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3.15. Women and girls

COMMON ANALYSIS
Last update: May 2024

COI summary

a. Restrictions of rights and freedoms under the Taliban

Women's active participation in political and economic life and their contribution to Afghan society have been largely curtailed in comparison to their situation under the former government. Since their takeover, the *de facto* authorities have repeatedly expressed their commitment to respect women's and girl's rights within the framework of *sharia*. On 3 December 2021, the Taliban issued a decree on women's rights, which banned forced marriage (although it did not address the minimum age of marriage), stated that women should not be considered as 'property', and granted inheritance rights to widows. This decree, however, did not refer to wider women's and girls' rights. Moreover, several edicts, decrees, and declarations have been issued by the Taliban, which have increasingly restricted women's and girl's freedom of movement, expression and behaviour, as well as their access to education, employment, healthcare, justice, and social protection [Country Focus 2023, 4.4.1., p. 71; Targeting 2022, 5.2., p. 97].

In June 2023, the UN reported that the women and girls in Afghanistan faced 'large-scale' and 'systematic' violations of their human rights, and that these violations have been applied with 'harsh enforcement methods'. The Taliban have implemented policies which were largely 'discriminatory' and 'misogynistic', enforcing 'gender persecution and an institutionalized framework of gender apartheid' [Country Focus 2023, 4.4.1., pp. 71-72].

Freedom of movement and gender segregation

At the end of December 2021, the MPVPV issued a new guideline for transport operators across the country, preventing women from travelling long distances (more than 72 kilometres), unless accompanied by a male relative. Further restrictions on women's freedom of movement applied at provincial level were reported, with women moving around in public spaces without a *mahram* in some provinces being detained by the Taliban authorities. As of March 2022, women could only board in local or international flights with a *mahram* and with the 'proper *hijab*'. In addition, women and girls were prohibited from entering public areas, including parks, gyms, and public baths; more recently, the Band-e-Amir national park in Bamyan Province has been included in this restriction [Country Focus 2023, 4.4.3., pp. 74-75; Targeting 2022, 5.2.3., pp.

112-113].

According to the UN, harassment is frequently encountered and these limitations are being enforced more strictly, particularly at checkpoints. When traveling alone or in public, women are being questioned, and the males who accompany them are being asked to produce identification documents or marriage licenses as proof of their relationship. Reportedly, the law prohibiting Afghan women from leaving the country without a *mahram* has been aggressively enforced in recent months. However, a source reported that not all women comply with the rule of having a *mahram* accompanying them. For example, the ban on women traveling domestically has been applied inconsistently in Kabul and on the routes to Logar and Bamyan, as well as towards Mazar-e Sharif. The same source also stated that the ruling forbidding Afghan women from traveling outside the country without a mahram has been very strictly enforced in recent months, whereas during 2021 and 2022, it was more lax, and there were reported cases of women being prohibited to travel abroad [Country Focus 2023, 4.4.3., p. 75].

Dress code

On 7 May 2022, the Taliban MPVPV announced a new decree instructing women that they should not leave the house without ‘real need’ and if they do, to respect a strict dress code regulation. The ministry stated that women must cover themselves from head to toe, suggesting the *burqa* as ‘the good and complete *hijab*’ preferred for covering a woman’s hair, face and body. However, the *burqa* was not prescribed as mandatory, as long as women would cover themselves with a *hijab* or garment obscuring the outlines of their body. A woman’s male guardian was legally responsible for policing her clothing. Women’s compliance with the new decree was reportedly mixed in the streets of Kabul City and women with their faces uncovered were still a common sight. In city areas like Dasht-e Barchi, predominantly inhabited by the Hazara minority, few women reportedly covered their faces, while in the Pashtun neighbourhood of Kart-e Naw, most women covered their faces with a *hijab* or a headscarf. In mid-May 2022, the Taliban Minister of Interior declared that ‘women are not forced but advised to wear the *hijab*’. The impact of the Taliban’s new regulation differed across the country [Targeting 2022, 5.2.5., pp. 120-123].

In March 2022, the Taliban Health Ministry reportedly issued instructions that female patients without a *hijab* should be denied healthcare. Vehicle drivers were also instructed not to pick up female passengers without a *hijab* covering their hair. [Targeting 2022, 1.3.2., pp. 43-44; 5.2.5., p. 122]. In Mazar-e Sharif, shopkeepers were ordered not to sell to women without *hijab* [COI Update 2022, 2., p. 3].

