

# Innovations

## Human Rights Situation under Taliban (Islamic Emirate) Regime

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### Abstract

*The formation of human rights institutions, including the Afghanistan Independent Human Rights Commission, was one of the first successes of the post-Taliban administration. Based on the Bonn Agreement(Wikipedia, 2022)(Assembly, 1948), the Afghanistan government was required to develop and maintain human rights institutions, and human rights were also incorporated in the Afghanistan Constitution as a fundamental element of the Afghan new regime system. International human rights groups have opened offices in Afghanistan as a result of this. However, on August 15, 2021, the Taliban gained control of Kabul and other provinces of the country by force, disbanding all national and civic organizations that protect human rights and repealing the constitution and other laws that protect individuals human rights. It consistently abuses people's human rights and restricts citizens' access to their fundamental freedoms, in violation of all of the previous government's international duties. The Taliban has severely limited freedom of expression, denied women the right to school and jobs, and denied all citizens, particularly women, the opportunity to engage in self-determination. Arbitrary executions, field trials, torture and ill-treatment of journalists, violence against protestors, forced relocations, and raids on people's homes are all examples of human rights violations. . This study tries to address the situation of human rights in Afghanistan and examines the reasons that the human rights violating nowadays in Afghanistan under Taliban regime. The present research paper has been done in the form of online sources, articles recent news, and analysis of the founded materials.*

**Keywords:** 1.Afghanistan, 2.Taliban, 3.Human rights 4.iolence against women, 5.human rights violation!

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\*Afghan women protest in Kabul streets over violation of their human rights by Taliban

### **Introduction to Human Rights**

Human rights are the fundamental rights and liberties that every individual in the world has from birth to death. They apply to everyone, regardless of where they come from, what they believe, or how they practice their lives. They can never be taken away, but they can be limited in some circumstances, like as when someone breaches the law or in the interests of national security. These fundamental rights are founded on common ideals such as dignity, justice, equality, respect, and autonomy. These concepts are legally defined and protected.

Human rights, in general, are defined as those fundamental and inalienable rights that are necessary for the human being. They are, in some ways, interchangeable with a life of dignity and freedom, individual rights, natural rights, basic rights, and so on. Various terminology has been employed at various periods throughout history, with varying degrees of emphasis, but all reflecting one common feature: that those fundamental rights are regarded essential for the development of a person's entire personality. The notion of human rights may be easily understood as one that is intricately tied to the principles of fair treatment under the law and equality.

The Universal Declaration of Human rights, 1948 explained human rights as: "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status".(Assembly, 1948) Afghanistan was one of the countries that voted in the UDHR draft in 1948.

The human rights bill is mentioned in Chapter Two of the Afghan Constitution and protects the constitutional right to life(Afg. Const. art. XXIII.) and liberty(Afg. Const. art XXIV.) as well as the right to a fair trial(Afg. Const. art XXIX.) and the presumption of innocence for all(Afg. Const. art XXV.). This bill is a powerful human rights framework that upholds human rights in this country. Guarantees to all citizens.

Human rights are a notion that is found in both constitutional and international law. Human rights have been recognized as a way of defending human rights against abuses of power perpetrated by state organs while also promoting the formation of humane living circumstances and the multi-dimensional development of human personality through institutionalized mechanisms.

The Taliban, an Islamic fundamentalist movement that captured Afghanistan from 1996 until being collapsed by the 2001 U.S. invasion. Mullah Mohammad Omar, a one-eyed Islamic scholar who became a Taliban leader during the struggle against the Soviet-backed administration in the 1980s, created the Taliban, which means "students," in southern Afghanistan. Mullah Omar founded the organization in Kandahar in 1994, with around 50 members, the majority of whom were also clerics or students of Islam from the country's southern Pashtun heartland. They promised to put an end to the civil war between opposing mujahedeen factions that erupted when the Soviet-backed President Mohammed Najibullah was deposed in 1992 and to restore security throughout the nation.

