

# **Rethinking Intersectionality in Afghanistan:**

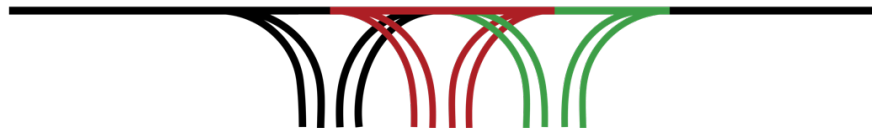
The Conceptual-Empirical Gap in Afghan Women's Access to  
Justice

A Policy Paper

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# 1. Executive Summary

Since the Taliban's return to power in August 2021, Afghan women and girls have faced systematic restrictions affecting nearly every aspect of their lives, including education, employment, mobility, political participation, and access to justice. This paper argues that while intersectionality is widely invoked in discussions about the situation of Afghan women and girls, it is inconsistently applied—a gap between the concept and its empirical use that this paper sets out to close. While intersectionality is widely recognized as a framework for understanding overlapping systems of oppression, policy and human rights frameworks often fail to operationalize this complexity in documentation, representation, and accountability practice. Drawing on a literature review, policy analysis, and ten semi-structured interviews with Afghan women inside and outside the country, the paper finds that although Afghan women face a shared system of gender-based exclusion amounting to gender persecution that Afghan women called “gender apartheid,” the forms and intensity of that exclusion vary considerably across geographic, ethnic, linguistic, religious, and economic contexts.

The research further shows that access to justice for Afghan women extends beyond courts and legal institutions to encompass education, healthcare, economic opportunity, mobility, and personal security, and that economic marginalization, displacement, and informal patriarchal structures shape this access as much as gender-based restriction does. Rather than ranking or comparing the suffering of different groups of women, the paper argues that intersectionality is most useful when it illuminates how multiple, interacting systems of exclusion shape women's lives differently. It concludes with recommendations for more inclusive, context-sensitive documentation, continued support for the codification of gender apartheid, strengthened international accountability mechanisms, and expanded economic opportunity for Afghan women and girls.

# 2. Introduction

Four years into Taliban rule, the erosion of Afghan women's access to justice has become one of the most systematic and institutionalized features of governance in the country. Legal protections have been dismantled, women have been excluded from judicial institutions, and formal mechanisms for redress have been significantly weakened. These developments have severely constrained women's ability to seek accountability and protection while also reshaping the broader legal and institutional landscape of Afghanistan.

International organizations, United Nations mechanisms, scholars, and advocacy groups have relied on intersectionality as a framework for understanding the layered nature of Afghan women's exclusion and vulnerability. Originally developed by Kimberlé Crenshaw (1989), intersectionality emphasizes that systems of oppression intersect and interact in ways that produce compounded and context-specific forms of discrimination. Rather than understanding gender discrimination in isolation, intersectionality highlights how multiple identities and systems of power shape lived experiences simultaneously.

In Afghanistan, intersectionality has been applied to examine how gender intersects with ethnicity, poverty, conflict, displacement, and political marginalization. However, despite its increasing use

within policy and human rights discourse, the practical application of intersectionality often remains selective and inconsistently operationalized. Discussions surrounding Afghan women's experiences frequently rely on a limited set of representative cases which, while important, do not fully capture the complexity of barriers affecting women across different social, ethnic, geographic, and economic contexts.

This paper argues that intersectionality in Afghanistan must be applied more comprehensively, particularly in relation to access to justice. While women across Afghanistan experience a shared system of institutionalized gender-based exclusion under Taliban rule, the forms and intensity of that exclusion differ across contexts and are shaped by multiple intersecting factors including geography, displacement, literacy, language, socio-economic status, and local patriarchal structures.

This paper introduces the concept of a “conceptual and empirical gap” in the application of intersectionality to Afghanistan. Drawing on broader debates within intersectionality scholarship regarding the challenges of operationalizing complex identities and power relations, the term refers to the divergence between the theoretical recognition of multidimensional discrimination and its empirical representation within policy, research, and accountability frameworks.

