



Fleeing Gender Apartheid: A Feminist Analysis of Forced Migration Among Diverse Women in Afghanistan Under the Taliban Regime Since 2021

Thesis

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Chapter One: Introduction and Research Questions

The Taliban's return to power in Afghanistan in August 2021 marked a significant and deeply troubling reversal of women's rights. While initial international concerns focused on geopolitical instability and regional security, Afghan women and girls were immediately subjected to a state-enforced regime of gender-based repression. Increasingly, scholars, international organisations, and Afghan women themselves have recognised this system as a form of gender apartheid: a deliberate, ideologically grounded structure of segregation and domination that systematically targets women and girls (Akbari and True 2022; Bennoune 2022; UN Human Rights Council 2024).



(Reuters 2023)

The term apartheid carries both a narrowly defined legal meaning in international law and a broader historical and comparative relevance. Legally, apartheid is defined by the 1973 International Convention on the Suppression and Punishment of the Crime of Apartheid as: "For the purpose of the present Convention, the term 'the crime of apartheid', which shall include similar policies and practices of racial segregation and discrimination as practised in southern Africa, shall apply to the following inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them". These inhuman acts include violations such as the denial of liberty, subjection to conditions calculated to cause physical destruction, prevention of political, social, and economic participation, and arbitrary arrest, torture, and persecution (UN General Assembly 1973).

The Rome Statute of the International Criminal Court (1998) reaffirms this framework by defining apartheid as: "*inhumane acts [...] committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime*" (Rome Statute 1998, Article 7(2)(h)). Similarly, Article 3 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) explicitly states that: "*States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction*" (ICERD 1965, Article 3). These legal definitions were developed in direct response to South Africa's racial apartheid system and have since been interpreted narrowly to apply only to race-based oppression (Saint 2012; Breckenridge 2005; Murray 2001).

There are several important limitations in how apartheid is currently defined under international law. First, the definition is restricted to racial domination and does not include other forms of structural oppression such as those based on gender, religion, or ethnicity. Even when they closely resemble racial apartheid in how they operate. The Taliban's gender-based repression is a strong example of this gap: although it shares many features with racial apartheid, it does not clearly fall within the legal definition. Second, the crime of apartheid has rarely been prosecuted, so there is little legal precedent to guide how it should be applied. This makes it difficult to use in real-world cases, especially those involving politically sensitive situations. Third, the

language used in the definition like “systematic oppression” and “institutionalised regime” is vague and open to interpretation, which complicates legal clarity. Finally, enforcing the law depends on cooperation from states, and this is often missing, particularly when powerful countries reject international court authority. Overall, while the idea of apartheid carries strong moral and legal meaning, its current definition is too narrow, too unclear, and too difficult to apply in practice.

In recent years, a growing international campaign has called for the explicit recognition of gender apartheid within international law. Feminist activists, scholars, and international human rights actors have joined this effort, arguing for the codification of gender apartheid as a distinct crime (Amnesty International 2024). Beyond its strict legal boundaries, the concept of apartheid has also been increasingly employed in comparative and historical analyses. Feminist legal theorists, human rights scholars, and UN bodies have drawn substantive parallels between the apartheid system in South Africa and other institutionalised systems of group-based oppression, including those based on gender (UNHRC 2023; Bennoune 2022; UN Human Rights Council 2024).

This thesis engages with apartheid as both a legal concept and a comparative-historical framework. It conceptualises gender apartheid not as a rhetorical device but as a structured, state-imposed system of segregation, exclusion, and subordination of women and girls. This framing enables a critical examination of the Taliban’s regime and raises the question of whether such gender-based domination should be recognised as a crime under international law. By situating gender apartheid within the broader legacy of apartheid, the study underscores the need to expand international legal frameworks to account for gendered systems of power.

Since the Taliban’s return, Afghan women and girls have been banned from secondary and higher education, excluded from most employment, and restricted in mobility under male guardianship rules. Their erasure from public and political life is enforced through dress codes, surveillance, and punishment (Akbari and True 2022; UN Women 2023). These are not isolated acts but part of an institutionalised system designed to subordinate women. Like racial apartheid, gender apartheid functions through legal, bureaucratic, and cultural mechanisms that relegate women to second-class status (Bennoune 2022).

This thesis examines gender apartheid in Afghanistan as both a lived reality and a conceptual framework driving forced migration. While refugee law increasingly recognises gender-based persecution, it continues to overlook the broader, systemic nature of gender apartheid (International Service for Human Rights 2023; Atlantic Council and Global Justice Center 2024). Addressing this gap is essential to understanding how gendered oppression compels displacement and shapes protection needs.

A key aim is to centre Afghan women's voices and agency. Using a feminist lens, the study highlights their experiences and survival strategies, viewing legal exclusion and ideological control as tools of state power. Violence is not limited to physical harm but is embedded in bureaucratic and symbolic systems that govern daily life.

The thesis also draws on intersectionality (Crenshaw 1991) to examine how ethnicity, class, geography, and age shape women's experiences of apartheid. Women from Hazara and Panjshiri ethnic groups experience multiple, intersecting layers of oppression. (Akbari and True 2024, 8). Recognising this diversity avoids homogenisation and enables more responsive protection.

Engaging critical refugee studies, the research critiques frameworks that privilege male-centred notions of persecution, often failing to capture the structural nature of gender-based violence. It calls for an expanded interpretation of the 1951 Refugee Convention to recognise gender apartheid as grounds for asylum.

For many Afghan women, it is exclusion from education, professional opportunities, and civic life rather than active warfare that motivates their displacement (Cox 2022). Analysing these dynamics is vital for legal reform, academic insight, and historical accountability. This study contributes by identifying gender apartheid as a distinct and urgent cause of displacement.

Chapter Two compares Afghan gender apartheid with racial apartheid in South Africa, drawing legal parallels. Chapter Three focuses on Afghan women's narratives of survival and resistance in forced displacement.

1.1 Research Problem and Questions

Despite growing awareness of the Taliban's gender-based abuses, gender apartheid remains insufficiently theorised in refugee and forced migration studies. While asylum law has made limited progress in recognising gender-based persecution, gender apartheid—defined as a systemic, ideologically enforced regime of oppression—has yet to be recognised as a distinct driver of displacement in academic or policy frameworks. This thesis addresses that gap by analysing how Taliban governance since 2021 forces Afghan women to flee, not due to armed conflict or generalised violence, but as a response to institutionalised gender subjugation.

The study advances theoretical and practical understanding of gender apartheid as a catalyst for forced migration. Through feminist, intersectional, and legal analysis of Afghan women's lived experiences, it calls for more inclusive, gender-sensitive protections in international refugee law and asylum policy.

Primary Research Question:

How does gender apartheid under the Taliban regime drive forced migration among women in Afghanistan, and how do their experiences—shaped by ethnicity, class, and geography—reflect systemic oppression, intersectional vulnerabilities, and acts of resilience?

Sub-Questions:

1. How do migration narratives reflect women's experiences of systemic oppression and highlight their resilience?
2. To what extent do international refugee laws and asylum policies address gender apartheid as a legitimate cause of forced migration?

1.2 Methodology

This thesis adopts a qualitative, desk-based methodology grounded in thematic analysis. Using an interdisciplinary lens that incorporates feminist and intersectional approaches, it critically engages with academic literature and policy documents to examine gender apartheid as a driver of forced migration.

Key sources include gender and forced migration scholarship, as well as reports from UNHCR, Amnesty International, and Human Rights Watch on Taliban policies toward women. The study also draws on legal texts such as the 1951 Refugee Convention, the 1967 Protocol, and relevant case law, alongside testimonies, memoirs, and interviews that highlight the lived impact of education bans, employment restrictions, and mobility constraints.

Thematic analysis enables the identification of patterns across legal, empirical, and narrative data, allowing for a critical, context-specific analysis that centres women's voices and highlights gaps in international protection.

Due to security concerns and risks to participants, the research relies solely on secondary data. This limits the ability to capture real-time, first-hand accounts of evolving experiences. Given time and word constraints, the analysis focuses on post-2021 Taliban rule, privileging depth over breadth in case selection.

1.3 Conceptual and Theoretical Framework

1.3.1 Defining Gender Apartheid

The concept of "gender apartheid" refers to a state-sanctioned system of segregation and subjugation that deliberately targets women and girls, systematically denying them basic rights and agency (International Service for Human Rights 2023). This term has gained increasing traction among feminist legal scholars and international human rights organisations as an appropriate framework for analysing the Taliban's institutionalised repression of women in Afghanistan (Bennoune 2022).

Feminist legal scholarship has played a central role in developing and advancing the discourse on gender apartheid. Karima Bennoune, former UN Special Rapporteur and a leading authority on the subject, argues that the term accurately reflects the structured and ideologically driven exclusion of women under the Taliban (Bennoune

2022). Her work acknowledges the foundational contributions of scholars such as Penelope Andrews, Catharine MacKinnon, Mahnaz Afkhami, and Ann Mayer, who have long critiqued international law's failure to address the structural nature of gender-based oppression (Bennoune 2022).

International human rights bodies have also integrated the term into their evaluations of the situation in Afghanistan. Amnesty International has explicitly referred to gender apartheid in its recent reports. In the words of Secretary General Agnès Callamard: "No one should ever be permitted to violate, segregate, silence or exclude people because of their gender" and "The world must finally recognize gender apartheid under international law to fully extend the shield of law to women, girls and LGBTQI people and to rally and support efforts for the eradication of this heinous crime, wherever it occurs" (Amnesty International 2024).

Multiple UN entities and representatives have also adopted this language. Richard Bennett, the current UN Special Rapporteur on the situation of human rights in Afghanistan, has identified the Taliban's policies as forming an "institutionalized framework of gender apartheid" (UN Human Rights Council 2024, 2). Similar assessments have been made by the UN Secretary-General and the Committee on the Elimination of Discrimination against Women (International Service for Human Rights 2023). Afghan women human rights defenders have also adopted the term to articulate their lived experiences under state-enforced gender segregation, further legitimising its use (Bennoune 2022).

An open letter published by a coalition of Iranian and Afghan women leaders, international legal experts, and global advocates calls on states to formally recognise gender apartheid as an international crime. The letter urges governments to acknowledge the parallels with South African apartheid and to respond accordingly through legal and political measures. Their demands include amplifying the voices of women living under gender apartheid in Iran and Afghanistan, issuing official condemnations, and interpreting or expanding existing legal definitions of apartheid to include severe forms of institutionalised gender-based discrimination (No to Gender Apartheid Campaign 2024).