Again on 15 August 2021 Taliban took control of Kabul and the major territory of Afghanistan and from that time Human Rights situation was reported in a very bad condition. Amnesty International reported that the Taliban undermine human rights achievements of the last two decades.(International, 2022) Moreover, from the time the Taliban captured Afghanistan, there were lots of reports about violations of Human Rights, this study going to analyze all as much as possible.

### **Background of Human Rights in Afghanistan: at a glance**

During the reign of Zahir Shah in 1935, one can observe that human rights were respected because Zahir Shah (King Zahir) was the absolute king and all orders were declared by himself.(Washingtonpost, 2022) In 1949, Afghan Prime Minister Shah Mahmood Khan has increased the freedom press, but these measures were soon reversed due to opposition of critic religious groups.(Wikipedia, Shah Mahmud Khan, 2022)The Press Act, enacted in July 1965, provided significant freedom for the press for the first time.(Hyman, 2016)The People's Communist Republic, which ruled Afghanistan after the Thor Revolution in 1978, was brutal and severely repressed the opposition. The government abducted and executed thousands of prisoners, rural civilian dissidents.(Larson, 2015)In April 1987, Afghanistan ratified the United Nations Convention against Torture (CAT), which prohibits any form of government torture. New leader Babrak Carmel promised to end the brutality of his regime against citizens, which was partially done, but human rights abuses continued. Government with the Soviets (during the Soviet-Afghan war, they deliberately targeted civilian settlements in rural areas). Under President Mohammad Najibullah's reforms, freedom of expression was further improved but human rights were generally restricted.(Watch, 2022)In the 1990s, many crimes were committed by various militias against civilians. Indiscriminate rocket attacks during the battle of Kabul, especially by Gulbuddin Hekmatyar's militias, killed thousands of civilians. The Taliban, which has been in power since 1996, severely restricted women, carried out public executions, and prevented international aid from entering the country for hungry civilians.(Watch, HRW, 2022)

By 1994, the Taliban, which had been operating in the country's south, had quickly taken control of the region. Despite failures in certain areas, the Taliban were able to eradicate several factions. Kabul was captured by the Taliban in 1996. Other factions banded together as well, this time to fight the Taliban. The Taliban had largely taken control of Afghanistan by 1997.(Magnus, Afghanistan in 1996: Year of the Taliban, 1997)

The murder of Ahmad Shah Massoud, the Mujahideen's lone leader battling the Taliban, by two non-Afghans posing as journalists in the town of Khawaja Burhanuddin, Takhar province, on September 9, 2001, was a nightmare for the Mujahideen and the world community. While no one claimed credit for the killing, the nature and technique of the attack suggested it was carried out by al-Qaeda-affiliated organizations, and his death was considered as a gift from al-Qaeda to the Taliban. However, just after Ahmad Shah Massoud's death, another strike rocked the globe and altered the Taliban's fate in Afghanistan.(Farzan, 2010)

Human rights have taken on a unique significance in Afghanistan since the country's new democratic structure was established in 2001. As previously stated, the Afghan government was compelled to take human rights concerns seriously under a treaty ratified at the Bonn conference. Human rights were approached in a novel way in this environment.(Mammadli, 2021)

As a result, concerns of human rights should be addressed in Afghanistan's new constitution. The government was entrusted with creating the Afghanistan Independent Human Rights Commission under Article 58 of the 2004 Constitution(Afg. Const. Art. 54) to monitor and strengthen the protection of human rights in Afghanistan. It also acknowledges the right to make a complaint with the commission in the event of a human rights infringement and specifies that anybody can file a complaint with the commission if their rights are violated. The commission is also empowered under the constitution to investigate and prosecute abuses of human rights. The commission will be able to report human rights breaches to legal authorities and assist in the protection of their rights under this framework.The commission in the challenge was officially constituted by Hamid Karzai's authority in accordance with this rule. (Afg. Const. Art. 54)

After 2001, the Taliban faced a low-level counter-insurgency from coalition forces and the Afghan government. Also, other opposition and unfriendly organizations to the new administration were not subjected to any substantial armed or other initial government coercion. Since 2005, the Taliban has pursued a national expansion strategy by reaching out to Pashtun-dominated regions in southern Afghanistan and forging new alliances with new parties in order to gain more power and influence over the country.(Laun, 2014)

