

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 through 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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