The letter states: "The definition of apartheid under international law should be interpreted to include gender hierarchies, not just racial hierarchies." It further

highlights the need for global solidarity: "In order to fully realize the goals of the woman-led revolution in Iran and to support the courageous defiance of Afghan women who have had their rights brutally stripped away, the international community must properly recognize the harms of a legally enshrined system in which women are treated as second-class citizens and acknowledge this not only through condemnation but through effective, concerted action" (No to Gender Apartheid Campaign 2024).

The lack of a codified legal definition of gender apartheid critically undermines the international community's capacity to precisely identify the crime and to hold perpetrators accountable for its commission. As a result, there remains a legal gap in recognising the full scope of harm endured by victims and in prosecuting state and non-state actors responsible for such violations. In response to the increasingly widespread gender-based abuses in Afghanistan and Iran, a campaign for the recognition of gender apartheid as an international crime has gained momentum. Since its emergence, several UN mechanisms—including the Special Rapporteurs on Iran and Afghanistan and the Working Group on Discrimination against Women and Girls—have issued statements describing the regimes in both countries as examples of gender apartheid (Amnesty international 2024; Geneva Academy 2024).

1.3.2 Gender Apartheid as Systemic and State-Enforced, Beyond Isolated Discrimination

The concept of gender apartheid is essential because it captures more than isolated acts of discrimination; it reflects a systematic, state-driven regime of exclusion and domination (Bennoune 2022; UN Women 2023). Under such regimes, women's subjugation is not incidental but embedded in governance structures through laws, decrees, and bureaucratic practices (Bennoune 2022, 7-8). The state acts not as a passive enabler but as the architect of institutionalised oppression—what Bennoune (2022, 26) calls the "engine of discrimination." These policies are deliberate and coordinated, permeating all aspects of life—public, private, legal, and social—creating a condition of totalised control from which women have little means of escape (Bennoune 2022, 25).

A key feature of the gender apartheid framework is its analogy to racial apartheid, particularly as practised in South Africa. Just as racial apartheid enforced institutional

segregation to uphold racial hierarchies, gender apartheid mandates state-imposed separation of the sexes, excluding women from public life (Bennoune 2022). Bennoune argues that replacing “race” with “sex” or “gender” in legal definitions—such as those in the Apartheid Convention and the Rome Statute—would clearly encompass the Taliban’s regime (Bennoune 2022, 8). Both systems assert the dominance of one group over another and constitute grave, systemic human rights violations due to their hierarchical and coordinated nature (Bennoune 2022, 25).

While some critics highlight the unique historical context of South African racial apartheid, proponents argue that the concept has broader legal and conceptual relevance. Bennoune asserts that apartheid should be understood as a universal model of institutionalised domination, not confined to a specific geography or racial history (Bennoune 2022, 52–53). In this light, the Taliban’s regime represents a contemporary form of apartheid—rooted not in race, but in the systematic denial of gender equality and autonomy.

1.3.3 Gender Apartheid as Both a Lived Reality and a Theoretical Framework

The concept of gender apartheid functions dually as an empirical description of present conditions and as a conceptual apparatus for legal and political critique (Bennoune 2022; UN Human Rights Council 2024). It captures both the material experiences of Afghan women and the broader theoretical implications for international law and accountability mechanisms.

As a Lived Reality: Gender apartheid is, first and foremost, an account of the everyday structural oppression endured by women and girls in Afghanistan. It encapsulates the cumulative, overlapping forms of deprivation—ranging from mobility constraints and educational bans to social exclusion and legal invisibility—that render the Taliban’s regime inescapable for Afghan women (UN Human Rights Council 2024, 3–4). Afghan women human rights defenders and survivors have been central in articulating this reality, grounding the concept in lived experiences rather than abstract theory (Bennoune 2022; UN Human Rights Council 2024). First-person testimonies form the evidentiary core of this framework and speak powerfully to the psychological, social, and existential toll of erasure. One woman described life under the Taliban as “not just a loss of rights, but of air—we cannot breathe, speak, or leave the house

without fear” (V-Day 2024a). Another lamented, “There is nothing left for girls to do, no recreational activities, no sports, not even painting” (V-Day 2024c). These testimonies highlight that gender apartheid is not solely a legal construct but a lived experience of suffocation—one in which not only fundamental rights, but also creativity, mobility, and self-expression are systematically extinguished.

As a Theoretical and Legal Framework: Simultaneously, gender apartheid functions as an analytical lens through which to interpret, challenge, and seek redress for this regime of gendered domination (Bennoune 2022, 1, 7, 17; UN Human Rights Council 2024, 2). It enables a critical interrogation of the structural nature of oppression under the Taliban and offers a foundation for proposing robust international legal responses. Scholars and UN experts suggest that it can be a “powerful mobilising tool” for generating global accountability, mirroring the role that the concept of racial apartheid once played in international human rights law (Bennoune 2022, 8, 12). By drawing parallels with racial apartheid, advocates argue for the adaptation of existing legal frameworks—such as those articulated in the Apartheid Convention and the Rome Statute—to address systematic gender-based oppression (Bennoune 2022, 1).

While international law already recognises gender-based persecution as a crime against humanity, the specific codification of gender apartheid remains an emerging and debated issue. Institutions such as the International Service for Human Rights (2023) underscore that this concept is still under development, with calls for formal recognition in future legal instruments like a treaty on crimes against humanity (International Service for Human Rights 2023, 1, 14, 19, 25).

In response to these calls, legal scholars and advocacy organisations have proposed concrete amendments to existing international legal instruments. One such proposal, put forward by the Atlantic Council Strategic Litigation Project and the Global Justice Center, suggests revising Article 2(2)(h) of the Draft Crimes Against Humanity Convention to include gender-based apartheid. The proposed amendment would define the crime of apartheid as: *“inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups, or by one gender group over another gender group or groups, and committed with the intention of maintaining that regime.”*

This proposed language seeks to close the legal gap that currently excludes gender apartheid from international criminal law. While Article 7(1)(j) of the 1998 Rome Statute was crafted in response to South Africa's racial apartheid system, it does not account for gender-based regimes like that of the Taliban. As such, the omission limits the capacity of international law to name, prosecute, and repair the harms of gender apartheid, which is characterised by a deliberate and institutionalised effort to enforce gender inequality (Atlantic Council and Global Justice Center 2024; UN Human Rights Council 2024, 13).

This proposed expansion reflects a deliberate attempt to ensure that legal recognition extends to gender-based structures of domination that otherwise fall outside the scope of current definitions of persecution, thereby strengthening the legal and normative tools available for accountability.

1.4 Historical Context and the Taliban's Return to Power

In August 2021, the Taliban regained control of Afghanistan, two decades after their ousting by a U.S.-led intervention (Maizland 2023). Their swift capture of Kabul, just before the planned U.S. withdrawal, triggered the collapse of the internationally backed Afghan government and the departure of President Ashraf Ghani (Dahel and Noursine 2023; University of Queensland 2021). While their swift return surprised many, it was the outcome of a prolonged insurgency and was enabled by the 2020 Doha Agreement outlining the terms of the U.S. withdrawal. (Hookway and Shah 2021). Even before seizing major cities, the Taliban had re-established control in rural areas through shadow governance (Cox 2022).

Within weeks, they reimposed a governance model echoing their 1990s regime, rapidly rolling back women's rights. While international focus initially centred on security concerns, Afghan women immediately faced sweeping restrictions. Scholars and human rights advocates soon identified this repression as central to the Taliban's rule—an emerging form of gender apartheid (Akbari and True 2022).

Gender apartheid under the Taliban functions as a deliberate strategy to consolidate power by erasing women from public life. Restrictions on education and employment effectively exclude women from civic life and political participation (Akbari and True 2024; IOM, UN Women, and UNAMA 2024). Women protestors were met with brutal

crackdowns, including detention, torture, and extrajudicial killings (Amnesty International UK 2024; UN Women and IOM 2024).

This system is upheld by rigid patriarchal norms: compulsory male guardianship (mahram), enforced dress codes, and forced marriages restrict autonomy and confine women to the domestic sphere (Bakare et al. 2024; Amnesty International UK 2024). Discipline is maintained through fear, including public floggings, imprisonment, and sexual violence, with consequences often extending to families (True and Akbari 2024; Graham-Harrison 2025).

Economic disempowerment is another key tool. The Taliban have banned female employment, shuttered women-run businesses, and imposed salary restrictions, deepening dependency and gendered poverty (Niazi 2024; Harold 2024; Human Rights Watch 2024). Ideological control is enforced through censorship, educational bans, and propaganda portraying dissenting women as corrupted by foreign influence (True and Akbari 2024; Civic Media Observatory 2022).

To legitimise their repression, the Taliban invoke religious and cultural narratives, framing policies as rooted in Islamic and Afghan tradition. This deters both domestic resistance and international accountability, reducing gender rights to cultural relativism (Sulehria 2024; True and Akbari 2024). These strategies reveal that gender apartheid is not incidental but fundamental to Taliban governance.

Since 2021, the reinstatement of gender apartheid has become a defining feature of the regime (Akbari and True 2022). The suppression of women's rights is central to its political structure, reversing two decades of progress in education, employment, and civic participation (Maizland 2023). Across all domains—legal, economic, social, and political—women and girls face increasing restrictions (Akbari and True 2022).

Legal protections gained under the previous government were swiftly dismantled. The 2009 Elimination of Violence Against Women (EVAW) Law, which criminalised 22 abuses and enabled support services like safe houses and family courts, is now defunct (Sirat 2022). Institutions such as the Ministry of Women's Affairs once upheld these protections but were disbanded upon the Taliban's return. Work, education, and protest are now heavily restricted, with dissent met by violence.

The Ministry of Women's Affairs was formally abolished in September 2021 and replaced with the Taliban's Ministry for the Propagation of Virtue and Prevention of Vice. Former employees were barred from the building, and signage was removed—symbolising a complete institutional rollback of women's rights (Pal 2021; Al Jazeera 2021).

With no formal legal safeguards, the Taliban have issued decrees based on their interpretation of Sharia law, entrenching a system that systematically excludes women from public life (Akbari and True 2022; Maizland 2023).

1.5 Structures and Lived Realities of Gender Apartheid

Gender apartheid in Afghanistan is characterised by a mutually reinforcing system of legal, social, and political exclusions that systematically strip women of autonomy and visibility (UN Human Rights Council 2024, 3; Bennoune 2022). This state-engineered framework permeates all aspects of life, consolidating the erasure of women's rights and personhood.

Education Bans: The denial of education to girls and women stands out as one of the most overt aspects of the regime's policies. Afghanistan is currently the only country where girls are formally denied education on a national scale, making the ban a defining marker of the Taliban's gender apartheid regime (Bennoune 2022; Graham-Harrison and Joya 2025).