After 2005, the Taliban escalated the frequency of assaults and major abuses of civil and political rights. According to the International Council on Security and Development, the Taliban held permanent control over 80% of the country after 2009. In addition, starting in 2009, the Taliban strengthened its power and influence by collaborating with other hostile organizations in South and Southeast Afghanistan against the new government.(Mammadli, 2021)

The Taliban have threatened the lives of educators and students, as well as their political activity. By 2012, millions of youngsters were unable to attend school. 613 school-related casualties and events were reported in November 2019, including the burning of school buildings, student kidnappings, school closures, and teacher and student deaths.(Skaine, 2010)According to the United Nations Children's Fund (UNICEF), the southern states have suffered the most, with more than 70% of schools closed, particularly in Helmand Province and 80% in Zabul Province. In addition, numerous schools where girls studied were an obvious target for Taliban attacks between 2008 and 2011, with many of them being disfigured.(Ahmad, 2012)

Journalists active in political activity have also seen their working circumstances deteriorate dramatically since 2008. To be clear, many people in the state, including judges, prosecutors, and political officials, are to blame for the pattern, with the Taliban being the principal culprit. Between 2007 and 2009, Reporters Without Borders documented 24 incidences of physical assault, many arrests, and seven occurrences of journalist abduction.(Ahmad, 2012)The Taliban decreed that recording or broadcasting with women's voices is prohibited by Islam. Farid Ahmad Rustai, the Director of Radio Dehradun in

Ghazni's Shahr-i Naw, reported to the Afghan Independent Journalist Associations that he had received a threatening letter from the Taliban, threatening his life.(Ahmad, 2012)

The Government of Afghanistan has made relatively good achievements in the field of civil and political rights over the last 13 years. Freedom of expression, formation of free media, political participation, formation of parties, formation of associations, and federations can be named among the major achievements. But in the area of ideological and intellectual freedom, there is still a long way to go. These challenges are mainly due to illiteracy, the traditional nature of the people, and the lack of harmonization of national laws with international human rights law.

### **Human Rights: International and Taliban perspective**

The Universal Declaration of Human Rights, adopted by the United Nations, recognizes basic human rights everywhere around the world. The United Nations General Assembly issued these pronouncements on December 10, 1948, in the Palais de Chaillot in Paris, France. At the time, the UN's 58 members had 48 votes in favor, none against, eight abstentions, and two no votes.(Ahmad, 2012)

Human rights philosophy has had a significant impact on international law, as well as global and regional organizations. Actions are taken by nations and non-governmental groups across the world as a result of public policy. "If the public discourse of peacetime global society can be considered to have a common moral language, it is that of human rights," the concept of human rights argues. The theory of human rights' bold assertions continues to elicit skepticism and arguments regarding the substance, nature, and justifications of human rights to this day. While there is agreement that human rights comprise a wide range of rights, the specific definition of the term right is debatable and the topic of ongoing philosophical dispute.(Theintactone, 2022)

International Human Rights Law (IHRL) is a corpus of international law aimed at promoting human rights on a social, regional, and national scale. Treaties, agreements between sovereign nations designed to have binding legal force between the parties that have agreed to them, and customary international law are the most common forms of international human rights legislation. While not legally enforceable, other international human rights instruments help to implement, analyze, and develop international human rights legislation and have been acknowledged as a source of political duty.(Theintactone, 2022)

Human rights necessitate the application of international law. Governments have a strong position to regulate individual or group liberties, which may be more difficult to achieve without international agreement and pressure.(Theintactone, 2022)

After 15, Aug 2021 when the Taliban took control of the whole of Afghanistan announced that the Afghan Independent Human Rights Commission (AIHRC) has been dissolved and no longer has legitimacy.(Donya-e-Eqtasad, 2022) And all other NGOs who work in the field of human rights all are closed and many of them stopped their services in Afghanistan.