Frequent incidents of women being harassed or physically assaulted at checkpoints due to not wearing a *hijab* have been well-documented. Reportedly, some women in urban areas continue to dress and express themselves in their preferred style. However, a source reported that, when visiting government buildings, women need to be accompanied by a *mahram*, adhere to the Taliban's guidelines and wear a ‘proper’ dress [Country Focus 2023, 4.4.1., p. 73].

UNAMA has expressed concern ‘over recent arbitrary arrests and detentions of women and girls by Afghanistan’s *de facto* authorities because of alleged non-compliance with the Islamic dress code’, following ‘a series of *hijab* decree enforcement campaigns’ targeting women and girls in

Kabul City and Nili City in Daykundi Province. Reportedly, several women were arrested in Kabul in January 2024 for not wearing a proper *hijab*. There have also been reports of arrests in the provinces of Daikundi, Balkh, Herat, Kunduz, Takhar, Bamyan and Ghazni. Eyewitnesses had reportedly also seen women and girls being arrested despite wearing a *hijab* [COI Update 2024, 2., pp. 2-3].

Exclusion from work and public life

Already before the takeover, women who worked outside the home commonly encountered frequent sexual harassment and abuse at the workplace and could be considered by society as transgressing moral codes, as bringing dishonour to the family (e.g. women in law enforcement), and as being non-Afghan or Western (e.g. women in journalism). Women in public roles faced intimidation, threats, violence, or killings [Targeting 2022, 5.1.3., pp. 88-89].

Since 15 August 2021, Afghan women have been largely excluded from political life and the general workforce [Targeting 2022, 5.2.2., p. 105].

In contrast to the 1990s, the *de facto* authorities have refrained from completely prohibiting paid employment for women. Nevertheless, their limitations on women's work opportunities had a substantial impact on the female labour force. The World Bank estimated in 2022 that almost half of the Afghan women that were employed had lost their jobs since the Taliban assumed control [Country Focus 2023, 4.4.5., p. 77].

There were no women in the Taliban's cabinet or in other key *de facto* government positions. Many of those women who had held public positions before the takeover were in hiding. Some of them not only received threats by the Taliban but also by other members of society [Targeting 2022, 5.1.3., p. 88]. No uniform policy related to women's access to employment was announced by the Taliban and rights and working conditions for women remained uncertain. The *de facto* authorities repeatedly claimed their commitment to maintain women's right to access employment, within the framework of *sharia*. However, since their takeover, they have announced several restrictions which hindered women's access to the labour market. There have been provincial differences, with women being discouraged to go to work by Taliban fighters on the roads in some provinces and women still active in *de facto* government jobs in other ones. In March 2022, the Taliban MPVPV issued national guidelines instructing gender segregation in Taliban government ministry offices and prohibiting female employees from entering their office without wearing a *hijab*. Gender segregation between men and women was also imposed in educational and health facilities [Targeting 2022, 1.3.2., pp. 43-45; 5.2.1., pp. 99-100, 104-105; 5.2.2., pp. 105-106; 5.2.3., pp. 111-115].

Approximately 4 000 women who had served in Afghanistan's military under the former government are now unemployed. Female lawyers and judges have been completely prohibited from practicing. Many women judges have reportedly gone into hiding or fled Afghanistan due to threats from prisoners who were released. Women journalists were banned from state-run media outlets, and those working in private media face restrictions, such as having to cover their faces on TV, and work in gender-segregated offices. It is estimated that 80 % of women journalists have lost their jobs since the Taliban took over [Country Focus 2023, 4.4.5., pp. 77-78].

Women working in the public sector were instructed to stay home and have been excluded from working in most governmental bodies. However, some continue to work within the *de facto* ministries of Public Health, Interior and Education, as well as in airports and in the security field. Women were prohibited from working for both domestic and international NGOs in December 2022, and on April 5, 2023, the *de facto* authorities outlawed Afghan women from working for the UN on a national level. According to the UN, the majority of foreign embassies were also notified that Afghan women were no longer permitted to work in their offices. Several NGOs claimed that women employed in the fields of education, health, and nutrition were exempted from this prohibition, however, this has not been officially stated by the *de facto* authorities [Country Focus 2023, 4.4.5., p. 78].