Mahram Restrictions: Women's mobility is severely restricted by the mahram system, which requires a male guardian for travel. This rule undermines autonomy, impedes access to services, and reinforces patriarchal control in both public and private life (Bennoune 2022, 32–38; Graham-Harrison and Joya 2025, 7–8).

Employment Restrictions: Women have been nearly eliminated from the workforce, even in previously accepted sectors like healthcare and education. Employment is limited to tightly controlled, state-sanctioned roles, violating Afghanistan's obligations under ILO conventions (Bennoune 2022; UN Human Rights Council 2024; ILO 2025).

Forced Marriage and Public Erasure: Taliban rule has resulted in women's near-total exclusion from public life, often through forced marriage. This practice, driven by poverty, gender inequality, and lack of legal protections, is especially prevalent in rural

areas and often involves Taliban members acting with impunity (Bennoune 2022; UN Human Rights Council 2024). Under international criminal law, forced marriage may constitute a crime against humanity. Article 7(1)(k) of the Rome Statute includes “other inhumane acts,” encompassing forced marriage accompanied by sexual violence, trauma, and forced pregnancy. It also qualifies as gender persecution under Article 7(2)(g), reflecting a deliberate denial of rights based on gender. As part of the Taliban’s broader system of gender apartheid, such practices amount to a systematic attack on civilian women and girls (UN Human Rights Council 2024, 13). In some cases, it also constitutes enslavement under Article 7(2)(c), involving control over mobility, coerced sexual and domestic labour, and denial of autonomy. With women’s shelters dismantled and legal recourse unavailable, these practices reinforce institutionalised subjugation (UN Human Rights Council 2024, 13–14).

Denial of Other Rights: Women face additional restrictions on justice access, healthcare—especially reproductive care—and property ownership (Bennoune 2022; International Service for Human Rights 2023). Gender-specific dress codes, such as compulsory burqa use, further entrench a totalised system of segregation (Bennoune 2022, 28, 32, 43, 72, 76).

Institutionalised Ideology and Dehumanisation: The Taliban’s ideology fundamentally denies women’s equality, portraying them as subordinate and dependent. This worldview is enforced through a dense web of edicts and directives that systematically exclude women from society (Bennoune 2022; UN Human Rights Council 2024). Women are barred from parks, mosques, schools, universities, and bathhouses—even with a mahram. The ban on secondary and higher education has erased girls from academic life, while employment opportunities have been decimated. Legal protections and domestic violence shelters have been dismantled, leaving women without recourse (Graham-Harrison 2025; IOM, UN Women, and UNAMA 2024). Public punishments—including floggings for “moral crimes”—are routine, reinforcing a climate of surveillance and fear. Female voices, images, and protests are censored, and activists are targeted. Women are treated not as citizens but as property, rendered politically and socially invisible. This erasure is not incidental but central to the

Taliban's system of gender apartheid and authoritarian control (True and Akbari 2024; Graham-Harrison 2025).

1.6 Gender Apartheid as a Driver of Forced Migration

1.6.1 Rising Numbers of Afghan Women Seeking Asylum, Not Just Due to Armed Conflict, But Due to Structural Gendered Violence

The Taliban's reinstatement of gender apartheid has intensified Afghanistan's humanitarian crisis, particularly for women, whose rights and freedoms have been comprehensively dismantled (Akbari and True 2022). Harsh constraints on employment and mobility for women have made self-sufficiency and access to social protection impossible, intensifying their precarious conditions. One critical outcome of this structural violence has been a sharp rise in child and forced marriages. Excluded from education and confined to the home, girls are frequently married off under the pressures of poverty, conservative social norms, and the Taliban's ideological directives, with families viewing marriage as a form of protection or financial relief (Maizland 2023). By systematically foreclosing women's autonomy and life opportunities, gender apartheid entrenches patriarchal practices that subordinate and exploit girls from an early age.

The Taliban's ideological framework which is grounded in patriarchal interpretations of religion and politics confers expansive authority upon men over all aspects of women's lives. (Akbari and True 2022). This ideology legitimises harmful decisions, such as child marriage, particularly in the absence of education, which is a key factor in delaying marriage and empowering girls. Without schooling, girls are reduced to economic liabilities, heightening the incentive to view them as marriageable assets (Cox 2022). The education ban thus reinforces both cultural and material drivers of forced marriage.

Compounding these dynamics is the criminalisation of women who fall outside Taliban moral codes. Survivors of trafficking, rape, or kidnapping often face legal punishment rather than protection, as the dismantling of legal institutions and women's shelters has eliminated avenues for redress (Cox 2022, 167, 186). The resulting environment enables widespread gender-based violence and impunity, institutionally enabled by the regime's exclusion of women from legal, judicial, and policing roles.

These conditions are starkly illustrated by individual cases. In one instance, a woman seeking protection from an abusive husband was refused entry to court and told to return home or face imprisonment (Sirat 2022). Even prior to 2021, domestic violence cases were often referred to traditional mediation, denying women justice (UNAMA 2021). Since the Taliban's return, women have been forced to reconcile with abusers under Taliban courts, while support systems such as shelters and family courts have been dismantled (Human Rights Watch 2023). In another case, a woman who had legally divorced her abusive husband before 2021 was coerced into returning to him under threat of losing custody of her children (Reuters 2021). These examples demonstrate the collapse of protective frameworks and the systematic denial of justice for women under Taliban governance (U.S. Department of State 2023).

The Taliban's return to power in August 2021, and the chaotic withdrawal of international forces, triggered a displacement crisis across Afghanistan (Cox 2022). Many families unable to secure safe passage have turned to smuggling networks, exposing women and girls to trafficking, sexual violence, and other abuses during irregular migration. The collapse of institutional protections and social structures has magnified both existing vulnerabilities and the emergence of new forms of gendered harm (Cox 2022).

While some prominent female professionals were evacuated in the initial crisis, many women remain trapped under a regime that erases their public presence, denies economic agency, and eliminates legal protections. Yet, amid repression, underground resistance has emerged—through clandestine schools, digital advocacy, and quiet civil disobedience.

The constellation of mobility restrictions, legal exclusion, economic dependency, gender-based violence, and state impunity constitutes a pervasive structure of gendered oppression. This system is not a secondary consequence of Taliban rule, but a principal driver of forced migration. Afghan women are not merely fleeing war or insecurity; they are seeking refuge from a regime that institutionalises their subjugation and denies their humanity.

1.6.2 The International Community's Inconsistent Responses and Limited Recognition of Gender Apartheid as a Cause of Forced Displacement

The international response to the Taliban's assault on women's rights has been marked by inconsistency and strategic ambiguity, exposing the persistent gendered hierarchies embedded within global political structures (Akbari & True 2022). While women's rights initially held a prominent place in the international agenda, they have since been sidelined amid broader concerns over geopolitical stability and security. The U.S.-facilitated peace agreement that enabled the Taliban's return to power greatly reduced the ability to enforce accountability for their human rights abuses (Akbari & True 2022). Since the takeover, international responses to the erosion of women's rights have largely stagnated, failing to translate condemnation into meaningful action (Akbari & True 2022).

Despite lacking formal diplomatic recognition, Taliban officials have continued to engage in diplomatic relations and travel to foreign capitals, signaling a level of de facto recognition by certain states (Akbari & True 2022). However, such engagement has proven ineffective; rather than encouraging reform, international tolerance has arguably enabled further repression (Akbari & True 2022). Engaging with the Taliban without setting conditions and failing to openly challenge their actions risks reinforcing and normalising their system of gender apartheid in the long run (Akbari & True 2022). Some countries, such as China, demonstrated pragmatic acceptance of the Taliban's authority even before Kabul's fall, hosting high-level delegations (Cox 2022). Others, including Russia and Iran, have adopted more ambivalent or strategic stances, shaped by regional interests and reactions to the U.S. withdrawal (Cox 2022). While the international community initially united in demanding that the Taliban reopen secondary schools for girls as a condition for recognition, this collective pressure was ultimately ignored (Akbari & True 2022).

Statements like that of the G7 in August 2021, which called for holding the Taliban accountable for violations of women's and girls' rights, have not been followed by sustained enforcement mechanisms (Akbari & True 2022). Notably, even prior to the Taliban's return, international actors failed to ensure the Afghan government's compliance with commitments under UNSCR 1325 on Women, Peace, and Security, ultimately conceding to rising gender conservatism (Cox 2022). Since August 2021, Western governments have attempted to use diplomatic negotiations to secure minimal rights protections in exchange for recognition and aid. However, the Taliban's persistent violations of women's rights have made such efforts politically unviable for liberal democracies, whose foreign policies are constrained by normative

commitments to gender equality, public accountability, and human rights law. Continued engagement without clear progress risks undermining their credibility and provoking domestic and international backlash (Cox 2022).



(Nia 2023)



(Associated Press 2021)

Chapter Two: Gender Apartheid under the Taliban- A Comparative Analysis with South African Apartheid

2.1 Introduction

This chapter critically examines the applicability of the apartheid framework to the Taliban's gender-based oppression since August 2021. The goal is not to draw metaphorical parallels but to demonstrate that Taliban governance meets both the legal and normative criteria of apartheid under international law (Bennoune 2022; Akbari and True 2022). Drawing from the historical experience of apartheid in South Africa, this chapter identifies structural similarities and key divergences to better understand the systemic nature of the Taliban's treatment of women.

The chapter first outlines the architecture of apartheid as institutionalised in South Africa between 1948 and 1990, focusing on its legal, ideological, and bureaucratic foundations. It then examines how gender segregation and subjugation are embedded within the Taliban's legal and political systems, revealing comparable mechanisms of control and differing ideological justifications.

It also addresses critiques of extending the apartheid framework beyond racial contexts by engaging with debates around the international community's uneven responses to race- and gender-based persecution, the role of religious justifications, and the unique histories of both regimes. This strengthens the case for recognising gender apartheid as a distinct yet analogous system of oppression requiring international accountability (Bennoune 2022).

Finally, the chapter links gender apartheid to forced displacement, arguing that Afghan women are not fleeing incidental harm but a state-engineered system of persecution. Recognising the Taliban's rule as gender apartheid carries serious legal implications for refugee protection frameworks and underscores the need to expand and strengthen asylum provisions for Afghan women (Bennoune 2022; Akbari and True 2022).

2.2 The Architecture of Racial Apartheid in South Africa

Apartheid in South Africa was not a set of isolated discriminatory laws but a deeply structured regime designed to enforce white supremacy through legal, ideological, and bureaucratic control (Breckenridge 2005; Saint 2012; Murray 2001). It systematically subordinated the non-white population—particularly Black South Africans—through an interlocking system of laws and institutions (Ibeanu 1990; Breckenridge 2005).