In the new version of the Taliban regime it seems they just look at human rights as a deal to get recognition from foreign countries, Taliban spokesperson Zabiullah Mujaheed in a press conference said that "*Recognize us first, then human rights*"(Khabaronline, 2022), this quota shows that Taliban indirectly says that until we don't recognize the human rights situation will be unknown and they can do anything they want. Moreover, he added "*Until we are recognized and they keep criticizing, we think this is a one-sided approach. It is good that they treat us responsibly and recognize our current government. After that, they can legally share any concerns they have with us, and we will address their concerns*".

Hence, can say that first of all Taliban don't believe in human rights, and after pressure from foreign countries and international organizations, they changed their perspective and brought recognition conditions for observing human rights in Afghanistan that mention the above.

## Current Human Rights Situation in Afghanistan

Taliban has launched a new policy and political concept in its media announcements since taking control in Kabul in August 2021. The Taliban's main headquarters or office, which opened in Doha, Qatar in 2013, educated its members on how to engage in political conversations and negotiations. In addition, the United States' supply and acceptance of the Taliban as legitimate in Doha put them in a good position to begin peace discussions. Some academics say that the United States' efforts and conversations with the Taliban rendered the previous Afghan government vulnerable before the Taliban took control, undermining democratic principles in Afghanistan and laying the groundwork for the Taliban's takeover of Kabul. Using the position of strength granted by the United States, the Taliban also compelled and encouraged the army to surrender. (Analytica, 2021)

Zabiullah Mujahid, the Taliban's special spokesperson, was seen being interviewed in the public media in Kabul shortly after the takeover. The interview appeared to be quite professional and well-managed. He did an excellent job of responding to questions from both local and foreign journalists, particularly those on the future of human rights. However, his responses to other queries about women's rights and responsibilities in the future society of Afghanistan under the Taliban were ambiguous and confusing. He added that women would only be able to work and engage in public activities if Sharia law is observed. (Nytimes, 2022)

After mentioned interview Taliban continued their brutality and the much-restricted regime under the cover of Sharia law and they violated human rights many times, and in this section going to add the most highlighted ones.

The 2021 special session about Afghanistan, conducted in August 2021 in response to the Taliban's control of all major population centers, is the Council's first special session dedicated to the country's human rights situation. The United Nations High Commissioner for Human Rights has warned that failing to stop the escalating violence and commission of human rights abuses will have terrible implications for the Afghan people, and has asked all sides to the conflict to stop fighting to prevent the additional killing. (Universal-Rights, 2022)

Three international organizations (the International Federation for Human Rights (FIDH), the World Organization Against Torture (OMCT), and Amnesty International) released a new report on Monday (September 20th). Report citing a wide range of Taliban repressive actions since occupying Kabul over the past five weeks, the report said, the Taliban have consistently undermined human rights achievements over the past 20 years. After the occupation of Afghanistan, the Taliban made it clear that they were not serious about protecting or respecting human rights. It is already seen a wave of violations, from retaliatory attacks and restrictions on women to the suppression of protests, the media, and civil society. (Etilaatroz, 2022)

Human rights Watch (HRW) report about Executions and Enforced Disappearances in Afghanistan under the Taliban regime, Between August 15 and October 31, 2021, 47 former members of the Afghan National Security Forces (ANSF)—military troops, police, intelligence agency members, and paramilitary militia—were executed or kidnapped by Taliban forces. (Watch, No Forgiveness for people like you Executions and Enforced Disappearance in Afghanistan under the Taliban, 2022)

Taliban officials published a regular stream of laws and regulations restricting women's and children's rights in the weeks following their takeover. These included restrictions on employment and education, as well as restrictions on the right to peaceful assembly. The Taliban also targeted high-profile women, denying them the right to leave their homes. Although the Taliban have said that they encourage females and women's education, they ordered secondary schools to reopen solely for boys on September 18. In a few provinces, some secondary schools for females reopened, but the great majority remain closed as of October. The Taliban abolished the Ministry of Women's Affairs in September and repurposed

its building as the Ministry for the Propagation of Virtue and Prevention of Vice, an institution tasked with enforcing rules on citizens' behavior, such as how women dress and when or whether they can leave the house without a male relative.(Watch, Afghanistan Events of 2021, 2022)

