

4.4.8. Access to justice

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In December 2021, the de facto authorities issued a decree on Women's Rights,1446 outlawing some traditional practices, such as forced marriage of adult women, including for widows, as well as *baad* - the exchange of daughters between families or clans as a way to end feuds or disputes.1447 In a decree of 19 March 2025, the importance of women's free consent to marriage was re-emphasised and it was stated that perpetrators of unlawful acts against women such as 'shooting, forcibly marrying, or violating a woman's rights' [to inheritance, dowry, independence] should be prosecuted in the courts of the Islamic Emirate.1448 Taliban spokespersons frequently asserted that the de facto authorities are protecting women's rights, 1449 and the de facto MPVPV has been presenting itself as a defender of women's rights online. 1450

Women and girls however face severe barriers to access justice.1451 Despite the above-mentioned decrees, cases of gender-based violence have reportedly been treated inconsistently by the de facto authorities,1452 with many cases being resolved through informal means such as mediation.1453 Specialised institutions and frameworks which provided specific protections and support for women have been dismantled,1454 leaving women with almost no access to justice and effective remedies.1455

There are no women judges, prosecutors, and no officially registered female lawyers.1456 Few women work in the de facto police and other institutions,1457 reducing safe channels to report abuse or to seek redress.1458 Moreover, almost all shelters for victims of gender-based violence have been shut down.1459

The *mahram* requirement also creates significant barriers,1460 as women need a *mahram* to travel and interact with the de facto authorities.1461 In court, women are often prevented from speaking for themselves and may be forced to rely on their *mahram* to speak for them.1462 Women seeking justice are confronted with victim blaming,1463 and survivors of gender-based violence risk false accusations and self-incrimination.1464

Women who engage with the de facto court system reportedly face a 'hostile environment',1465 with de facto courts being biased against women,1466 with some women experiencing it as humiliating and exclusionary.1467 As noted by the UN Special Rapporteur on human rights, complaints, particularly those concerning divorce, child custody, or sexual and gender-based violence, are frequently dismissed, redirected to mediation, and seldom ruled in women's favour.1468 According to UNAMA, in some instances, de facto officials referred severe cases,

such as attempt murder, to mediation despite the victim's request for a formal judicial resolution.1469

According to UN OHCHR, women have increasingly turned to alternate justice mechanisms such as *jirgas*, *shuras*, or mediation though religious leaders, family or community elders to resolve disputes.1470 However, these alternate mechanisms are also described as male-dominated1471 and biased against women.1472 The UN Special Rapporteur on human rights noted that decisions often reflect patriarchal norms and favour male interests.1473

Getting a divorce has always been difficult for Afghan women, but under the de facto authorities sources described it as having become 'almost impossible'1474 and 'extremely challenging'. 1475 While lawyers told the AAN that stigma and shame are the main barriers preventing women from seeking divorce,1476 the UN Special Rapporteur on human rights also reported on cases in which judges had told women reporting violence or seeking divorce that husbands can treat their wives as they wish, and women seeking divorce from abusive husbands sometimes received marriage proposals ('essentially forced') from de facto officials, or were told to present their husband to court, which was impossible in many cases.1477 De facto courts have reportedly overturned or invalidated divorces granted under the previous government.1478 Some women have been forced back to abusive or unwanted marriages, and in other instances women who had remarried were imprisoned for adultery.1479 The AAN noted, however, that there seemed to be no systematic attempt to overturn divorce cases.1480

Despite the Taliban outlawing forced marriages of adult women,1481 UNAMA documented cases in which de facto officials were accused of being both perpetrators of forced marriage, enforcing forced marriages, and encouraging a victim to stay in marriage in which she was physically abused. However, UNAMA also recorded cases in which de facto officials did intervene to prevent violence and forced marriages.1482 There have moreover been cases where women have had their inheritance cases recognised and successfully enforced by local de facto courts. 1483 In some cases, women succeeded to file their inheritance claims without a *mahram*.1484 As reported by UN Women surveys, stigma prevents women to claim their inheritance and many are unaware of their inheritance rights in the decree on Women's Rights.1485 The AAN also noted that attitudes to the inheritance rights for women are an obstacle, and women risk the disapproval of their community and being ostracised by their family.1486

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