As Leslie McCall (2005) observes, categories of identity rarely capture the full range of lived social experience. This insight is particularly relevant in the Afghan context, where categories such as “women,” “Hazara women,” “Nomad women,” “Pashtun women,” “Tajik women,” “Uzbek women,” “Sikh women,” “rural women,” or even “Afghan women” may serve important political and advocacy purposes while also risking the oversimplification of complex lived realities. Although these categories remain necessary for documentation, mobilization, and accountability efforts, they do not fully capture the different ways women experience exclusion, violence, and access to justice across varying geographic, economic, linguistic, and social contexts in Afghanistan.

This paper does not seek to challenge the value of intersectionality as a framework. Rather, it asks whether current applications of intersectionality in discussions on Afghanistan fully capture the diversity of Afghan women's experiences. Using access to justice as a central lens, this paper argues that there remains a gap between the way intersectionality is acknowledged conceptually and the way it is applied empirically within policy and human rights discourse. Examining this gap is important not only for understanding Afghan women's lived realities more accurately, but also for developing more inclusive approaches to accountability, documentation, justice, and human rights discourse on Afghanistan.

### 3. Literature Review

Intersectionality has become a central framework in feminist theory, critical legal studies, and policy analysis. Kimberlé Crenshaw's (1989) foundational work challenged single-axis approaches to discrimination by demonstrating how systems of oppression interact to produce layered forms of marginalization, particularly for Black women in the United States, whose experiences were often left unaddressed by legal and institutional frameworks built around a single category of discrimination.

Subsequent scholarship expanded intersectionality beyond race and gender, examining how social, political, and economic systems interact across different contexts. McCall (2005) emphasized the complexity of intersectionality as both a theoretical and methodological framework, while Bilge (2013) and Kerner (2017) warned that institutionalized uses of intersectionality within policy discourse risk simplifying the concept into static categories rather than a dynamic analysis of power relations. Collins (2015) similarly emphasizes that intersectionality examines systems of power broadly, not solely the experiences of racial minorities.

In Afghanistan, scholarship on intersectionality remains relatively limited but has expanded significantly since the Taliban's return to power. Existing literature has examined how gender discrimination intersects with conflict, displacement, ethnicity, and humanitarian crisis. Alavi Jafari (2025) demonstrates that women's access to healthcare is shaped by geography, mobility restrictions, and socio-economic inequalities. Ikram and Fatima (2024) similarly show that displacement produces differentiated experiences among Afghan women depending on social networks, resources, and local conditions.

A substantial portion of Afghan intersectionality scholarship has focused on Hazara women and communities. This body of work has played a critical role in documenting targeted violence, sectarian discrimination, and historical marginalization. These contributions remain essential; at the same time, emerging scholarship suggests that a focus on a narrow set of representative cases can obscure broader patterns of exclusion affecting women from other communities and regions.

Elmi (2025) argues that knowledge production regarding Afghan women is shaped by selective visibility, in which certain experiences become more legible within international policy discourse while others remain underrepresented. This dynamic reflects broader inequalities in access, documentation, institutional visibility, and international engagement. As a result, women from rural communities, displaced populations, linguistic minorities, and economically marginalized backgrounds often receive less attention within international reporting and advocacy frameworks.

Other dimensions of marginalization remain significantly understudied. Shajahan (2021) demonstrates that women with disabilities in Afghanistan face compounded barriers related to gender, poverty, and institutional exclusion. Similarly, nomadic communities such as the Kochi experience distinct forms of exclusion linked to mobility, lack of documentation, and limited institutional representation (Najafi 2025).

Comparative scholarship further reinforces the importance of contextualizing intersectionality within local realities rather than treating it solely as a Western framework. Work on caste and gender in South Asia and on gender, religion, and political power in Pakistan demonstrates how layered forms of discrimination emerge across non-Western contexts through locally specific structures of power.

Taken together, the literature demonstrates that while intersectionality has significantly enhanced understanding of inequality in Afghanistan, its empirical application remains incomplete. Existing frameworks often acknowledge complexity theoretically while relying on narrower forms of representation in practice, particularly regarding access to justice, which is the gap this paper takes up directly.