The Taliban have accomplished the following restrictions and rules in less than seven months since assuming power:(Watch, Standing with Afghan Women and Girls on International Women's Day; Taliban Violations Highlight Fragility of Rights of Women and Girls Globally, 2022)

- most secondary schools for girls have been closed;
- erected impediments to higher education for women and girls;
- women were barred from the majority of paid jobs;
- the Ministry of Women's Affairs was disbanded;
- women's movement was restricted, including their ability to leave the country alone;
- Afghanistan's system of gender-based violence protection was abolished;
- obstructed access to health care for women and girls;
- Protesters for women's rights have been attacked and kidnapped;
- female journalists have been silenced;
- women's sports were outlawed; and
- A men-only administration was appointed.

UN expresses concern over human rights violations in Afghanistan, The UN Assistance Mission in Afghanistan (UNAMA) is very concerned by reports of human rights breaches in the nation. Within a meeting with Taliban officials at Afghanistan's Ministry of Interior Affairs, UNAMA Human Rights stated that similar instances in Afghanistan require investigations, openness, and accountability.

Since the Taliban gained complete control of Afghanistan in August 2021, lesbians, gays, bisexuals, and transgender (LGBT) individuals in Afghanistan, as well as anyone who does not comply with traditional gender standards, have faced an increasingly dire situation and significant risks to their safety and life. LGBT persons had faced a slew of atrocities related to their sexual orientation or gender identity, including sexual violence, child and forced marriage, physical violence from family and others, expulsion from schools, extortion, and outing. Many people were obliged to hide important portions of their identities from society, as well as from family, friends, and coworkers.

*"In just over five weeks since assuming control of Afghanistan, the Taliban have demonstrated that they are not serious about protecting or respecting human rights. We have already seen a wave of violations, from reprisal attacks and restrictions on women to crackdowns on protests, the media, and civil society,"* said Dinushika Dissanayake, Amnesty International's Deputy Director for South Asia.(FIDH, 2022)

More than 110 extrajudicial executions have occurred in Afghanistan since August 15, 2021, putting the population at risk of more mass atrocity crimes under Taliban authority. Other armed extremist organizations are still posing a threat to people.(Globalrp, 2022)

Human rights violations in Afghanistan have increased since Taliban insurgents took control of the nation, according to the United Nations and private humanitarian organizations. Afghanistan, according to aid organizations, is at a critical juncture. According to them, the country's already terrible human rights breaches are being exacerbated by an increasingly vicious conflict.(Voanews, 2022)

Taliban authorities have used censorship and violence against Afghan media in the district and provincial centers, severely restricting critical reporting in Afghanistan. Outside of Kabul, the situation for journalists looks to be far worse than within the capital, especially for women. Taliban fighters have threatened, detained, and beaten journalists in the provinces who were trying to report the story. Many journalists have been driven to self-censor, reporting only official Taliban comments and events.(Watch,

Afghanistan: Taliban Threatening Provincial Media; Journalists Detained, Beaten; Media Outlets Closed, 2022)

The Taliban have placed severe limits on women's freedom to work, have outlawed secondary education for girls in most of the community, and have battered nonviolent female protestors. Women's Rights Activists have been kidnapped by Taliban soldiers. Taliban officials are supporting such human rights atrocities against women activists and others by neglecting to hold their soldiers responsible. The Taliban's standard response to criticism has been arbitrary arrests and disappearances. (Watch, Afghan Women's Rights Activists Forcibly Disappeared; Unacknowledged Detentions Increase Risks of Harm, 2022)

"Afghan women and girls are facing the collapse of their rights and dreams and the danger to their survival, They are caught between the abuses of the Taliban and the actions of the international community, which is leading Afghans to despair more and more every day," said Halima Kazem Stojanovic, a faculty member at SJSU and a researcher on Afghanistan affairs. (8AM, 2022)

"The human rights crisis and the humanitarian catastrophe in Afghanistan have escalated sharply since the Taliban came to power, Afghan citizens are stuck between two choices, Taliban oppression, and starvation," said Asian Deputy of Human Rights Watch. (SubheKabul, 2022)

