

MASS ATROCITY CRIMES AGAINST WOMEN AND GIRLS IN AFGHANISTAN

Roundtable Discussion

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This report was jointly produced by the Simon-Skjodt Center for the Prevention of Genocide and the United States Institute of Peace.

COVER: Women carry their children through the desert to a Red Crescent mobile health clinic in a village in Shah Wali Kot district, Kandahar province, Afghanistan, Oct. 23, 2021. An estimated 22.8 million people — more than half the population of Afghanistan — are expected to face potentially life-threatening food insecurity this winter. Many are already on the brink of catastrophe. *Jim Huylebroek/The New York Times/Redux*

List of Acronyms

CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
ICC	International Criminal Court
ICJ	International Court of Justice
NGO	Nongovernmental organization
OTP	Office of the Prosecutor
UNAMA	United Nations Assistance Mission in Afghanistan
UNSC	United Nations Security Council
USIP	United States Institute of Peace

INTRODUCTION

Afghanistan has consistently ranked among the ten highest-risk countries for a new onset of mass killing¹ in the United States Holocaust Memorial Museum’s annual Statistical Risk Assessment.² Since 2021, when the Taliban seized power in Afghanistan, many communities face a heightened risk of targeted violence. In 2021, the Museum’s Simon Skjodt Center for the Prevention of Genocide issued warnings of potential mass atrocities against women and girls³ and the risk of genocide against the Hazara community.⁴ The Simon-Skjodt Center for the Prevention of Genocide and the United States Institute of Peace (USIP) have collaborated on a series of convenings on the risks to civilians in Afghanistan and potential international responses to halt and prevent the Taliban’s crimes and advance accountability for the victims.

In January 2024, the Simon-Skjodt Center for the Prevention of Genocide and USIP co-hosted a private roundtable discussion on mass atrocity crimes committed against women and girls by the Taliban. The conversation was held in recognition that crimes perpetrated against women and girls, while too often neglected, are often mass atrocities and require a coordinated response from the international community. The convening included researchers, policymakers, activists, legal experts, and other civil society representatives, who discussed the following questions:

- What information has been collected about crimes targeting women and girls in Afghanistan, and what patterns emerge from this documentation?
- How and why has gender persecution become a focus of investigative efforts?
- What are the consequences of the Taliban’s persecution of women and girls?
- How can the Taliban be held accountable for their crimes against women and girls?
- What topics need further exploration?
- What are recommendations for actions that can be undertaken in the coming year to address the Taliban’s crimes against women and girls?

The discussion took place under the Chatham House rule. This report summarizes key topics from the conversation without attribution.

THE TALIBAN’S PATTERNS OF DISCRIMINATION AND VIOLENCE AGAINST WOMEN AND GIRLS

When the Taliban seized power on August 15, 2021, they assured the international community that women and girls in Afghanistan would be allowed to pursue education and employment, but would do so “within the framework of Islam.”⁵ Despite their promises, it quickly became clear that protections for women were not only not a priority for the Taliban, but subject to direct assault. In considering the breadth and systematic application of the Taliban’s repressive policies, presenters agreed that the Taliban’s treatment of women and girls amounts to gender persecution, including, potentially, as a crime against humanity.

Definition of Gender Persecution

The Rome Statute of the International Criminal Court (ICC) defines persecution, including gender persecution, as a crime against humanity under article 7 (1) (h) when “committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.”⁶ Under article 7(2)(g) of the Statute, persecution includes the “intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity. Gender persecution is committed against persons because of sex characteristics and/or because of the social constructs and criteria used to define gender.”⁷ The consequences of gender persecution are severe. The 2022 Policy on the Crime of Gender Persecution developed by the Office of the ICC Prosecutor (OTP) explains that gender persecution may deprive a person “of the right: to life; to be free from torture or other inhumane or degrading treatment or punishment; to be free from slavery or the slave trade, servitude and retroactive application of penal law; to freedom of assembly, opinion, expression, movement and religion, including the right to be free from religion; rights to equality, dignity, bodily integrity, family, privacy, security, education, employment, property, political or cultural participation, to access to justice or health care.”⁸