Legally, apartheid created rigid racial categories—white, coloured, Indian, and Black—with subdivisions within Black communities, determining rights to land, employment, education, and residence (Ibeanu 1990, 53). These classifications entrenched inequality and enabled control over nearly every aspect of life (Murray 2001).

The ideological foundation of apartheid was rooted in white supremacy, reinforced by pseudoscience, religious doctrine, and state propaganda portraying Black South Africans as inherently inferior (Saint 2012, 119). These ideas were propagated through education, media, and religious institutions, embedding racial hierarchy in everyday life (Breckenridge 2005).

Bureaucratic control was central to apartheid's logic, operating with what Breckenridge (2005) describes as a "panoptic" system of surveillance. Pass laws, including the 1952 Abolition of Passes Act, required Black South Africans to carry reference books (Dompas) containing fingerprints, tax records, and permissions for movement—severely restricting mobility (Breckenridge 2005, 83, 97; Saint 2012, 117–118).

Territorial segregation was imposed through laws like the 1913 Natives Land Act and the 1950 Group Areas Act, which confined Black populations to designated reserves and forcibly removed them from urban centres (Ibeanu 1990, 55; Skelcher 2003, 770–771). The Bantustan system, formalised by the Bantu Authorities Act (1951) and the Bantu Self-Government Act (1959), further stripped millions of national citizenship and political participation, creating fragmented, disenfranchised communities (Murray 2001, 233, 249; Breckenridge 2005, 102–103).

Economic exploitation was another pillar, institutionalised through Labour Bureaux established by the 1949 Native Laws Amendment Act. These regulated African labour, funnelling workers into low-paid, menial jobs and reinforcing economic dependency (Breckenridge 2005, 87, 93). Structural disparities in wealth, education, and healthcare

reflected the deep economic inequalities embedded in apartheid (Ibeanu 1990, 53–54).

The regime was enforced through violent repression: mass arrests, police brutality, indefinite detention, and suppression of dissent (Ibeanu 1990, 54; Breckenridge 2005, 101). Yet resistance was constant and multifaceted—from mass movements like the ANC and PAC to everyday defiance. Such resistance challenged apartheid's legitimacy and paved the way for future justice and transition (Murray 2001; Saint 2012; Breckenridge 2005).

Ultimately, South African apartheid functioned through an intricate fusion of legal, ideological, and administrative systems that institutionalised racial domination. Understanding this structure provides a foundation for analysing the Taliban's gender-based regime and its parallels in systemic oppression.

2.3 Contesting Racial Apartheid: Resistance and Contradictions

Resistance to apartheid in South Africa was diverse, persistent, and revealing of the regime's internal contradictions and fragility. This section explores how acts of defiance—both organised and everyday—challenged the ideological and structural foundations of apartheid and redefined agency and solidarity under repression.

One of the primary targets of resistance was the pass system, which imposed strict limitations on the movement and autonomy of Black South Africans (Breckenridge 2005; Ibeanu 1990). Opposition emerged early, escalating through the 1950s and reaching a peak with the 1958 women-led protests and the tragic events at Sharpeville in 1960.

Political movements such as the The African National Congress (ANC) and the Pan-Africanist Congress (PAC) led organised resistance, challenging the regime's legitimacy through mass mobilisation and, later, armed struggle. Umkhonto we Sizwe, the armed wing of the ANC, represented a deliberate shift toward sabotage tactics in reaction to escalating state repression (Skelcher 2003). The government responded with mass detentions and organisational bans, highlighting the regime's dependence on repression rather than consent (Breckenridge 2005).

Resistance to Bantustan policies and forced removals further revealed contradictions in apartheid's territorial logic. While presented as autonomous homelands, Bantustans deepened marginalisation and exclusion (Murray 2001; Breckenridge 2005). Protests in areas like KwaNdebele exposed the artificiality of these spaces, uniting diverse communities in shared resistance (Murray 2001).

Cultural resistance also flourished. Writers from Black and coloured communities challenged apartheid's ideological control through literature, offering counter-narratives of dignity, trauma, and resistance. Their works critiqued racial segregation and reasserted identity against state-enforced dehumanisation (Saint 2012).

Everyday acts of resistance—such as non-compliance with pass laws, refusal to use state-imposed names, and subtle disruptions to surveillance—also played a vital role. These micro-acts asserted individual agency and eroded the state's disciplinary power from below (Saint 2012).

Together, these forms of resistance revealed the apartheid regime's deep contradictions. Brutal repression of peaceful protest, rising cross-racial solidarity, and the refusal of both mass movements and individuals to comply with racial subjugation exposed the regime's moral and structural illegitimacy. These internal pressures, along with international condemnation, contributed to the eventual dismantling of apartheid (Breckenridge 2005; Ibeanu 1990; Skelcher 2003; Saint 2012; Murray 2001).

2.4 Gender Apartheid under the Taliban:

Since August 2021, the Taliban have imposed a regime that closely mirrors the structure of South African racial apartheid—substituting race with gender as the basis for systemic subjugation (Akbari and True 2022; Bennoune 2022). This section examines the legal, ideological, and bureaucratic foundations of the Taliban's governance, demonstrating how gender segregation and oppression have been institutionalised.

Rooted in a rigid interpretation of Sharia law, the Taliban's ideology provides both the justification and framework for policies that exclude women from public life. Mobility, education, employment, and bodily autonomy are all severely restricted—rendering women invisible in social, economic, and political domains (Bennoune 2022).

A core feature is the mahram rule, which requires women to be accompanied by a male guardian in most public settings. Violations result in harsh punishments including imprisonment and public flogging (Graham-Harrison 2025; Human Rights Watch 2024), creating a system of coercion and surveillance akin to South Africa's pass laws.

Education is another critical domain of exclusion. Afghanistan is the only country where women and girls are categorically banned from secondary and higher education (IOM, UN Women, and UNAMA 2024). This ban is a deliberate tool of patriarchal control, discouraging primary education, fuelling early marriages, and reinforcing economic dependency (Human Rights Watch 2024).

Employment restrictions further undermine women's autonomy. Women have been barred from most professions, and entire sectors—like beauty salons—have been shut down, eliminating income for tens of thousands (Amnesty International UK 2024; IOM, UN Women, and UNAMA 2024). These measures systematically dismantle women's economic agency and reinforce confinement to the domestic sphere.

Bodily autonomy is curtailed through mandatory dress codes, including the burqa and niqab. Noncompliance is punished by public humiliation or violence, reinforcing Taliban ideals of moral discipline and gender hierarchy (Human Rights Watch 2024; Graham-Harrison 2025). These practices parallel the apartheid regime's use of coercion to enforce visible compliance.

Legal experts and feminist scholars widely agree that the Taliban's policies meet the criteria for apartheid under international law—defined by systemic oppression, intent to dominate, and inhumane acts (Bennoune 2022, 58). Recognising this regime as gender apartheid grounds Taliban actions in a legally actionable framework, supporting calls for international accountability and expanded refugee protection.

Despite repression, Afghan women continue to resist through underground education, exile advocacy, and human rights documentation—demonstrating remarkable resilience and exposing contradictions within the Taliban's rule (Niazi 2024; IOM, UN Women, and UNAMA 2024).

In sum, the Taliban's governance constitutes a deliberately constructed system of gender apartheid. By institutionalising patriarchal domination across law, ideology, and daily life, it reproduces the logic of apartheid—substituting race with gender—

warranting global recognition, legal intervention, and strengthened asylum protections for Afghan women.

2.5 Justifications and Ideologies of Apartheid: A Comparative Lens

A key feature shared by South African racial apartheid and the Taliban's gender apartheid is their reliance on ideological, religious, and cultural narratives to rationalise and uphold institutionalised oppression. These justifications are not incidental but are central to how apartheid regimes sustain public compliance, suppress resistance, and assert moral legitimacy. This section compares the ideological frameworks and public rationales of both systems, demonstrating how each constructs the oppressed group—Black South Africans and Afghan women, respectively—as inferior, dangerous, or culturally disruptive.

In apartheid South Africa, racial segregation was framed as both natural and divinely sanctioned. The National Party drew on Calvinist theology and pseudo-scientific racism, asserting that God had created separate races with distinct roles, and that maintaining racial “purity” was essential for moral and civilizational order (Saint 2012, 119; Breckenridge 2005). Education, church doctrine, and state propaganda were deployed to portray Black people as inherently inferior, morally corrupt, and unfit for equal political participation (Saint 2012). Apartheid laws, such as the Population Registration Act and Group Areas Act, were thus legitimized through a vision of “separate development,” a euphemism that masked domination under the language of cultural preservation and peace (Murray 2001, 234).

Similarly, the Taliban rationalise their gender-based restrictions through a combination of religious and cultural discourses, claiming to protect Islamic morality and Afghan tradition. They assert that practices such as mandatory mahram accompaniment and head-to-toe veiling are rooted in Islamic obligations, and accuse dissenting women of being “anti-Islamic” or corrupted by “Western values” (True and Akbari 2024; Civic Media Observatory 2022). Protesters are often vilified as immoral, “prostitutes,” or foreign agents, echoing apartheid South Africa's portrayal of Black activists as communists or outside agitators (Civic Media Observatory 2022; Breckenridge 2005). These narratives work to delegitimise women's demands for rights by recasting them as threats to religious and national integrity.

Both regimes also justify repression by invoking the need for stability and national development. South African leaders argued that political rights for Black South Africans would destabilize the country and hinder orderly progress (Skelcher 2003, 773). Similarly, the Taliban frame women's rights as secondary to more "urgent" priorities such as national security and economic recovery, suggesting that peace requires compromises on gender equality (True and Akbari 2024). This logic constructs oppressed groups as sacrificable for the so-called greater good, allowing the state to delay justice while maintaining control.

Finally, both regimes present misleading portrayals to international audiences, claiming that the oppressed have sufficient rights within the existing system. By presenting Bantustans as independent homelands, the South African government attempted to justify the marginalisation of Black South Africans from meaningful political engagement. (Murray 2001). The Taliban likewise assert that women enjoy "freedom of movement," have access to vocational training, and participate in business, despite widespread documentation of systemic exclusion (International Organization for Migration, UN Women, and UNAMA 2024). These public relations efforts aim to obscure the reality of apartheid while preserving geopolitical legitimacy.

In both cases, justification serves as a mechanism of control, shaping not only policies but also public perception. By naturalising domination and delegitimising resistance, these regimes construct the oppressed as undeserving of equality and position apartheid as a moral and cultural necessity. Comparing these ideological narratives deepens the understanding of gender apartheid in Afghanistan not only as a legal and structural system but also as a profoundly discursive one, reliant on persistent constructions of women as lesser beings.