## 4. Theoretical Framework

This paper adopts intersectionality as its primary analytical framework while critically examining its empirical application within the Afghan context. Intersectionality is understood here not simply as a descriptive category, but as a method for examining how multiple systems of power interact to shape lived experiences and institutional outcomes.

Under Taliban rule, Afghan women experience a shared system of gender-based exclusion affecting education, mobility, employment, political participation, and legal access, a system this paper, following the interviewees and the growing international legal discussion on the subject, describes as gender apartheid. The term denotes an institutionalized, state-imposed system of exclusion on the basis of sex, comparable in structure (though not identical in every respect) to apartheid as a legal category of systematic racial domination. Framing Afghan women's exclusion in these terms matters theoretically as well as politically: it signals that the restrictions are not incidental policy choices but a coordinated architecture of subordination, which is precisely the kind of structural, multi-domain system that intersectional analysis is best equipped to examine. Yet even within a shared system of gender apartheid, restrictions do not operate uniformly across Afghan society. Women's experiences of exclusion are shaped simultaneously by geography, ethnicity, language, literacy, displacement, socio-economic status, disability, and local patriarchal structures, which is the empirical claim this paper investigates.

The paper distinguishes between the conceptual and empirical dimensions of intersectionality. Conceptually, international organizations and policy frameworks increasingly acknowledge that Afghan women experience layered forms of discrimination. Empirically, however, these complexities are not always consistently reflected in reporting, documentation, or policy responses. Instead, discussions frequently rely on limited representative cases that become generalized as broader accounts of Afghan women's experiences.

This paper adopts a broader understanding of access to justice that extends beyond access to formal courts and legal institutions. In Afghanistan, justice has historically been delivered through a combination of formal legal systems, religious frameworks, customary practices, and informal mechanisms such as jirgas, shuras, community elders, and family-based dispute resolution. However, access to these systems is neither equal nor uniform across different groups of women. For religious minorities such as Sikh and Hindu women, formal legal institutions have often failed to adequately respond to their specific needs, leaving informal community-based mechanisms as the primary avenue for resolving disputes. As highlighted by Dr. Anarkali Honaryar, a former Afghan Senator representing the Sikh community, the legal system was largely structured around the norms of the Muslim majority, creating significant barriers for minority women seeking justice.

Similarly, legal recognition alone does not necessarily guarantee equitable access to justice. As noted by Dr. Latifa Alavi Jafari (2025), although Shi'a communities were governed by the Shi'a Personal Status Law in matters such as family law and inheritance, the law itself did not always advance women's rights and, in some instances, created additional challenges for women despite providing greater recognition of sectarian diversity.

Since the Taliban's return to power, access to formal justice mechanisms has become even more restricted. Pursuing a legal claim often requires financial resources to hire a lawyer, cover

administrative costs, and navigate lengthy bureaucratic procedures, barriers that are particularly difficult for widows, single women, and women without a mahram. Under the Taliban's 2026 Criminal Procedural Regulations, women face significant restrictions in pursuing legal claims independently and, in many cases, require a male relative to initiate or pursue proceedings on their behalf. As P4's account demonstrates, economic hardship, the absence of a male guardian, and mobility restrictions can make formal justice practically inaccessible even when legal rights formally exist.

At the same time, social and cultural norms continue to discourage many women from seeking justice through formal institutions. In many communities, reporting abuse to the police, appearing before courts, or publicly pursuing legal remedies carries significant social stigma. P7, a participant from Helmand, explained that her father “would rather kill me and himself” if she went to a police station to file a complaint against an abusive husband, illustrating the profound social barriers that prevent many women from accessing formal justice mechanisms. As a result, women are often compelled to rely on informal dispute resolution systems that are deeply influenced by patriarchal power structures and where women frequently have limited representation or decision-making authority.

An intersectional approach is therefore particularly useful for understanding access to justice in Afghanistan because it reveals how gender intersects with religion, ethnicity, poverty, geography, literacy, mobility, family structures, and legal status to shape women's ability to seek protection, exercise their rights, and obtain remedies. Rather than viewing access to justice solely through the lens of formal legal institutions, this approach highlights the multiple and often overlapping barriers that determine whether justice is available, accessible, and meaningful for different groups of Afghan women.

