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Annex: Intersectional barriers and invisible harms

Report of the Special Rapporteur on the situation of human rights in Afghanistan on access to justice and protection for women and girls and the impact of multiple and intersecting forms of discrimination

Summary

This Annex accompanies the report of the Special Rapporteur on the situation of human rights in Afghanistan, Mr. Richard Bennett, on "Access to justice and protection for women and girls and the impact of multiple and intersecting forms of discrimination" submitted pursuant to Human Rights Council resolution 57/73.

I. Intersectional barriers and invisible harms

"Ensuring justice and protection in Afghanistan means centralizing the views and experiences of those most marginalized."
A woman human rights defender and disability rights advocate.

1. While much of the attention on the human rights situation in Afghanistan focuses on overt restrictions and visible acts of repression, the experiences of many Afghans – especially women and girls – are shaped by less visible but deeply entrenched impacts that arise at the intersection of multiple forms of discrimination. These intersectional harms affect not only cisgender women and girls, but also LGBTQ+ women, girls, and gender-diverse persons, ethnic and religious minority women and girls, women and girls with disabilities, women and girls in remote and rural areas, widows and female-headed households, internally displaced and refugee women, and others from marginalized or at-risk communities. For these groups, access to justice and protection is often completely out of reach.

A. Girls and young women

2. Girls face additional age-related violations that exacerbate their vulnerability and reduce their ability to seek or obtain justice. Afghanistan's juvenile justice system has undergone significant changes under the Taliban. The minimum age of criminal responsibility is not clearly defined and who is considered a child by the *de facto* authorities is now determined by appearance and perceived maturity instead of the international standard of a person under 18 years old.[1] The result is a system in which girls (and boys) are treated as adults which, in addition to violating their rights and Afghanistan's international legal obligations, has induced a cascade of harmful impacts.

3. Under the Taliban, children, including girls, have been subject to arbitrary detention, held alongside adults, and typically denied access to legal counsel and their families. Children in conflict with the law are subjected to full criminal prosecution and punishment without consideration of alternate sentencing or non-custodial measures, in violation of Afghanistan's international obligations which require that the best interests of the child be the primary consideration in all actions concerning children.[2] In some cases, children have also been detained together with mothers or female guardians who have been accused of offenses (something that was also common during the Republic). There are credible reports of children being subjected to beatings during interrogation by Taliban police, including to extract confessions.

4. In addition to removing legal and institutional protections for girls (and boys), the Taliban has created an environment which beyond facilitating violations and abuse against them, actively drives them. Restrictions on education place girls and young women at heightened risk of forced and early marriage, sexual violence, child labour, trafficking, and exploitation. Orphans and those without legal guardians are especially vulnerable. Although the Taliban has formally banned forced marriage – a positive point – consistent reports of such marriages continue to be received. The Special Rapporteur is especially concerned about ongoing reports of families marrying off their young daughters in order to relieve economic burdens or protect them from being forced to marry Taliban members and affiliates. Child and forced marriages place girls and women at greater risk of further harms, including domestic violence, forced sexual relations, under-age pregnancy and serious health consequences.

5. The Taliban's broader policies – in particular restrictions on education – not only obstruct immediate access to justice and protection for girls, they also systematically dismantle future pathways to legal empowerment, economic independence, and self-advocacy. Education and literacy are foundational to accessing justice and protection, empowering women and girls with knowledge of their rights to report violations, and to seek support. Continuing denial of education will therefore have wide-ranging and lifelong impacts.

[1] CRC, art. 1.
[2] CRC, art. 3.

6. Education also plays an important protective role in the lives of girls – and boys – both as children and as they mature into adults. It includes teaching them about their rights, health and safety, and empowering them to protect themselves and their families. It also offers societal protection, for example by teaching empathy, tolerance, and conflict resolution as well as helping build communities that are more resilient to crises, including natural disasters. In the long-term education also provides a form of economic protection, enabling women to engage in livelihood activities, helping to reduce poverty and the risks that come with it. Education also supports and empowers demands for different forms justice – including legal and judicial justice, economic and social justice, gender justice, racial justice, sexual and reproductive justice, environmental and climate justice, among others.

B. Ethnic and religious minorities

7. Afghanistan is home to a diverse range of ethnic, religious, and linguistic groups. These include Pashtun, Tajik, Hazara, Uzbek, Turkmen, Aimaq, Baluchi, and Arab communities as well as Sunnis, Shi'as, Sufis, Sikhs, Hindus, Baha'is, Christians, and Ahmadiyya among others. Religious and ethnic identities have significantly shaped the lived experiences of Afghan women and their access to justice, even prior to the return of the Taliban. Women and girls across all ethnic and religious communities face severe restrictions on their rights under the Taliban; however, those from historically marginalized ethnic and religious communities or whose customs and practises differ from those imposed by the Taliban, face additional and layered identity-related violations and barriers to justice and protection.