The Taliban have been rather supportive of female entrepreneurs, which is an exception to the general ban on women. Summits on female entrepreneurship have occurred, and the Taliban have frequently supported them, arguing that they are not as restrictive on women as portrayed by the media. However, there have been reports that women working in the private sector have also been subjected to restrictions. For example, suppliers have reportedly refused to sell to them and they have been requested to operate in a gender-segregated environment. When beauty salons closed in July 2023, about 60 000 women lost their jobs. According to UNAMA, Taliban officials have met with 'harsh responses' salons that have been open beyond this deadline [Country Focus 2023, 4.4.5., pp. 78-79].

The Taliban's position and policy regarding women in the Afghan society has been 'elusive and confusing', with decisions often made at provincial level. This caused confusion among Taliban fighters on how orders should be enforced in practice, resulting in arbitrary implementation. The lack of employment prospects has pushed increasingly more women in the main cities to stroll the streets, pushing carts and selling second-hand goods or simple food goods [Country Focus 2023, 4.4.5., p. 79; Targeting 2022, 5.2., pp. 97-98].

Access to healthcare

Women with more complex health needs, such as pregnant women, have reportedly been facing major issues with regard to access to healthcare, including fear and insecurity, mobility restrictions due to the need to be accompanied in public by a *mahram*, or the need to travel long distances to reach health services. Female patients were also reportedly allowed to be attended only by women healthcare professionals. Women lacked sufficient means of safe transportation and there was a shortage of trained female personnel and a lack of specialised medical personnel such as midwives [Country Focus 2023, 3.5., p. 44]. Due to a 'strained health system, the economic crisis, the limitations on movement and the restrictions placed on male health-care professionals treating women and girls', women and girls faced difficulties in their access to critical and basic healthcare. Reportedly, women were for example unable to give birth in clinics because of the costs involved or because of the lack of the necessary resources [Country Focus 2023, 4.4.6., p. 79; KSEI 2022, 6.3., p. 49].

Accessing services can be more difficult for women who belong to ethnic and religious minorities, like Shia Hazara, or women with disabilities, or who live in poverty, reside in rural areas, or do not have male family members [Country Focus 2023, 4.4.6., p. 79].

In March 2022, the Taliban MPVPV ordered healthcare institutions to deny medical assistance to female patients without a *hijab* [Targeting 2022, 5.2.5., p. 120]. An article quoted health workers from Ghazni district describing an incident where two unaccompanied women were reportedly forced out of a clinic by the Taliban. In another incident, a midwife was reportedly detained, and medical staff of the clinic was facing prosecution for having attended to a single woman giving birth. The Taliban reportedly denied that such incidents took place [Targeting 2022, 1.3.3., p. 48; 5.1.6., p. 95; 5.2.3., p. 113].

According to a research study from June 2023, healthcare workers in rural, semi-rural, and urban areas across all provinces faced harshened working conditions as well as limited availability of quality care. The main problems reported were the lack of skilled and qualified personnel, a lack of medical supplies, and the Taliban's harassment against both the staff and women seeking care. Healthcare, particularly for mothers and children, has deteriorated. Reportedly, in some healthcare facilities there were no professional midwives available. Although no recent data was available, sources reported that the mortality numbers of both mothers and infants have increased [Country Focus 2023, 3.5., p. 54].

Access to education

At the end of August 2021, primary schools for both boys and girls re-opened. In February 2022, the Taliban's Ministry of Education announced a new primary education plan. Boys and girls in grades 1 up to 6 were instructed to follow classes separately, with male teachers for boys and female teachers for girls, and at different times. In mid-September 2021, the Taliban authorities announced that secondary education (above grade 6) would resume for boys. Access to secondary education for girls was not mentioned in this announcement. In some cases, secondary schools for girls were able to open in at least 13 provinces during the 2021-2022 school year. Private secondary schools were reportedly allowed to offer education for girls in all provinces, but many schools closed due to lack of resources stemming from families affected by poverty and unemployment, and their resultant inability to pay school fees. However, sources indicated that most secondary schools have since closed in all provinces, including private secondary schools [Country Focus 2023, 4.4.4., pp. 75-76; Targeting 2022, 5.2.1., pp. 99-100].

In February and March 2022, in the weeks and days leading up to the start of the new school year, the Taliban Ministry of Education insisted several times that all schools would reopen, for boys as well as for girls. However, on 23 March 2022, the Taliban announced the abrupt decision to keep all secondary schools closed for girls, reportedly affecting an estimated 1.1 million Afghan girls across the country. The Taliban officially announced that secondary schools would remain provisionally closed for girls 'until a comprehensive plan has been prepared according to *sharia* and Afghan culture' [Targeting 2022, 5.2.1., pp. 100-101].