2.6 Critical Divergences: Where the Parallels Break Down

While the analogy between South African racial apartheid and the Taliban's gender apartheid is illuminating, it must be used carefully to avoid oversimplifying distinct legal, cultural, and historical contexts (Bennoune 2022; Akbari and True 2022). Understanding where these analogies break down and why these differences are significant is vital for a nuanced and accurate framework that can effectively mobilise international legal and political responses.

One major divergence lies in legal recognition. Racial apartheid, as in South Africa, is a *jus cogens* violation under international law—universally condemned and non-derogable (Bennoune 2022). In contrast, gender apartheid lacks explicit recognition or criminalisation, weakening legal protections for Afghan women seeking asylum and reflecting persistent biases that treat gendered oppression as “private” rather than “political” (Otto 2007; Edwards 2010).

Cultural relativism also shields gender apartheid. Unlike racial apartheid, which by the late 20th century had no credible cultural defence, gender-based restrictions are often justified through appeals to tradition or religion—especially in the Taliban’s use of Sharia to rationalise policies that restrict women’s rights (Bennoune 2022:67-69). These arguments, though widely critiqued, continue to shape international responses, often enabling oppressive regimes (True and Akbari 2024).

Historical context marks another key difference. South African apartheid was rooted in settler colonialism and white minority rule over a disenfranchised Black majority (Breckenridge 2005; Murray 2001). The Taliban’s emergence, by contrast, reflects a complex interplay of internal and external forces. While often described as an indigenous ideological movement, the Taliban are deeply shaped by the fusion of tribalism and religious fundamentalism, both of which have long challenged democratic and state-building efforts in Afghanistan (Afzal 2023). Core elements of Pashtunism and Pashtunwali—the Pashtun tribal code—continue to structure Taliban governance, reinforcing patriarchal norms around honour, obedience, and male dominance (AfgReview 2025). Simultaneously, the group’s doctrinal framework is heavily influenced by Wahhabi ideology exported from Saudi Arabia and disseminated through Pakistani madrasas, where many Taliban leaders received their religious training (Mahendrarajah 2015). Their interpretation of the Islamic duty to *command right and forbid wrong* (*al-amr bi'l-ma'ruf wa'l-nahy 'an al-munkar*) has served as the basis for a puritanical reform program aimed at controlling women’s bodies and erasing their public presence (Mahendrarajah 2015).

Since August 2021, Taliban decrees have banned girls’ education (Popalzai and Stambaugh 2022), women’s employment (Picheta and Mahmood 2021), and abolished the Ministry of Women’s Affairs (Pal 2021). Women have been expelled from public office (CBS News/AFP 2021a), barred from media (Popalzai 2021), and subjected to strict dress codes (Fraser 2022). Their movement is heavily policed:

women “may not travel over 45 miles without a mahram” (Popalzai 2021), use “taxis without veils”, or “access public baths” (Das 2021; Ronagh 2021; JURIST 2022; The Independent 2022). These restrictions mirror South African “pass laws” by reducing mobility to a state-controlled exception.

Taliban policies also include the forced collection of unmarried girls as sexual “spoils of war,” revealing gender apartheid’s violent logic (Pleasance 2021). While framed as Sharia, these rules create a legal system built to control and erase women.

Segregation is a key mechanism, but it is only one part of a multi-layered system of gender apartheid—which also includes coercive male guardianship, the total erasure of women from public and political life, and forms of symbolic violence that render women invisible, dishonoured, or criminal for existing outside the Taliban’s strict codes. Like racial segregation in South Africa, gender segregation under the Taliban functions both to control and to symbolically affirm hierarchical domination. The Taliban’s legal framework is thus not a series of isolated acts, but a coordinated architecture of gender apartheid, aimed at totalising exclusion and enforced invisibility.

However, key differences remain. Unlike Black South Africans, Afghan women were not stripped of existing political power but historically excluded from it (Akbari and True 2022). Critics argue that applying apartheid analogies without accounting for such distinctions risks flattening context and undermining both struggles’ specificity (Bennoune 2022, 51–52, 56).

Still, many Afghan women invoke the apartheid label precisely for its legal weight and global resonance, seeing it as a powerful framework to expose the structured nature of their oppression (Akbari and True 2022; Human Rights Watch 2024).

While acknowledging its limitations, the analogy serves as a strategic device—if used critically and through an intersectional lens—to promote legal recognition of gender apartheid and centering the voices of those directly affected in legal and policy responses (True and Akbari 2024; Bennoune 2022).

2.7 Why the Comparison Still Matters: Legal and Political Utility

Despite important differences, the comparison between South African racial apartheid and Taliban-imposed gender apartheid offers strategic legal and political value—particularly for strengthening refugee protection and mobilising international responses (Bennoune 2022; Akbari and True 2022). The apartheid framework brings legal clarity and moral urgency to global advocacy and policymaking.

Historically, the international campaign against racial apartheid included sanctions, diplomatic isolation, and legal condemnation—strategies that pressured the South African regime and delegitimised its racial policies (Bennoune 2022). Applying a similar framework to gender apartheid could galvanise coordinated action against the Taliban, including sanctions and legal accountability (True and Akbari 2024; Human Rights Watch 2024).

Earlier efforts to sanction the Taliban during their first rule (1996–2001) offer both guidance and warning. UN Security Council Resolutions 1267 (1999) and 1333 (2000) imposed asset freezes, travel bans, and an arms embargo, isolating the regime diplomatically (UNSC 1999; UNSC 2000). Yet these measures failed to address the gendered nature of Taliban oppression. This highlights a key lesson: effective sanctions must include gender-specific components to challenge structural misogyny, not just generalised security threats.

International solidarity and the “mobilisation of shame” also proved crucial in dismantling racial apartheid. Global campaigns exposed human rights abuses and generated moral pressure (Bennoune 2022, 56–57). Similar advocacy today can amplify Afghan women’s voices, sustain international attention, and increase pressure on governments and institutions (Niazi 2024; Human Rights Watch 2024).

Moreover, applying the apartheid framework explicitly within refugee protection strengthens the legal basis for granting asylum to Afghan women. Asylum systems often overlook structural, gendered persecution by focusing on individual incidents (Freedman 2010). Framing gender apartheid as a form of systemic persecution underscores that Afghan women are escaping not isolated abuses but a deliberate, state-driven system of subjugation—thereby affirming their status as a persecuted social group under international legal standards (Edwards 2010; Bennoune 2022).

Legal recognition of gender apartheid would also advance international jurisprudence. It could enhance enforcement under human rights treaties such as CEDAW and support criminal prosecution through the ICC or ICJ, especially if gender apartheid is codified as a crime against humanity (True and Akbari 2024; Human Rights Watch 2024).

Ultimately, the comparison is not merely symbolic. It provides a conceptual and legal foundation for recognising the Taliban's gender policies as a form of systematic persecution—mobilising precedent, feminist legal advocacy, and global pressure to protect Afghan women and others facing similar regimes (Bennoune 2022; True and Akbari 2024).

2.8 Conclusion: Gender Apartheid as Legal and Moral Imperative

This chapter has examined the framework of apartheid as a legal and conceptual tool to analyse the Taliban's gender-based oppression since August 2021. It argued that the Taliban's regime constitutes not isolated acts of discrimination but a coherent system of domination comparable to South African racial apartheid (Breckenridge 2005; Bennoune 2022; Akbari and True 2022). While differing in historical and cultural contexts, both systems share core structural features: ideological justification of segregation, bureaucratic enforcement, surveillance, and denial of fundamental rights (Saint 2012; Skelcher 2003).

The analysis began by outlining the structure of South African apartheid, enforced through legal mechanisms such as pass laws, territorial zoning, and surveillance, all designed to institutionalise white supremacy (Breckenridge 2005; Murray 2001; Ibeanu 1990). It then demonstrated that the Taliban similarly impose systemic restrictions on women's mobility, education, work, political voice, and bodily autonomy—amounting to gender apartheid (Akbari and True 2022; Bennoune 2022; Human Rights Watch 2024).

Key differences were also addressed, particularly the lack of international legal recognition for gender apartheid. Unlike racial apartheid, gender-based persecution remains marginalised in international law, partly due to cultural relativism and entrenched gender bias (Otto 2007; Bennoune 2022). These divergences, however,

reinforce the need for an intersectional approach that centres Afghan women's experiences and agency.

Crucially, the apartheid framework holds strategic value for international law and refugee protection. It offers clear legal grounds and moral urgency for coordinated action—such as sanctions, diplomatic isolation, and asylum reform—drawing on tools previously used against South African apartheid (Bennoune 2022; True and Akbari 2024). It also strengthens asylum claims by framing Afghan women's flight as a response to systemic persecution, not just individual harm (Freedman 2010; Edwards 2010).

Recognising gender apartheid could advance international legal norms by confronting structural and gendered violence more effectively. Codifying it as a crime against humanity would reinforce treaties like CEDAW and empower accountability through mechanisms such as the ICC or ICJ (True and Akbari 2024; Human Rights Watch 2024).

Labeling the Taliban's regime as gender apartheid is not merely analytical—it is a political and moral imperative. Like apartheid South Africa, it reveals what Savage (1986) called the "inclusion-exclusion paradox": Afghan women are erased from public life, yet still required in narrowly defined, subordinate roles such as maternal caregiving, policing morality among other women, or working in sectors like healthcare where male substitution is culturally restricted. This mirrors how South African apartheid exploited Black labour while enforcing strict racial segregation. The Taliban's mobility and guardianship laws similarly restrict and instrumentalise women to preserve patriarchal control.

In sum, the gender apartheid framework provides critical clarity for recognising one of the most extreme forms of state-sponsored gender violence today. It not only deepens understanding of the Taliban's regime but also strengthens global solidarity and protection for Afghan women—urging the international community to act through legal recognition, policy reform, and sustained accountability (Bennoune 2022; Akbari and True 2022).



The *Taipei Times* report (2023)



(Rahmati 2023)



(Rahmati 2023)

Chapter Three

3.1 Introduction

Authoritarian regimes that institutionalise segregation—whether by race or gender—often create conditions that compel displacement. By rendering public and urban spaces unliveable for targeted groups, these systems of control directly contribute to forced migration. This connection is evident in apartheid South Africa and the Israeli occupation of Palestinian territories.

In South Africa, apartheid operated through a racialised “inclusion-exclusion” model: Black South Africans were exploited as labour but denied political and spatial belonging. Laws such as the pass system, Group Areas Act (1950), and Bantustan policies under the Bantu Authorities Act (1951) forcibly removed millions from their homes, relocating them to segregated, underdeveloped territories (Worden 1994; Savage 1986). These were not simple relocations but deliberate state-driven displacements aimed at preserving racial purity in urban centres and relegating Black communities to zones of invisibility and control (Posel 1991; Murray 2001).