Presenters illustrated the Taliban’s gender persecution by unpacking the creeping, systematic nature of its policies, considering, among other sources, USIP’s “Tracking the Taliban’s (Mis)Treatment of Women” project.⁹ For example, they recognized that the severity of the Taliban’s edicts on education has increased over time. On August 30, 2021, the Taliban banned co-ed education and prohibited men from teaching girls and women from teaching boys.¹⁰ Additional restrictions gradually escalated and spread throughout the country until December 22, 2022, when they banned girls from attending private courses beyond grade six.¹¹ In June 2023, the Taliban prohibited NGOs from providing educational services, an edict directed towards the many women and girls who benefit from such programming.¹²

Presenters described the same steady tightening in restrictions on women’s participation in universities. On September 29, 2021, the Taliban banned women from attending and teaching at Kabul University.¹³ Edicts spread throughout Afghanistan and became more restrictive until March 6, 2023, when schools were instructed to only admit male students.¹⁴ Six days later, on March 12, 2023, institutions were prohibited from issuing transcripts or certificates to female graduates.¹⁵

Presenters explained that this process is repeated in edicts regarding women’s employment and that the restrictions gradually spread across sectors. On September 20, 2021 professional women were ordered to stay home until further notice.¹⁶ Then, in a verbal order from Mullah Haibatullah Akhunzada on March 24, 2022, women were prohibited from working in offices and told not to leave their homes.¹⁷ In July 2022, female government employees were instructed that in order to receive their salaries, they must send a male relative to work in their place.¹⁸ In August 2022,¹⁹ female flight attendants were removed and in December 2022, women-run bakeries²⁰ in Kabul were banned and women were prohibited from working for international NGOs.²¹

Presenters identified the same pattern in restrictions in other areas: on the justice sector, both in staffing and access to justice; access to healthcare; freedom of mobility; and access to public spaces. No similar restrictions were placed on men—these restrictions, as well as subsequent persecution and violence, were directed solely

against women and girls based on their gender. At the writing of this report, secondary and university education remains banned for girls and women. Women are prohibited from employment in government and NGOs and from traveling more than 72 kilometers from their homes without a mahram, male relative.²² In practice, however, this rule is often over-enforced with women and girls prevented from traveling even short distances alone. They may be subjected to public flogging and arbitrary arrest and detention for non-compliance with the Taliban-prescribed wearing of a headcover, the hijab.

Presenters concluded that the Taliban's systematic stripping of rights from women and girls meets the definition of gender persecution, though time did not allow for a comprehensive legal analysis. Afghan women and girls are specifically targeted on the basis of their gender and Taliban policies are directed at the entirety of the group, who are civilian in nature. The targeting may meet the threshold of a widespread or systematic attack required for crimes against humanity.

INCREASED RISK OF OTHER FORMS OF VIOLENCE AGAINST WOMEN AND GIRLS IN AFGHANISTAN

Presenters explained that the Taliban's public attitude towards women has heightened the risk of domestic violence against women and girls. Violence against women, especially in the home, has increased dramatically and with impunity.²³ Further, the Taliban has systematically dismantled institutions²⁴ intended to protect women from gender-based violence, such as the Ministry of Women's Affairs, which the Taliban transformed into the Ministry for the Prevention of Vice and Promotion of Virtue.²⁵ Throughout Afghanistan, the Taliban has closed shelters for battered women, disbanded protection organizations, and repealed laws intended to protect women and girls from violence.²⁶