8. The Special Rapporteur continues to receive reports of Taliban members and pro-Taliban individuals violating the rights of ethnic and religious minorities, as well as targeted attacks by groups such as Islamic State – Khorasan Province (ISKP) that especially affect Hazaras, as well as religious minorities. Investigations are rare and perpetrators seldom held to account. Courts are perceived to be biased and dismissive of minority rights, contributing to an overall environment of impunity for violations against ethnic and religious minorities.

9. Women and girls from ethnic and religious minorities who resist the Taliban – either through non-compliance with Taliban moral codes or engaging in acts of public protest, are often labelled "immoral" or "un-Islamic". Such stigmatization places them at heightened risk of arbitrary arrest, detention, physical violence, and harassment. Detained women from these communities have also been subjected to ethnically or religiously linked verbal abuse.

10. Access to justice for Shi'a Muslims has been further eroded. Under the Republic, many Shi'a communities resolved family matters like marriage, divorce and inheritance under *Ja'fari* jurisprudence. Now, only the Taliban's interpretation of Sunni *Hanafi* jurisprudence is recognised by *de facto* courts meaning that Shi'as face rulings that may contradict their religious principles. Shi'a women who were previously granted divorces under the *Ja'fari* school have had these divorces nullified.

11. Land disputes and forced evictions, often driven by discriminatory policies and local power dynamics, have disproportionately affected minority communities. Many affected individuals and communities lack formal land titles or identity documents, while for others, land titles that were previously recognized under the Republic are no longer deemed valid, making it difficult to challenge evictions or reclaim land and property. Such challenges are compounded for women, who face barriers accessing redress on the basis of both their ethnicity and their gender.

C. LGBTQ+ persons

12. Under Taliban rule, LGBTQ+ persons in Afghanistan, including lesbian, bisexual, transgender and queer women and non-binary people, face some of the most severe forms of legal and social persecution. Same-sex relations are criminalized, and subject to severe physical punishments including corporal punishments such as public flogging. Corporal punishment constitutes treatment that is contrary to universally recognized norms which

prohibit torture and other degrading, cruel and inhuman treatment or punishment, and further is prohibited in treaties to which Afghanistan is a state party.[3]

13. Individuals perceived as gender non-conforming also face arrest, violence, and public humiliation. Transgender women are especially at risk of violence, including rape and sexual violence, during arrest and detention. The Special Rapporteur has documented such violations against transgender women detained at checkpoints and while trying to flee the country. Reporting such abuse is unthinkable, as doing so would expose the survivor – and potentially their families – to further violence, victimisation, and societal ostracism.

14. LGBTQ+ persons also face discrimination and violence within their families and communities. Forced marriages are common, particularly for lesbian and bisexual women, as a means to "correct" perceived deviance. Those who resist risk violence or permanent expulsion from their homes. Severe discrimination and the risk of violence and social ostracization means that many LGBTQ+ persons inside Afghanistan are forced to live in hiding and often lack access to support networks and services.

D. Persons with disabilities

"In a society where even able-bodied women face significant challenges, women with disabilities are often completely marginalized."
An Afghan woman, Helmand province.

15. Women and girls with disabilities face additional barriers to accessing justice and protection in Afghanistan because of discrimination, lack of accessible institutions and infrastructure, and limited support services that are tailored to their needs. Where they do make a complaint, the justice system does not accommodate their specific needs, and their cases are rarely taken seriously, despite Afghanistan's obligations under the Convention on the Rights of Persons with Disabilities. Women and girls whose male relatives have a disability also struggle to access support and services, especially as doing so requires a *mahram*.

16. Disability also heightens vulnerability to violence, abuse, and exclusion. Women with disabilities are more likely to experience sexual assault, domestic violence, forced marriage or debt bondage, while in some cases, families hide disabled relatives out of shame, cutting them off entirely from social or legal recourse. Women with children who have disabilities also face significant challenges accessing justice and protection – both for themselves, and for their children.

E. Women and girls in remote and rural areas

"In urban areas, women have access to at least some information and limited services, but in rural areas, there are often no services at all and because of traditional attitudes, what little there is, women cannot access."
An Afghan woman, Nuristan province.

17. Geographic location has historically been a powerful determinant of access to justice in Afghanistan, with stark contrasts between urban centres and remote and rural areas. Traditional norms and patriarchal attitudes are often also more prevalent and more entrenched in remote and rural areas; women and girls living in remote areas in the south, southeastern and eastern parts of Afghanistan are especially affected.