Additionally, there were reports of the Taliban inspecting primary schools for girls in Kandahar and expelling hundreds of girls who attended primary school despite being in secondary education level. Underground secret schools continued to operate in some parts of Afghanistan. The UN Special Rapporteur reported that 'adaptive and creative methods', including online ones, have been developed to support girls' education. However, because of the inconsistent internet connections, these techniques 'are not equally accessible or sustainable' [Country Focus 2023, 4.4.4., p. 76].

In the beginning of September 2021, the Taliban Ministry of Education issued a decree stipulating rules for female university students including gender segregation, and strict dress codes. These regulations came into effect as private universities reopened their doors for male and female students on 6 September 2021. Public universities remained closed, although some in warm climate provinces reopened in February 2022 [Targeting 2022, 5.2.1., pp. 104-105]. However, on 20 December 2022, the right for women to attend universities was 'suspended' until further notice. In July 2023, the Taliban National Examination Directorate announced that female students would not be permitted to take university entrance exams. In August 2023, the Taliban Ministry of Education stated that women would be readmitted to universities as soon as the ban was lifted, without providing any information or clarifications. According to UNAMA, from July to September 2023, the *de facto* authorities took 'various steps' to ensure the exclusion of women from secondary and tertiary education' [Country Focus 2023, 4.4.4., pp. 76-77].

A suicide attack against the Kaaj Educational Centre in Kabul's Dasht-e Barchi District on September 30, 2022, killed 54 people, while 114 others were injured. The majority of the victims were young Hazara women and girls. In June 2023, two targeted poison attacks against two primary schools in Sangcharak District of the Sar-e Pul province resulted in the poisoning of 60 to 90 schoolgirls and their teachers. According to a Taliban education official, the attack was motivated by a 'personal grudge' [Country Focus 2023, 4.4.4., p. 77].

Access to justice

Women's access to justice is severely restricted. Even before the Taliban takeover, perpetrators of attacks against women enjoyed impunity [Targeting 2022, 5.1.1, p. 85; Criminal law and customary justice, 1.4, pp. 14-16]. Women's access to justice, courts, and legal assistance for gender-based violence had also been generally limited, and informal justice mechanisms were reported to frequently discriminate against women [Criminal law and customary justice, 2.3.2., p. 27].

Women's access to justice has been further adversely affected by the Taliban's ban on female judges and attorneys to practice law, which also affects their capacity to get legal aid and equality before the law. [Country Focus 2023, 4.4.8., p. 81]

b. Violence against women and girls

Even before the Taliban takeover, violence against women and girls was a pervasive problem, regardless of the ethnic group, and perpetrators of attacks against women enjoyed impunity [Targeting 2022, 5.1.1., p. 85; Criminal law and customary justice, 1.4., pp. 14-16].

Afghanistan is considered to have one of the highest rates of violence against women worldwide. In December 2021, the *de facto* authorities issued a Decree on Women's Rights, making traditional practices, such as forced marriage (also regarding widows) or *baad,* the exchange of daughters between families or clans in order to end blood feuds or disputes, illegal. However, despite the new decree, the *de facto* authorities handled gender-based violence cases inconsistently, often resorting to informal means, such as mediation [Country Focus 2023, 4.4.7., pp. 79-80].

Violence against women reportedly increased under the Taliban rule. The Taliban also ended institutional and legal support for women facing such violence. This forced many women and girls to return to their abusers or remain in situations where they were at risk of experiencing gender-based violence [Targeting 2022, 5.2., p. 98]. Cases of domestic violence leading to death were also reported. Although monitoring of the topic has stopped since the takeover, gender-based violence reportedly increased for reasons such as unemployment and drug abuse [Targeting 2022, 5.1.5., p. 91].

Under Taliban rule, the practice of forced and early marriage of women and girls has increased, mostly due to the humanitarian and economic crises, the lack of opportunities for education and employment, and the belief held by some families that marrying their daughters would protect them from being forced to marry a member of the Taliban. Women filing for divorce were coerced back into abusive relationships, on many occasions by the local Taliban. Furthermore, there were concerns that divorces finalised during the previous administration would not be regarded as valid. Top Taliban officials have not provided definitive responses on that matter [Country Focus 2023, 4.4.7., p. 80].