EFFECT OF CRIMES ON THE MENTAL HEALTH OF WOMEN AND GIRLS IN AFGHANISTAN

Presenters highlighted the negative effect of this persecution on the mental health of Afghan women and girls. They are banned from most public spaces and their freedom of movement is severely restricted.²⁷ In consultations conducted by UN Women, United Nations Assistance Mission in Afghanistan (UNAMA), and the International Organization for Migration, 76% of women reported that their mental health was "bad" or "very bad."²⁸ The rate of reported depression and suicide among young girls prevented from attending school has increased significantly.²⁹ Women and girls report struggles with depression and insomnia, as well as feelings of loneliness, low self-esteem, and anxiety.³⁰ Presenters added that, due to the Taliban's policies, women and girls are often unable to access resources to support and improve their mental health.³¹ They emphasized that the closure of public spaces, not only for education and work but also spaces to exercise and socialize, such as parks,³² salons,³³ and bathhouses,³⁴ has had a devastating effect on the mental well-being of women and girls.

ACCOUNTABILITY OPTIONS

Presenters then outlined options to hold the Taliban accountable for its crimes, with particular focus on crimes that target women and girls. Typically, the first venue to try such crimes is national courts. Afghanistan is party to the Rome Statute and added genocide, crimes against humanity, and war crimes to the penal code in 2018.³⁵ However, presenters largely agreed that Taliban control over the judicial system, combined with the Taliban's unwillingness to pursue cases and the danger to women and girls in attempting to bring cases, foreclosed the option of domestic claims. They instead called for a coordinated approach to advance accountability efforts internationally, especially amongst Afghan diaspora groups and the Taliban's victims.

International courts may provide a more promising venue for seeking justice for crimes against Afghan women and girls. Presenters expressed hope that the OTP at the ICC will begin proceedings against members of the Taliban for violations committed against the Afghan population, including for the crime against humanity of gender persecution.³⁶ Presenters also flagged the possibility of a member state bringing a case against Afghanistan for violations of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) to the International Court of Justice (ICJ). Additionally, presenters discussed potential universal jurisdiction cases similar to those that have been successfully prosecuted in Germany.³⁷ While none of these remedies can address the full scope and scale of ongoing crimes, they may provide accountability for particular perpetrators, deter future potential perpetrators, and provide much-needed recognition of the suffering of Afghan women and girls.

Presenters also considered the opportunities for accountability that may emerge from the ongoing discussion of a potential new crime against humanity—the crime of gender apartheid. Efforts are underway to codify gender apartheid as a crime under the draft Convention on the Prevention and Punishment of Crimes Against Humanity.³⁸ In a 2023 report, the United Nations Office for the Coordination of Humanitarian Affairs defined gender apartheid as “inhumane acts committed in the context of an institutionalized regime of systematic oppression and domination by one gender group over any other gender group or groups and committed with the intention of maintaining that regime.”³⁹ Presenters encouraged that the treaty be recognized and codified, describing it as a potential legal framework to hold the Taliban accountable and a powerful tool to address the seriousness of the crimes and guard against unconditional or poorly conditioned engagement with the Taliban.

TOPICS FOR FURTHER STUDY

Additional analysis of the Taliban’s architecture of oppression

Presenters urged further analysis of the structure and components of the Taliban’s architecture of oppression. Presenters explained that the Taliban’s entrenched oppression, enforced by state sanctioned violence, contributes to a larger architecture that is targeting Afghan women and girls. They stated that analysis of individual policies can increase a more holistic understanding of the repressive political, legal and social system that the Taliban is constructing.

The role of bystanders and the incorporation of women in the Taliban’s system

Presenters highlighted the role of bystanders, noting that the Taliban’s architecture is upheld by the silence of many Afghan men who concede to or embrace their edicts. Presenters shared the reported fear of Afghan women that their male relatives, especially sons, will learn to monitor them and their daughters. The Taliban is establishing madrasas⁴⁰ and reforming school curricula in accordance with their ideology,⁴¹ in part, to facilitate the indoctrination of boys. Presenters expressed disappointment that very few Afghan men have spoken out against the Taliban’s persecution, and called for additional research into why Afghan men have been unwilling to support women and girls, and what might be done to help recognize men’s role in combating repressive policies.