## Conclusion

Since the last forty years of the human rights situation in Afghanistan, there was not a single day without violation of human rights in Afghanistan. Lots of regimes came to the power and collapsed but they couldn't deal with human rights somehow. The Bonn Conference's resolutions laid the groundwork for today's achievements. The Afghan government has fulfilled its human rights duties as a signatory to international agreements and under national rules as a result of this conference from 2001 to 2021. Overall, the Taliban established its own set of economic, social, and cultural rights for Afghans based on Islamic law from the moment they assumed control in Kabul. They also informed Human Rights Watch and other non-governmental organizations that there would be no limits on people's social rights since the nation would be run according to Islamic social standards and that men and women would have distinct clothing codes and public conduct. But all that promises were left as a slogan and they did not keep their word, nowadays we are the evidence of a mass of human rights violations in Afghanistan.

## Suggestions

Suggestions that come out after analyze of the present study is:

- Need for an alliance of NGOs (Human Rights Watch (HRW), MADRE, the World Organisation Against Torture (OMCT), the International Federation for Human Rights (FIDH), and the Women's International League for Peace and Freedom (WILPF), Amnesty International, Freedom Now, Freedom House, and Front Line Defender) working on human rights upliftment to work and have an eye on the human rights situation in Afghanistan.
- Reopen of Afghan Independent Human Rights Commission and Ministry of Women affairs.
- Reopen private educational institutions, as well as all government secondary schools and universities.
- Taliban must end all forms of prejudice and violence against people based on their sexual orientation or gender identity.
- The United Nations and other international bodies, as well as foreign governments and other institutions, such as the UN Assistance Mission in Afghanistan and the forthcoming UN Special Rapporteur on Afghanistan, should urge the Taliban to comply with their international human rights commitments.

## Bibliography

1. Ahmadshah Farzan, *Afghanistan: the Mojahedin Rule Until the Fall of the Taliban* 522 (Ahange Ghalam. 1th ed. 2010).
2. Ali Wardak, *Building a post-war justice system in Afghanistan* *Crime, Law and Social Change*. 320, 319-341 2004.
3. Antony Hyman, *Afghanistan Under Soviet Domination, 1964–91* 156 (Palgrave Macmillan. PM., 1th ed. 2016).
4. Israel Nyaburi Nyadera and Mohamed Omar Bincof, *Human security, terrorism, and counterterrorism: Boko Haram and the Taliban*. 36 *International Journal on World Peace*. 6, 4-15 2019. ([ijwp.org/](http://ijwp.org/))
5. Mahammad Mammadli, *Human rights situation in Afghanistan 1996-2021 (2021)* (Master thesis, Vytautas Magnus University).
6. Mahammad Mammadli, *Human rights situation in Afghanistan 1996-2021 (2021)* (Master thesis, Vytautas Magnus University).
7. Noah Coburn and Anna Larson, *Derailing Democracy in Afghanistan Elections in an Unstable Political Landscape* 34 (1th ed. 2015).
8. Oxford Analytica, *Afghan Taliban derail US-devised talks and troop exit* 33 (Emerald Expert Briefings oxan-es. 1th ed. 2021).
9. Ralph H. Magnus, *Afghanistan in 1996: Year of the Taliban*, 37 *Asian Survey*. 111, 115-117 1997 (*Afghanistan in 1996*). ([online.ucpress.edu](http://online.ucpress.edu))
10. Rosemarie Skaine, *The women of Afghanistan under the Taliban* 158-167 (McFarland. 1th ed. 2010).
11. Shakil Ahmad, *the Taliban and girls education in Pakistan and Afghanistan—with a case study of the situation in the Swat District* 245-263 (1th ed. 2012).
12. Swabhi Dabas & Shubham Sharma, *Human Rights and the Pandemic*, 2 *Indian Journal of Integrated in Law*. 1154 1153-1164 2022. ([ijirl.com](http://ijirl.com))
13. Yoserizal M. Saragih, *Women Journalist in the Middle of Taliban Power*, 8 *Konfrontasi: Jurnal Kultural, Ekonomi Dan Perubahan Sosial*. 146 142-151 2021. ([www.konfrontasi.net](http://www.konfrontasi.net))