Sharia does not differentiate between consensual sexual relations outside marriage and rape. Both is defined as *zina* and punishable with stoning or lashing. Living alone is, furthermore, associated with inappropriate behaviour and could potentially lead to accusations of 'moral crimes' [KSEI 2020, 3.3., pp. 70-71; KSEI 2017, 5.5., pp. 130-131; Society-based targeting, 3.8.6., pp. 61-62]. Between 15 August 2021 and 30 April 2023, UNAMA recorded 80 cases of women being punished with lashings, mostly for *zina* [Country Focus 2023, 4.4.8., p. 81]. See also 3.12. Individuals perceived to have transgressed religious, moral and/or societal norms.

UNAMA recorded at least 324 instances of violence against women and girls between March 2022 and August 2023. These cases included 'honour killings', forced and child marriages, beatings, and domestic abuse that resulted in self-immolation or suicide. According to ACLED, there has been an increase in sexual violence, with 22 recorded cases in the first half of 2023. It has been reported that Taliban officials have ill-treated female protestors, even engaging in sexual assault in custody. On 28 February 2023, Taliban members reportedly raped a woman and her two minor daughters. In a different incident, a woman detained by the Taliban was allegedly forced to marry a Taliban official after he raped her. According to UN experts, the directive on men's punishment 'for the conduct of women and girls' could lead to normalisation of discrimination and violence against women and girls [Country Focus 2023, 4.4.7., p. 80].

Conclusions and guidance[7]

Do the acts qualify as persecution under Article 9 QD?

The accumulation of various measures introduced by the Taliban, which affect the rights and freedoms of women and girls in Afghanistan, amounts to persecution. Such measures affect their access to healthcare, work, freedom of movement, freedom of expression, girls' right to education, among others. Some women and girls in Afghanistan may also face other forms of ill-treatment amounting to persecution (e.g. forced marriage, such as child marriage, honour-based violence)[8].

What is the level of risk of persecution (well-founded fear)?

For women and girls in Afghanistan, well-founded fear of persecution would in general be substantiated.

Links to persecution under other profiles may also be relevant, in particular 3.2. Public officials and servants of the former government, 3.8. Journalists and media workers, 3.10. Humanitarian workers, 3.12. Individuals perceived to have transgressed religious, moral and/or societal norms, and 3.13. Individuals (perceived as) influenced by foreign values (also commonly referred to as 'Westernised').

Are the reasons for persecution falling within Article 10 QD (nexus)?

Available information indicates that the persecution of this profile is likely to be for reasons of membership of a particular social group[9]. Other grounds, such as religion and/or (imputed) political opinion may also be substantiated.

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  On 14 September 2022, the Supreme Administrative Court of Austria referred two questions to the CJEU concerning the interpretation of Article 9(1)(b) of Directive 2011/95/EU ('Qualification Directive', 'QD'). In essence, the referring court asks whether the current situation for women and girls in Afghanistan amounts to persecution due to an accumulation of measures within the meaning of this provision; and whether it is sufficient that a woman is affected by such measures merely on the basis of her gender or whether an individual assessment is required. On 9 November 2023, the Opinion of the Advocate General Richard de la Tour was released. At the time of the publication of the present Country Guidance document the case is still pending before the CJEU (cases of AH and FN v. Bundesamt für Fremdenwesen und Asyl (C-608/22 and C-609/22).

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  See also CJEU, WS v Intervyuirasht organ na Darzhavna agentsia za bezhantsite pri Ministerskia savet, case C-621/21, Judgment of 16 January 2024.
  Para. 48: "Article 60(1) of the Istanbul Convention provides that gender-based violence against women is to be recognised as a form of persecution within the meaning of Article 1A(2) of the Geneva Convention. Secondly, Article 60(2) of that convention requires parties to ensure that a gender-sensitive interpretation is given to each of the reasons for

persecution prescribed by the Geneva Convention and that where it is established that the persecution feared is for one or more of those reasons, applicants are to be granted refugee status”.

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  See also CJEU, WS v Intervyuirasht organ na Darzhavna agentsia za bezhantsite pri Ministerskia savet, case C-621/21, Judgment of 16 January 2024.
  Para. 62: "Article 10(1)(d) of Directive 2011/95 must be interpreted as meaning that, depending on the circumstances in the country of origin, women in that country, as a whole, and more restricted groups of women who share an additional common characteristic may be regarded as belonging to ‘a particular social group’, as a ‘reason for persecution’ capable of leading to the recognition of refugee status”.

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