A similar logic operates in the Palestinian context, where occupation policies—military checkpoints, the separation wall, land seizures, and resource restrictions—have caused widespread internal displacement and exile (BADIL 2024; Hajjar 2005; Farsakh 2005). Framed as security measures, these practices enforce segregation while systematically uprooting civilian life.

The Taliban’s system of gender apartheid also operates through imposed segregation. Since 2021, Afghan women have been systematically confined to private spaces via bans on education, employment, mobility, and public visibility. While limited roles remain—such as midwives or workers in female-only clinics—the broader aim is total societal exclusion. For many, this coerced containment leaves flight as the only option. Afghan women flee not only due to physical danger but because the regime structurally denies them the possibility of living with dignity (UNHCR and UN Women 2023).

As seen in apartheid South Africa, occupied Palestine, and Taliban-controlled Afghanistan, segregationist regimes rely on a dual logic: containment for control and

displacement for erasure. These systems not only isolate; they forcibly expel. This recognition supports the broader claim that gender apartheid constitutes a core driver of migration and should be legally acknowledged as grounds for asylum and international protection.

Afghan women are not fleeing isolated abuses, but a systemic regime of erasure. To analyse how this structural violence leads to displacement, the chapter now turns to two intersecting frameworks: intersectionality and feminist legal theory.

Intersectionality, first articulated by Crenshaw (1989), provides a framework to analyse how gender-based oppression intersects with ethnicity, class, age, marital status, and geography, producing layered and specific forms of vulnerability (Crenshaw 1989; Akbari and True 2022; Harold 2024). Feminist legal theory, meanwhile, exposes the limitations of dominant refugee and human rights regimes, which often fail to recognize how gendered violence is rendered invisible, minimized, or considered “private” and thus not a basis for international protection (MacKinnon 2006; Edwards 2010; Otto 2007; Freedman 2010).

This chapter advances three core arguments. First, that the Taliban’s systematic oppression of women is not incidental but foundational, structuring all aspects of life through policies of exclusion, surveillance, and violence, with cumulative effects that are psychological as well as material (IOM, UN Women, and UNAMA 2024; Niazi 2024). Second, that the harms Afghan women endure are shaped by intersecting identities, with factors such as ethnicity, rural/urban origin, marital status, and age producing differentiated experiences of vulnerability, resistance, and flight (Harold 2024; True and Akbari 2024; Crenshaw 1989). Third, that the prevailing legal frameworks- refugee law and human rights law- are fundamentally inadequate unless they are reformed to center women’s lived experience, agency, and the reality of gendered and intersectional persecution (Edwards 2010; Otto 2007; Freedman 2010; Spijkerboer 2018).

Drawing on an extensive body of qualitative evidence- including testimonies, interviews, NGO and UN reports, and scholarship- this chapter not only documents the scale and character of everyday oppression but also foregrounds Afghan women’s agency, resistance, and calls for legal change. Ultimately, it contends that full legal recognition of “gender apartheid” as a crime against humanity and a substantive

transformation in refugee protection frameworks are urgent imperatives for the international community. Afghan women are not fleeing sporadic acts of violence or isolated social practices; they are escaping a state-sponsored regime of fear, exclusion, and erasure whose logic and consequences demand an intersectional, feminist response.

3.2 Structures of Oppression and Lived Experience

3.2.1 A Systemic Attack: The “World’s Most Severe Women’s Rights Crisis”

Since August 2021, the Taliban have enforced a coordinated regime of gender-based repression, excluding women from education, employment, and public life through decrees, surveillance, and violence (True and Akbari 2024; Human Rights Watch 2024).

Described as “the world’s most severe women’s rights crisis” (IOM, UN Women, and UNAMA 2024, 4), this system violates core freedoms—mobility, speech, autonomy—reflecting an ideologically driven project of total exclusion (Amnesty International UK 2024).

These constraints function cumulatively, creating a context in which women are not merely oppressed but rendered socially and economically invisible. The regime's architecture of control—sustained by moral policing, public punishments, and community surveillance—circumscribes every aspect of women's lives, effectively erasing their personhood and capacity to act as autonomous individuals (Graham-Harrison 2025). A Kabul-based student captured this sense of erasure, stating, “I feel like I am a dead body, just breathing” (International Organization for Migration, UN Women, and UNAMA 2024, 8).

The impact is not merely institutional or material. The erosion of hope, social connection, and self-worth is central to the lived experience of gender apartheid. These are not abstract harms; they are drivers of forced migration, as women flee not only direct threats but the totalising loss of freedom, dignity, and futurity (Harold 2024).

3.2.2 Education: From exclusion to resistance

Education has become one of the most visibly targeted arenas under the Taliban's gender apartheid, functioning both as a mechanism of control and a site of resistance. Since August 2021, the Taliban have imposed sweeping bans on girls' secondary and higher education, making Afghanistan the only country where such access is legally denied (UNESCO 2023; Human Rights Watch 2024). This systemic exclusion has reversed two decades of progress and represents a direct assault on women's autonomy and future.

Before the Taliban's return, Afghanistan had significantly expanded educational access for girls: secondary enrolment rose from 6% to 40% between 2003 and 2018, and female university students increased from 5,000 to over 100,000 by 2021 (Saunders 2024). By 2020, girls comprised 40% of the 10 million enrolled students. Today, over 2.5 million girls—about 80% of school-age females—are excluded from education, and nearly a third have never attended primary school (UNESCO 2023).

The Taliban justify these bans through religious arguments, citing the need for gender segregation and moral regulation (Sarwari and Adnan 2023). Yet Islamic teachings and history affirm education for all. Qur'anic verses (96:1–2; 39:9), Hadiths, and precedents like Aisha's scholarship and Fatima al-Fihri's founding of al-Qarawiyyin counter this claim (Orfan and Shams 2025). Islamic authorities, including the Grand Imam of al-Azhar and clerics from Turkey and Indonesia, have condemned the bans as un-Islamic (Sarwari and Adnan 2023).

To understand the Taliban's policies, one must move beyond their religious framing. Scholars have identified *Pashtunwali*—a pre-Islamic tribal code—as central to the Taliban's worldview (Eslami and Safari 2022). In this code, *nang* (honor) dictates that women must remain invisible, obedient, and under strict male control. Education, by promoting autonomy, visibility, and mobility, is perceived as threatening to tribal masculinity (Facts and Details 2022; Pashtun Society 2022).

The Taliban's approach thus fuses patriarchal tribalism with religious rhetoric. Their leadership, shaped by conservative *madrassa* education and socialised in rural Pashtun norms, enforces a version of Sharia filtered through *Pashtunwali*, not grounded Islamic jurisprudence (Eslami and Safari 2022; Orfan and Shams 2025). Women's exclusion is thereby cast not only as religiously defensible but as essential

to preserving tribal and political order. This fusion of tribal patriarchy and authoritarian rule mirrors other regimes where education is tightly regulated to maintain control. In China, for instance, schools are used to enforce ideological conformity and suppress dissent (Schulte 2019). Similarly, the Taliban view education as a threat to their authority, regulating access to preserve male dominance and political order.

Thus, the Taliban's educational bans reflect more than religious extremism—they embody the intersection of patriarchal tribalism, authoritarian governance, and state control. Education threatens this structure by offering women tools for resistance and transformation.

Despite these bans, Afghan women continue to resist. Through underground schools, secret teaching networks, and global advocacy, they reclaim education as an act of defiance. Their resistance not only challenges Taliban ideology but transforms education into a radical space for survival, identity, and collective power (UN Women and IOM 2024; Harold 2024; Bennoune 2022).

3.2.3 Employment and Criminalisation of Women's Economic Agency

Since the Taliban's return in 2021, Afghan women have faced near-total exclusion from economic life. Aside from limited roles in healthcare and primary education, women have been systematically barred from employment across state institutions, NGOs, the judiciary, and private enterprises (Akbari and True 2024; Maizland 2023). Professionals—lawyers, journalists, aid workers—have been pushed into unemployment, their qualifications nullified by edicts that erase their right to work or appear in public (UN Women and IOM 2024).

This campaign of economic exclusion, paralleling racial apartheid, has decimated entire sectors of female employment. The closure of beauty salons, tailoring shops, and women-led businesses has displaced tens of thousands. The shutdown of salons alone “erased over 60,000 jobs” and eliminated one of the few women-only spaces (IOM, UN Women, and UNAMA 2024). Sitara, a former salon owner in Herat, described the loss: “It was not just my livelihood; it was my children's future, my happiness, my life” (V-Day 2024a).

These restrictions are not mere economic policies—they are tools of gender apartheid. Through their restrictions on female employment, the Taliban enforce structural

dependence, delegitimise women's autonomy, and systematically undermine their economic agency. Legal scholars argue that such measures breach Afghanistan's constitutional obligations and violate core ILO conventions on non-discrimination and the right to work (Bennoune 2022; UN Human Rights Council 2024).

The economic fallout is both national and deeply gendered. The UNDP estimates a 5% GDP loss (Maizland 2023), while families once reliant on women's income now face crisis. A 10-year-old Kabul boy became his family's sole provider after his four sisters were banned from working. "We all had dreams... but when the Taliban came, we lost everything," his sister recalled (V-Day 2024c). This loss fuels child labour, early marriage, and intergenerational poverty (Alizada 2024).

Alternative livelihoods are also obstructed. Home-based businesses—often women's last recourse—face Taliban-imposed restrictions requiring male guardians for transactions, alongside financial, social, and security barriers (Graham-Harrison 2025; IOM, UN Women, and UNAMA 2024). Surveillance and harassment further deter women from pursuing even informal work.

The Taliban often justify exclusion by invoking religion, claiming public spaces are unsafe or not Sharia-compliant, and insisting on male supervision (Civic Media Observatory 2022). Such rhetoric functions as an ideological tool to enforce segregation, control, and economic disempowerment.

Women's transnational mobility is also restricted. Scholarship recipients like Samia, who was barred from leaving for the UAE, are routinely blocked from pursuing academic or professional opportunities abroad. "My mother wept bitterly... she couldn't bear the heartbreak," she said (V-Day 2024d). Denied both domestic employment and international exit, women face a system of total economic imprisonment.

For many, this deprivation drives displacement. Afghan women in exile often cite the inability to earn a living as one of the primary reasons for fleeing (Harold 2024). This reinforces the argument that economic repression under gender apartheid is not only a rights violation but a core cause of forced migration.

As one Kabul-based journalist summarised, the Taliban are "not only silencing women's voices but strangling their capacity to provide, participate, or even imagine a future" (Seddiq 2022). In this context, economic repression is a central pillar of

gender apartheid—designed to dismantle autonomy, erase civic presence, and entrench dependency.