This paper identifies this divergence as a conceptual and empirical gap in intersectionality. While the framework recognizes multidimensional discrimination theoretically, its practical application often remains selective due to limitations in access, visibility, documentation, and international engagement. It is also important to recognize that intersectionality emerged from a specific historical and political context: Black feminist critiques of race and gender discrimination in the United States. While the framework offers valuable tools for understanding overlapping systems of oppression, the structures shaping Afghan women's lives are rooted in different historical, political, and social realities, including conflict, displacement, poverty, religious governance, state fragility, and humanitarian crisis. The findings of this research therefore suggest that intersectionality should not be applied as a fixed framework transferred from one context to another, but rather adapted to Afghanistan's specific realities through context-sensitive and empirically grounded analysis.

## 5. Contribution to Scholarship

This paper contributes to intersectionality scholarship by identifying a conceptual-empirical gap: while intersectionality recognizes the complexity of overlapping systems of oppression, policy and human rights frameworks often fail to operationalize this complexity in documentation, representation, and accountability practices. This contribution speaks beyond the Afghan case to a broader question facing intersectionality scholarship and practice: how theoretical recognition of

multidimensional discrimination translates, or fails to translate, into the documentation and accountability tools that shape real-world responses.

More specifically, this paper contributes to existing intersectionality scholarship in three ways. First, it examines how intersectionality operates in contexts of state collapse and authoritarian governance, where access to justice institutions themselves have been dismantled. Second, it highlights the methodological challenge of applying intersectionality in contexts where some communities are more visible to international actors than others. Third, it argues that intersectionality requires not only identifying multiple identities but examining how institutions, resources, and power structures determine whose experiences become recognized within accountability frameworks.

This is not an argument against the sustained attention that specific communities, including Hazara women, have rightly received in human rights documentation. The problem is not attention to marginalized communities; rather, the challenge is ensuring that intersectional analysis does not stop at one axis of identity. A fuller application of intersectionality asks not only which groups face documented harm, but how geography, class, disability, language, and institutional access interact with identity to shape whether that harm is seen, recorded, and acted upon at all.

## 6. Policy Context: Afghan Women and Access to Justice

Since 2021, Afghan women's access to justice has deteriorated significantly following the restructuring of Afghanistan's legal and institutional systems under Taliban rule. Women have been removed from judicial positions, legal protections have been weakened, and formal mechanisms for legal redress have become increasingly inaccessible.

At the same time, informal justice systems and patriarchal community structures continue to shape women's experiences of justice across Afghanistan. Family elders, jirgas, tribal structures, and local religious authorities frequently mediate disputes involving women, particularly in cases related to domestic violence, divorce, and inheritance. These structures often reinforce existing gender hierarchies and limit women's ability to exercise agency within legal processes.

International actors have responded through documentation initiatives, advocacy campaigns, and accountability efforts. The growing international legal discussion of gender apartheid is significant here specifically because it names Taliban policy as a coordinated, institutionalized system rather than a series of disconnected restrictions, a framing that, this paper argues, makes an intersectional reading of women's exclusion more necessary, not less, since a single legal label covering “women” as a category risks reproducing the same conceptual-empirical gap this paper identifies if it is not paired with attention to how that exclusion is experienced differently across communities. Ongoing International Criminal Court investigations (International Criminal Court 2022) and the establishment of the accountability mechanism under Human Rights Council Resolution 60/2 (United Nations Human Rights Council 2026) reflect this growing international attention to systematic gender-based discrimination in Afghanistan.

During the seventieth session of the Commission on the Status of Women, Princeton SPIA's Afghanistan Policy Lab, together with Afghan women-led organizations, convened a discussion focused on Afghan women's access to justice. The discussion emphasized the challenges of

ensuring accountability in the absence of functioning national legal institutions and highlighted concerns regarding the uneven representation of Afghan women's experiences within international reporting mechanisms.

Despite these efforts, important gaps remain. International reporting often depends heavily on urban access points, diaspora networks, and communities that are more visible to international organizations. As a result, women from rural, displaced, and linguistically marginalized communities may remain underrepresented within international accountability discourse.