18. Under the Taliban, women and girls living in remote and rural areas face severe and multilayered barriers to accessing justice and protection. Courts, legal aid, and protection services are largely inaccessible due to geographic isolation, lack of available or affordable transportation, and high levels of poverty, in addition to the *mahram* requirement. The Special Rapporteur received numerous accounts about women who, lacking even minimal funds for transportation, were unable to reach support services or courts in urban centres to file complaints. As a result, family and property disputes involving women are often referred

[3] See e.g. ICCPR, art. 7; CAT; CRC; art. 37; CRPD, art.15.

to informal dispute resolution mechanisms which are male dominated, lack safeguards, and often reinforce, entrench and perpetuate gender discrimination in violation of Afghanistan's international obligations.[4] The absence of reporting channels has led to serious underreporting of domestic and intimate partner violence.

19. The rural-urban divide also significantly impacts an individual's and community's knowledge and awareness of their rights. While women in urban areas are more likely to have awareness of available legal remedies and, support from civil society groups, and protection networks, women in rural areas are far less likely to have information about their rights and potential support and are more likely to be living in poverty, which further heightens their vulnerability to exploitation and abuse.

F. Widows and female-headed households

"Widows are in difficult situations as they are often the heads of their families, but the de facto *authorities do not support them."*
An Afghan woman, Farah province.

20. Widows and female-headed households are among the most at-risk groups in Taliban-controlled Afghanistan. Deprived of male guardians and barred from employment, they often face deep social stigma, exclusion, and economic hardship. For older women and widows, the situation has been further compounded by the non-payment of pensions since the Taliban retook power.

21. Many lack the resources to pay for legal and identity documentation, transportation, or legal representation. Without a *mahram*, they are frequently barred from entering police stations or courts. Their property and inheritance rights are regularly contested or disregarded, despite the Taliban decree that inheritance rights are protected. To provide for their families, some are forced to rely on child labour, street vending, begging, or, in extreme cases, enter unwanted sexual relationships. In the absence of institutional safeguards, these women face heightened risks of exploitation, harassment, and violence, with little to no access to redress or protection.

G. Internally displaced persons and refugees

22. Internally displaced women and girls, as well as refugee returnees, face a unique combination of insecurity and exclusion. Displacement often results in the loss of property and legal identity and other important documents, further limiting access to justice and protection mechanisms. Internally displaced women and girls face increased protection concerns, including heightened risk of forced marriage, child labour, and human trafficking. Their legal and institutional invisibility renders it nearly impossible to access remedies, rebuild their lives, or secure even the most basic protections.

23. For returnee women and girls who previously enjoyed some degree of freedom abroad, returning to Afghanistan marks the beginning of an uncertain and often dismal future. Many reside in overcrowded, informal settlements where gender-based violence is pervasive and legal aid is virtually unavailable. The Special Rapporteur is especially concerned about the safety and security of women and girl returnees forced to return unaccompanied after their male relatives were detained and deported from neighbouring states. Displaced girls are even further excluded from already limited education opportunities.

24. For Afghans outside the country, in particular refugees in neighbouring states, lack of legal status has led to daunting challenges accessing legal and protection services which has further heightened their risk of forced return. Fear of reprisals or deportation deters many from reporting violence, abuse, and exploitation. Afghans outside the country also struggle with unresolved legal matters inside Afghanistan, such as inheritance claims, divorce petitions, land disputes, and obtaining identity and other official documentation, leaving many in a state of legal and personal limbo.

[4] See CEDAW art 2(f); and Committee on the Elimination of Discrimination against Women, General recommendation No. 33 on women's access to justice, para. 57.

H. Former members of the Afghan security forces

25. Since taking power, the Taliban has systematically targeted former members of Afghanistan's security forces, despite promises of amnesty. UNAMA documented more than 800 human rights violations against former officials in all 34 provinces in the first two years after the Taliban seized power and continues to document such cases.[5] The Special Rapporteur also continues to receive numerous reports of fresh arrests, enforced disappearances, torture, executions and reprisals against former soldiers, police officers, and intelligence personnel in violation of Afghanistan's international obligations, including under the International Covenant on Civil and Political Rights and the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

26. Women who worked in the security forces or law enforcement under the Republic have also been subject to violence, threats and harassment by the *de facto* authorities. Some also experience harassment and abuse from their families, often stemming from their perceived complicity with the former Republic or because of lost income. However, their position as former security force officials and the risk of reprisals makes it extremely difficult to report. A civil society activist in Kabul described the case of a former female police officer who was being beaten by her husband:

> *"She came to me for help, but her fear of being identified as a former police officer meant she could not approach any judicial institution. We were unable to help her access justice."*

27. The arrest, detention, or killings of male former members of the security forces has also had devasting impacts on female relatives. Not only do they suffer the loss of a loved one, but they are also often unable to seek legal recourse and experience increased economic hardship and social exclusion.

[5] UNAMA, A barrier to securing peace: Human rights violations against former government officials and former armed force members in Afghanistan (15 August 2021-30 June 2023), p. 5. For more recent reporting see: UNAMA, Update on the human rights situation in Afghanistan (January-March 2025 Update).