Presenters also discussed the Taliban's use of women to police their peers' behavior as yet another example of a campaign to exert total control over women and girls. In 2022, the Taliban established the Female Moral Police Department specifically to monitor women-only areas, further diminishing safe spaces for women and girls.⁴² Presenters stated that female police officers can be particularly brutal.

Applying an intersectional framework to analysis of the Taliban’s crimes

Presenters emphasized the importance of applying an intersectional lens when discussing the Taliban's crimes, as persecution of minorities is a key pillar of their system. In 2022, Amnesty International documented a pattern of targeted killings of members of the Hazara community.⁴³ Minority religious groups have reportedly withdrawn from public life and refrain from public expressions of faith due to fears of persecution and discrimination.⁴⁴ Presenters stated that the Taliban's gender policies have a particular impact on the lives of minority women and girls as they are more vulnerable to targeting and punishment. UNAMA has reported that several of the detentions enforcing the April 2022 hijab decree have taken place in Hazara and Tajik majority communities.⁴⁵ Presenters underscored that understanding the myriad ways in which someone may be harmed by official policies is essential to understand the depth of the Taliban's persecution.

POTENTIAL NEXT STEPS

Presenters called for a unified approach from governments and civil society to pressure the Taliban regime. They identified key priorities for the coming year:

Support innovative legal efforts to hold perpetrators accountable

Presenters called for time bound, unified, strong, and collective action to address the violations of the Taliban and to send a clear message that Taliban policies against women and girls amount to large-scale human rights violations. Specifically, they recommended that cases be brought in all available venues, including the ICJ, the ICC and courts with universal jurisdiction, to prosecute the Taliban for its crimes. Presenters urged the United Nations Security Council (UNSC), United Nations Secretary General, and the Human Rights Council to support these efforts.

Presenters called for the adoption of the Convention on the Prevention and Punishment of Crimes Against Humanity, including the provision for gender apartheid, which would provide further recourse to the ICJ to assess Taliban conduct and to further hold the Taliban accountable.⁴⁶

Support new, and strengthen existing, international mechanisms

Presenters called on the international community to fulfill its promises to protect Afghan women and girls and ensure that the work of the Special Rapporteur on the situation of human rights in Afghanistan is supported, and, notably, that it is properly resourced. They suggested the creation of a robust international mechanism, such as a UN fact-finding mission, dedicated to documenting and preserving evidence of the Taliban's crimes. A dedicated fact-finding mission would allow for more focus than the efforts already underway by UNAMA. Any fact-finding mission would operate in coordination with UNAMA and the Special Rapporteur.

Presenters recommended additional support for the human rights portion of UNAMA's mandate. This would ensure that the mission has the resources necessary to properly document the Taliban's violations. Presenters encouraged the UNSC to strengthen UNAMA's mandate⁴⁷ by including human rights as a stand-alone component in the operational section, which will help to ensure that it is not overshadowed by political priorities.

Support efforts to coordinate among victim groups

Presenters encouraged more coordination and collaboration amongst victim organizations. They envisioned these groups discussing solutions, long-term strategies post-Taliban, and recommendations for action. Presenters stated that, to ensure a victim-centered approach, these conversations should take place within the Afghan community and be shared with the international community to advance recommendations.

ENDNOTES

¹ By our definition, a mass killing occurs when the deliberate actions of a specific armed group in a particular country (including but not limited to state security forces, rebel armies, and other militias) result in the deaths of at least 1,000 noncombatant civilians in that same country over a period of one year or less. According to this definition, the victims of the mass killing must appear to be perceived by the perpetrators as belonging to a discrete group. Mass killing is a subset of “mass atrocities,” which we define more generally as “large-scale, systematic violence against civilian populations.”

² The Early Warning Project’s Statistical Risk Assessment uses publicly available data and statistical modeling to produce a list of countries ranked by their estimated risk of experiencing a new episode, or onset, of mass killing. This report aims to help identify countries where preventive actions may be needed.

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