3.2.4 Public Life and Individual Freedoms

The Taliban have systematically restricted Afghan women's presence in public life through a regime of legal decrees and informal enforcement that curtails visibility, mobility, and autonomy. These measures form a coordinated architecture of gender apartheid, not isolated policies.

Women are subject to strict dress codes, mandatory full-body veiling, and are banned from traveling more than 72 kilometres without a mahram (Akbari and True 2022). They are denied driver's licenses and barred from using public transport, severely limiting their freedom of movement—particularly devastating for widows and female-headed households without male guardians.

Women's exclusion from law enforcement and judicial systems entrenches impunity for gender-based violence. Survivors of domestic abuse or sexual violence lack avenues for redress, reinforcing male dominance and institutionalising inequality (Bennoune 2022; UN Human Rights Council 2024). These policies violate the right to equal protection under the law and breach international human rights obligations.

Beyond legal restrictions, women are disappearing from public visibility. They are banned from parks, gyms, and recreational spaces—including the high-profile 2023 closure of Band-e-Amir National Park to female visitors (Alizada 2024).

First-hand testimonies reveal the emotional and social toll. One woman described life under the Taliban as “not just a loss of rights, but of air—we cannot breathe, speak, or leave the house without fear” (V-Day 2024a). Another recounted her mother's silenced legacy: “Her knowledge turned into a secret, like contraband” (V-Day 2024d). These testimonies demonstrate that gender apartheid affects not only women's public freedoms but also disrupts the most personal aspects of their identity and daily life.

Yet resistance endures. Women protesting the university ban have faced water cannons, beatings, and arrests, but continue to demonstrate and share evidence online. In Herat, some dressed as men to reclaim public space—a symbolic rejection

of enforced segregation (Civic Media Observatory 2022). Digital campaigns like #LetAfghanGirlsLearn amplify their defiance globally (The Maiden Factor 2023).

Art has also become a powerful site of dissent. One Kabul-based artist described her work being removed for portraying women's suffering: "There is nothing left for girls... not even painting" (V-Day 2024c). Such acts affirm that Afghan women, though targeted for erasure, continue to resist with courage and creativity.

As Akbari and True (2022, 627) observe, many women feel like "prisoners in our own homes." Yet this language of confinement should not eclipse the dignity and defiance of those who continue to challenge their erasure. The Taliban's aim is not just marginalisation, but the total erasure of women from public and social life. Recognising this as gender apartheid is vital to understanding its systemic and far-reaching impact.

While much of this repression is visible—through veiling mandates, mobility bans, and exclusion from communal spaces—the Taliban's control also extends into the intimate and bodily realms. These less visible but equally coercive measures highlight the structural violence Afghan women endure, underscoring the need to view gender apartheid as operating across both public exclusion and private domination.

3.2.5 Mobility and Spatial Exclusion

The Taliban's severe restrictions on women's movement, including the requirement of a mahram for basic activities like work, healthcare, or leisure, have effectively confined many women to their homes (Civic Media Observatory 2022; IOM, UN Women, and UNAMA 2024; Amnesty International UK 2024). Public spaces such as parks and mosques are largely off-limits, with 79% of women reporting exclusion in the past year (Graham-Harrison 2025). This enforced isolation has led to feelings of humiliation and entrapment, with some women leaving their homes less than once daily or risking arrest for speaking to unrelated men (UN Women and IOM 2024; Graham-Harrison 2025).

These restrictions have transnational effects. Deported Afghan women face heightened vulnerability to abuse and exploitation due to their lack of independent mobility (IOM, UN Women, and UNAMA 2024; Bakare et al. 2024).

3.2.6 Private Autonomy and Bodily Integrity

The Taliban's control over women's bodies is enforced through mandatory veiling and harsh "morality" policing, resulting in public floggings, detentions, and torture (Human Rights Watch 2024; Civic Media Observatory 2022; Graham-Harrison 2025). Over 1,000 people—at least 200 of them women—have been publicly lashed since 2021 for "moral crimes" such as appearing in public without a male guardian (Graham-Harrison 2025). Punishments are both punitive and symbolic, intended to shame and deter. Deeba was whipped 25 times after being forced to confess to "insulting the police" and appearing without a male guardian, while Karima was lashed 39 times in a public square (Graham-Harrison 2025). There are also widespread reports of torture, rape, and mutilation, particularly targeting ethnic minority women (True and Akbari 2024).

Violence also includes torture, rape, and mutilation, especially targeting minority women (True and Akbari 2024). Forced marriages to Taliban members are widespread, with refusals often met with threats or violence. Honour killings and domestic abuse continue with impunity, leaving survivors without legal recourse (Human Rights Watch 2024; IOM, UN Women, and UNAMA 2024).

3.2.7 Psychological and Structural Harms

These cumulative abuses inflict deep psychological harm. Over 80% of Afghan women report their mental health as "bad" or "very bad", including symptoms of anxiety, depression, and aggression (IOM, UN Women, and UNAMA 2024, 4). Public punishments often lead to trauma, nightmares, and social ostracization (Graham-Harrison 2025). Many women feel "dehumanized"- treated as less than human not only by the Taliban but also within their own communities and as refugees abroad (Harold 2024; Graham-Harrison 2025).

With legal protections dismantled and crises like forced returns and natural disasters compounding their vulnerability, many Afghan women see little hope for justice or recovery (IOM, UN Women, and UNAMA 2024).

3.3 Gendered Resistance and the Logic of Forced Displacement

3.3.1 Everyday Resistance: Defiance in Education, Art, and Speech

Despite systemic repression, Afghan women continue to resist through underground education, poetry, and social media activism (True and Akbari 2024; Human Rights Watch 2024; Niazi 2024). Journalists and activists amplify these efforts, often at great personal risk.

This resistance spans rural and urban areas, cutting across class and ethnicity. Women like Negina and Joweria teach in secret, while others resist through quiet defiance, mutual support, and hidden networks (IOM, UN Women, and UNAMA 2024; UN Women and IOM 2024). These acts confront both the ideology and daily mechanisms of Taliban control. As Kapur (2023) argues, the very act of “fearlessness”- of asserting humanity in the face of erasure- can itself be transformative, fostering new forms of solidarity and hope (Kapur 2023).

3.3.2 The Price of Defiance

Resistance often results in arrest, torture, or worse. In 2022 alone, more than 1,200 women activists were detained on vague charges such as “moral crimes” or “insulting the police,” with many confessions extracted under coercion (True and Akbari 2024; Graham-Harrison 2025). Public punishments aim to shame and deter, leaving victims socially ostracized as well as physically harmed.

Violence is common and often gendered and ethnicized , ethnic minority women, particularly Hazara and Panjshiri, face heightened brutality, including sexual violence intended to dishonour families (True and Akbari 2024, 8; Harold 2024). Survivors report lasting trauma, isolation, and fear (IOM, UN Women, and UNAMA 2024). Activists and professionals are subjected to surveillance and harassment. Shabnam, a writer and activist, was subjected to a night raid in which her husband was beaten and her children traumatized, forcing her into hiding (UN Women and IOM 2024). Raihana Attaee, a judge and Hazara woman, received threatening calls from released criminals, compelling her to flee for her life (Kapur 2023).

Economic sanctions compound the harm. Women lose jobs, income, and social status, and often endure stigma for resisting Taliban rule (Human Rights Watch 2024; IOM, UN Women, and UNAMA 2024).

3.3.3 Resistance as a Driver of Displacement

For many, resistance leads directly to displacement. Public punishment or ongoing threats force women to flee their communities, and for professionals and activists, exile is often the only means of protection (Graham-Harrison 2025; Harold 2024; Niazi 2024; Kapur 2023).

Importantly, migration is driven not only by threats to physical safety. Afghan women repeatedly cite the inability to study, work, or participate in society as primary motivators for seeking asylum abroad (Harold 2024). These stories reveal that forced displacement is not only about escaping direct violence but it is an act of resistance, it is about refusing to accept a life of erasure, silence, and systemic disempowerment (International Organization for Migration, UN Women, and UNAMA 2024).

3.4 Intersectionality and Legal (In)Justice: Rethinking Refugee Protection

3.4.1 Defining Gender Apartheid in International Law

The evidence presented by Afghan women and international observers makes clear that the Taliban's regime constitutes not merely widespread discrimination but a system of gender-based persecution that meets and exceeds international legal thresholds (True and Akbari 2024; Human Rights Watch 2024). The concept of "gender apartheid"- a term coined by Afghan women and embraced by human rights experts- captures the deliberate, state-led, and institutionalized character of this oppression.

This recognition has profound legal and normative implications. Under international law, persecution is defined as the sustained denial of fundamental rights, motivated by identity, and carried out with the intent to dominate and control (Edwards 2010). The

Taliban's policies- encompassing education, movement, work, bodily autonomy, and justice- fit this definition precisely and indeed extend beyond it by seeking to eliminate women as subjects of rights altogether (True and Akbari 2024; Otto 2007).

3.4.2 Legal Frameworks and Gender-Blind Protections

Despite this reality, existing international legal frameworks fail to fully capture or redress the harms Afghan women face. The 1951 Refugee Convention, crafted in a context that excluded women's voices and experiences, lacks explicit reference to sex or gender as grounds for protection (Edwards 2010). Women's claims have historically been forced into the "particular social group" category, a move that often reinforces the notion of women as cultural or social rather than political subjects (Edwards 2010; Freedman 2010).

CEDAW, while an essential legal instrument and ratified by Afghanistan, also falls short in protecting refugee women from gender-based violence (Begum 2024). The Convention contains no explicit reference to sexual and gender-based violence (SGBV) in refugee contexts. Its protections are instead inferred through interpretation—such as General Recommendations 32 and 35—which, although valuable, remain non-binding soft law. As such, they offer only limited recourse (Begum 2024). Moreover, as Briddick (2019) argues, the CEDAW Committee has afforded excessive deference to states in individual communications brought by refugee women, often failing to hold states accountable to even their aspirational commitments. These inconsistencies weaken CEDAW's potential as a mechanism for justice and reinforce broader patterns of institutional neglect.

Additionally, CEDAW's dual emphasis on "formal equality" (the equal treatment of unequals) and "protective" frameworks can cast women as passive victims rather than political agents (Otto 2007). Even progressive approaches, such as "gender mainstreaming," have become mired in bureaucracy, diluting substantive commitments to equality and overlooking the structural roots of oppression (Edwards 2010; Briddick 2019).

