girls are clearly designed to target them specifically. They have violated their rights and excluded them from participation in society. Afghan women and girls are forced to live as second-class citizens. They are silenced and rendered invisible. The weight of evidence suggests that these measures reflect a policy of gender persecution that aims to obliterate the agency of women and girls in almost every aspect of their lives,” said Agnès Callamard.

The numerous incidents of arbitrary arrest and detention, torture and other ill-treatment inflicted against women and girls who either participated in peaceful protests or were accused of so-called “moral offenses” should also be investigated as possible crimes against humanity of imprisonment, enforced disappearance and torture under Article 7 of the Rome Statute.

A widespread, systematic attack on women and girls as policy

The Taliban’s campaign of persecution targets women and girls across the entire country based on their gender, and potentially affects every single woman and girl in Afghanistan.

The restrictions meted out against women and girls in Afghanistan stem from directives, decisions and rulings adopted by the Taliban de facto authorities at the leadership level. These policies are enforced through a catalogue of oppressive acts, including enforced disappearance and the systematic use of imprisonment, torture and other ill-treatment. These acts are carried out by the Taliban using the former government’s security apparatus, including structures that were dedicated to policing and public facilities such as detention centres.

The Taliban have consistently targeted women and girls who have participated in peaceful protests by arbitrarily arresting, detaining and forcibly disappearing them. While in detention women have been subjected to torture and other ill-treatment and forced to sign “confessions” or agreements in which they commit to not protesting again.

Taken together, the increasingly stifling restrictions and pattern of violent suppression of peaceful protest reflect the existence of a single organized system of oppression, consistent with the requirements under Article 7 of the Rome Statute.

Further, the use of public assets in these crimes, and the involvement of the Taliban police and security forces as well as other Taliban members, suggest that

they may well have acted with knowledge of the wider context of the abuses targeting women and girls.

“Our report provides a holistic and in-depth perspective underlining the scale and seriousness of the violations by the Taliban. It calls for a drastic and urgent change in the international community’s approach to the Taliban’s persistent and flagrant criminal conduct preventing the women and girls in Afghanistan from exercising most of their human rights,” said Santiago A. Canton.

The way forward

Amnesty International and the International Commission of Jurists provide specific recommendations in the report regarding how the international community must help dismantle the Taliban’s system of gender persecution and the impunity which sustains it.

The upcoming enhanced interactive dialogue on the situation of women and girls in Afghanistan at the 53rd session of the UN Human Rights Council is an important opportunity for states, civil society and independent experts to discuss gender persecution and other possible crimes under international law by the Taliban.

At its 54th session in October 2023, the UN Human Rights Council must renew and strengthen the mandate of the UN Special Rapporteur on the situation of human rights in Afghanistan and take urgent steps towards establishing an independent international accountability mechanism to investigate crimes under international law and other serious human rights violations, as well as to collect and preserve evidence of such violations with a view to support future accountability efforts, including prosecution in fair trials.

“Afghan women and girls are the victims of a crime against humanity of gender persecution. The gravity of the crime demands a far more robust international response than has been seen to date. There is only one outcome acceptable: this system of gender oppression and persecution must be dismantled,” said Agnès Callamard.

“Holding the Taliban criminally accountable and tackling rampant impunity for the serious crimes documented in this report is a necessary step toward securing justice for survivors of their egregious practices. We simply cannot afford to fail the women and girls of Afghanistan,” said Santiago A. Canton.

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