## 7. Methodology

This paper adopts a qualitative research approach combining literature review, policy analysis, semi-structured interviews, and practitioner-informed discussions. The research draws on academic scholarship, United Nations reports, institutional analyses, and expert insights to examine the relationship between intersectionality and Afghan women's access to justice.

The paper further draws on discussions and policy reflections emerging from a side event organized during the seventieth session of the Commission on the Status of Women (CSW70) by the Princeton School of Public and International Affairs Afghanistan Policy Lab, in collaboration with Afghan-led civil society organizations working on gender justice, accountability, and documentation in Afghanistan. The discussions focused on the challenges of ensuring access to justice for Afghan women in the absence of a functioning national legal system and highlighted concerns regarding representation, documentation, and international accountability mechanisms.

The study conducted ten semi-structured interviews between April and June 2026. The sample size reflects standard practice for purposive, qualitative samples of this kind: ten interviews were sufficient to reach thematic saturation across the analytic categories used in this paper, while remaining feasible given the security and access constraints involved in reaching women both inside Afghanistan and in the diaspora. Participants were selected through purposive sampling based on their professional expertise, lived experience, or engagement with Afghan women's rights, justice systems, minority rights, displacement, and accountability issues, drawing on the participant network of Women's Rights First (WRF). Participants included:

- Women's rights advocates
- Afghan researchers and academics
- Former government officials, including a former lawyer, a former Hazara prosecutor, a former Pashtun civil servant from the Republic era, and Tajik and Uzbek civil servants
- Civil society practitioners
- Representatives of minority communities
- Women with direct experience navigating justice systems under Taliban rule

Participants represented diverse geographic, ethnic, religious, and professional backgrounds; six were located in the diaspora and four inside Afghanistan at the time of the interview, which helped capture a broader range of experiences and perspectives on the challenges facing Afghan women and girls. Diaspora-based participants included Metra Mehran, Shabnam Salehi, Dr. Anarkali Honaryar, Dr. Latifa Alavi Jafari, Nazila Elmi, and Spozhmai Akbarzai, who agreed to be

identified by name; participants inside Afghanistan are referred to by anonymized codes (P4, P7, P9, P10) to protect their security, summarized in the table in Annex B.

Interview questions focused on five broad themes:

1. Experiences accessing justice mechanisms
2. Barriers created by gender restrictions
3. Impact of geography, ethnicity, religion, and poverty
4. Role of informal justice systems
5. Perceptions of international accountability mechanisms

The full interview questionnaire is provided in Annex A.

To ensure participant safety and confidentiality, participants inside Afghanistan are anonymized throughout the paper, while six diaspora-based participants who consented to identification are named. Interview data was analyzed using thematic coding methods to identify recurring themes related to gender, geography, ethnicity, displacement, literacy, language barriers, socio-economic status, and informal justice systems. The coding process focused on understanding how multiple social and political factors shape women's experiences of justice under Taliban rule while also identifying variations across contexts.

## 8. Findings and Analysis

The interviews conducted for this research reveal that Afghan women's access to justice under Taliban rule cannot be understood through a single narrative or identity category. Although Taliban policies systematically restrict women as a group, the interviews demonstrate that women experience these restrictions differently depending on geography, ethnicity, religion, language, socio-economic position, displacement, education, and access to institutional resources. Across all interviews, participants consistently emphasized that women's lives are shaped not only by gender discrimination itself, but also by the broader political, social, economic, and historical structures within which women attempt to survive and seek protection.

### 8.1 Geography and Institutional Access

One of the strongest themes emerging from the interviews was the importance of geography in shaping women's lived realities. Participants repeatedly explained that women living in rural and conflict-affected areas often experience restrictions differently from women in urban centers. Metra Mehran, an Afghan women's rights and gender apartheid advocate, noted that women in Taliban strongholds such as Kandahar or remote districts in the south frequently face stricter limitations on movement, education, and public participation than women in Kabul or other cities, where some forms of visibility and informal negotiation may still exist. At the same time, Mehran emphasized that geography cannot be separated from ethnicity, conflict history, access to resources, and local power structures: Afghan women are not a homogeneous group, and their experiences differ significantly depending on where they live and what forms of institutional access they possess.