Perhaps most critically, the "single-axis" logic of much international law obscures the compounded nature of discrimination faced by Afghan women particularly those who are Hazara, rural, widowed, young, or otherwise marginalized (Crenshaw 1989; Harold

2024). Their experiences are often “too distinct” to fit within the narrow confines of recognized categories, leading to invisibility and exclusion (Crenshaw 1989). As feminist legal theorists note, this exclusion is not accidental but structural, embedded in international legal systems designed around the norms, interests, and experiences of dominant groups (Begum 2024).

3.4.3 Intersectionality and the Margins of Legal Protection

The framework of intersectionality, first articulated by Crenshaw (1989), offers a vital lens for understanding how gender-based persecution interacts with other dimensions of identity, including ethnicity, socio-economic status, age, geography, and family structure (Crenshaw 1989; Harold 2024). In the Afghan context, these interlocking structures of marginalisation compound the risks and vulnerabilities faced by women. For example, Hazara women endure layered persecution under the Taliban due to their gender, ethnicity, and Shia identity. Framed as both religiously deviant and ethnically inferior, they face disproportionate risks of exclusion, public flogging, sexual violence, and systemic discrimination in access to education and employment (Just Security 2023; Genocide Watch 2022). This compounded marginalisation places them at heightened risk, as the Taliban’s Sunni Pashtun worldview treats them as outsiders to its ideological and social order (International Organization for Migration, UN Women, and UNAMA 2024).

Also, Panjshiri women, predominantly ethnic Tajiks from a historic anti-Taliban stronghold, are subjected to collective punishment by Taliban forces. In reprisal for the activities of the National Resistance Front, Taliban fighters have abducted women, burned their hands, and carried out village-wide arrests and forced displacements. Reports also document women and girls being taken as hostages or held in captivity to pressure resistance fighters (Afghan Witness 2022; Amnesty International 2023; Hasht-e Subh 2022). These actions reflect not only gendered violence but also a political strategy of ethnic targeting and community subjugation.

The lived experiences of Afghan women demonstrate that gender apartheid does not operate in isolation but is shaped by and reinforces other forms of oppression. Women and girls have repeatedly expressed their commitment to equality and their willingness to resist despite the risks. However, such defiance is frequently confronted with harsh

and targeted retaliation. Reports document that women involved in peaceful demonstrations have been abducted, sexually assaulted while in detention, and subjected to violent punishments—including the burning of Panjshiri women's hands and the public flogging of Hazara women. These actions serve as deliberate forms of ethnicised and gendered violence, deployed to inflict shame not only upon individuals but upon entire communities (Akbari and True 2024, 8–9). When legal frameworks fail to account for these intersecting forms of persecution, they risk misrepresenting the nature and severity of harm experienced by Afghan women. Scholars such as Freedman (2010) and Otto (2007) warn that refugee policy and law often treat women as a uniform category of victims, emphasising vulnerability at the expense of recognising political agency and structural injustice. Such essentialising narratives can enable paternalistic or interventionist policies that reinforce rather than challenge the marginalisation of women.

An intersectional approach is therefore essential for developing legal and policy responses that are responsive to the full complexity of Afghan women's lived realities. Without it, legal protections risk reproducing the very exclusions they purport to address.

Despite growing recognition of gender-based persecution, international legal frameworks remain inadequate in responding to the specific, systemic nature of the Taliban's regime of gender apartheid. The 1951 Refugee Convention does not explicitly list gender as grounds for protection, forcing women to seek asylum under the ambiguous category of "membership in a particular social group." This framing often obscures the political nature of gendered violence and reinforces portrayals of women as culturally oppressed rather than structurally persecuted (Edwards 2010; Freedman 2010).

The application of the "particular social group" category has yielded inconsistent outcomes in practice. In the landmark UK case *NS (Social Group – Women – Forced Marriage) Afghanistan v. Secretary of State for the Home Department*, the Tribunal affirmed that "women in Afghanistan" constituted a particular social group under the Refugee Convention, citing the severe discrimination, violence, and lack of state protection they face (Refworld 2004). However, despite such precedents, recent reports show a sharp decline in recognition rates for Afghan women. As of early 2025, the UK has rejected asylum claims by 26 Afghan women, including prominent activists,

on the grounds that they do not face a “real risk” of persecution—contrary to clear documentation of Taliban policies (Afghanistan International 2025). In contrast, countries like Sweden, Finland, and Denmark now grant refugee status to all Afghan women, recognising them as a persecuted group due to gender-based restrictions on movement, education, and public life (European Parliamentary Research Service 2023). These diverging outcomes highlight how protection for Afghan women remains heavily contingent on legal interpretations and political will, revealing the inadequacy and unpredictability of current legal frameworks.

Existing legal instruments like CEDAW remain limited in their reach, especially when the state itself is the agent of persecution (Otto 2007). More fundamentally, these frameworks are constrained by a “single-axis” logic that fails to capture how gender intersects with ethnicity, class, geography, age, and marital status in shaping persecution (Crenshaw 1989). Hazara women, rural widows, and young unmarried girls experience layered forms of harm that do not fit neatly into dominant legal categories. As a result, many women are rendered legally invisible despite facing some of the most acute forms of systemic oppression.

Without intersectional analysis and feminist legal reform, refugee and human rights law risk perpetuating the very exclusions they purport to challenge. They offer insufficient recognition of gender apartheid as a coherent, state-led system of persecution, and fail to address how existing legal categories silence or misrecognize women’s lived experiences of violence, erasure, and forced displacement.

3.5 Conclusion

Afghan women's experiences under the Taliban are not simply a series of human rights abuses; they are the logical outcome of a system of gender apartheid that is totalizing, state-sponsored, and designed to erase women from all aspects of life. The harm inflicted is cumulative and intersectional, shaping decisions to resist, migrate, and claim asylum.

Conventional legal frameworks, though significant, remain inadequate in their present state. Without the integration of intersectional analysis and a substantive commitment to feminist legal principles, refugee and human rights law will continue to fall short, perpetuating gaps in protection and recognition.

The way forward demands both legal innovation and a fundamental shift in perspective: Afghan women's voices, agency, and lived experience must be at the center of all reforms. International recognition of gender apartheid as a crime against humanity, robust accountability mechanisms, and a transformation of refugee protection frameworks are not only possible—they are urgent moral and legal imperatives.

In championing these reforms, the international community not only responds to the demands of Afghan women but also affirms universal commitments to justice, dignity, and equality. Anything less risks complicity in one of the gravest gender-based human rights crises of our time.



(YLBHI et al. 2023)



(Noroozi 2022)

Conclusion

This thesis has argued that the Taliban's regime since August 2021 constitutes a deliberate and institutionalised system of gender apartheid and that this system is a primary driver of forced migration among Afghan women. Drawing on international law, feminist legal theory, and intersectional analysis, it has shown that what Afghan women face is not a collection of discrete abuses, but a coherent regime of exclusion, repression, and erasure. The apartheid framework, though traditionally framed through race, applies equally to gender-based systems of domination when those systems meet the criteria of systemic oppression, institutionalisation, and intent to dominate (Bennoune 2022; Akbari and True 2024).

Gender apartheid under the Taliban is enforced through a coordinated matrix of decrees, surveillance, and violence. Women and girls are denied access to education, excluded from employment, confined under mobility restrictions, and erased from public and political life (UN Human Rights Council 2024; IOM, UN Women, and UNAMA 2024). The regime justifies these practices through religious and cultural discourses that seek to legitimise inequality, portraying women as threats to moral order (Civic Media Observatory 2022; True and Akbari 2024). These policies are not incidental but foundational—designed to institutionalise male dominance and reduce women to subordinate, invisible roles within society.

The apartheid framework provides both legal and moral clarity. It allows for a reclassification of Taliban policies from generalised human rights abuses to crimes of structural persecution. The comparison with South Africa's apartheid regime illuminates clear parallels: in both cases, the state codified exclusion through legal means, enforced compliance through surveillance and punishment, and relied on ideology—whether religious or pseudo-scientific—to justify subjugation (Breckenridge 2005; Saint 2012; Murray 2001). Although historical and cultural contexts differ, the strategic utility of the apartheid framework lies in its ability to expose systems of domination and galvanise international accountability.

Afghan women are not simply victims of violence; they are targets of a political project that seeks to extinguish their autonomy, mobility, and voice. Migration, in this context, is not solely an escape from danger, but a rejection of erasure. Women flee because life under the Taliban has been rendered structurally unliveable. This flight is itself a

form of resistance—an insistence on dignity and futurity (Harold 2024). Those who remain continue to resist through underground education, public protest, digital advocacy, and artistic expression, often at immense personal risk (Human Rights Watch 2024; V-Day 2024a). Their actions challenge the narrative that Afghan women are passive or apolitical, and instead foreground their role as central agents in the fight for justice.

The experience of gender apartheid is profoundly intersectional. Women are not affected equally: ethnicity, geography, class, age, and marital status shape how oppression is lived and how vulnerability is produced. Hazara and Panjshiri women, in particular, are subjected to intensified brutality, including “ethnicised sexual violence, forced displacement, and collective punishment” (Akbari and True 2024, 8; Amnesty International 2023; Hasht-e Subh 2022). These compounded harms expose the inadequacies of existing refugee and human rights frameworks, which are often grounded in single-axis approaches that fail to capture layered discrimination (Crenshaw 1989; Otto 2007; Edwards 2010).

The legal frameworks that underpin the international protection regime—most notably the 1951 Refugee Convention and CEDAW—fall short of addressing gender apartheid as a distinct basis for asylum or prosecution. Gender is not explicitly recognised as grounds for persecution, and protections rely on discretionary and inconsistent interpretations of “particular social group” status (Freedman 2010; Briddick 2019). CEDAW, despite its symbolic importance, remains a weak instrument in contexts where the state itself is the primary persecutor. As a result, Afghan women often encounter legal invisibility, inconsistent asylum recognition, and insufficient mechanisms for accountability.

This thesis calls for a reconfiguration of international law to reflect the lived realities of gender-based structural violence. Codifying gender apartheid as a crime against humanity would offer a pathway for legal redress and signal that systemic gender oppression is a violation of international order, not merely a cultural variance (Bennoune 2022; Atlantic Council and Global Justice Center 2024). Reforming refugee protection to explicitly incorporate gender and intersectionality would ensure that Afghan women are no longer excluded or marginalised in legal decision-making. And centring Afghan women’s agency in international advocacy would help shift the discourse from one of protection to one of political solidarity and recognition.

Afghan women have already named the crime: they call it gender apartheid. The task before the international community is not to invent new terminology, but to listen—to act with urgency, coherence, and respect for the courage and clarity Afghan women have already demonstrated. Recognising gender apartheid is not only a legal imperative but a moral one. It affirms that the fight for women’s rights is inseparable from the pursuit of justice, and that Afghan women’s resistance is not the margin of history—it is the centre of it.



(Noroozi 2023)

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