## 8.2 Ethnicity Beyond Simplified Assumptions

The interviews also challenged simplified assumptions regarding ethnicity and vulnerability in Afghanistan. Shabnam Salehi, an Afghan academic from a Pashtun background, offered a particularly important perspective on this issue. Salehi explained that many international discussions on Afghanistan assume that Pashtun women experience less discrimination because the Taliban leadership is predominantly Pashtun, and strongly rejected this assumption: many Pashtun communities have themselves experienced decades of violence, militarization, war, displacement, and institutional neglect. According to Salehi, large parts of rural Pashtun regions were heavily affected during the post-2001 war, leaving many women without meaningful access to schools, healthcare systems, legal institutions, or economic opportunities long before the Taliban returned to power in 2021.

Salehi further explained that many Pashtun women continue to experience severe forms of restriction shaped by poverty, geographic isolation, illiteracy, patriarchal social norms, and a lack of institutional support. In many areas, women were already excluded from public life long before the Taliban takeover, while years of conflict normalized insecurity and underdevelopment. Ethnic association with the Taliban leadership, Salehi stressed, does not translate into protection or meaningful access to power for ordinary Pashtun women; rather, many continue to experience forms of suffering that remain largely invisible within international discussions that often portray Pashtun communities as uniformly privileged or politically empowered. The purpose of examining Pashtun women's experiences here is not to minimize the experiences of historically marginalized communities, such as Hazara women, but to demonstrate why intersectionality requires attention to multiple forms of vulnerability simultaneously, rather than assuming that ethnic proximity to power is evenly distributed or evenly experienced by women within any given community.

## 8.3 Religion, Language, and Institutional Exclusion

The interviews also highlighted the distinct experiences of minority women and women from marginalized linguistic communities. Dr. Anarkali Honaryar, a former Afghan Senator representing the Sikh community, illustrated how religion shapes women's access to justice in ways that differ from the experiences of Muslim women. Sikh and Hindu women, Honaryar explained, historically occupied an uncertain position within Afghanistan's legal system, particularly in matters involving marriage, inheritance, and family disputes; the increasing centrality of the Taliban's interpretation of Islamic law has deepened these insecurities and reinforced feelings of exclusion among the few remaining members of Afghanistan's Sikh and Hindu communities. Honaryar described the near-complete disappearance of these communities from Afghanistan, noting that only one Sikh or Hindu family now remains in the country after years of insecurity, discrimination, and displacement.

Language and literacy also emerged as major yet often overlooked barriers to justice. Nazila Elmi, an intersectionality researcher of Uzbek background, described how women from non-dominant linguistic communities, particularly Uzbek-speaking women from northern Afghanistan, often struggle to navigate legal and bureaucratic systems that rely heavily on formal legal terminology unfamiliar to women with limited education or institutional exposure. Many women avoid approaching legal institutions not only because of fear or stigma, but because they lack the linguistic confidence and institutional familiarity necessary to engage with courts or administrative

authorities, barriers that became even more severe after the Taliban's return to power as local representation within governance structures declined and women's mobility became increasingly restricted.

#### 8.4 Institutional Collapse and Economic Vulnerability

Another recurring theme throughout the interviews was the collapse of institutional protection mechanisms following 2021. Participants repeatedly described how constitutional guarantees, women's protection structures, and formal accountability mechanisms that existed during the Republic period were either dismantled or rendered inaccessible under Taliban rule. Several interviewees noted that women increasingly perceive legal institutions not as spaces of protection but as spaces of intimidation and exclusion; even when women attempt to pursue legal claims, restrictions related to mobility, fear of retaliation, financial dependency, and the mahram requirement often prevent them from continuing their cases.

These realities were particularly visible in P4's account. Widowed and solely responsible for caring for her four children, P4 was legally entitled to a government pension following her husband's death, but local authorities refused to process her payments. When she attempted to pursue the issue through legal channels, she was informed that her case could not proceed without a male guardian accompanying her; the cost of hiring legal representation was, in any case, entirely beyond her financial means. As formal employment opportunities for women disappeared, she was forced to work informally in private homes, where she experienced sexual harassment and exploitation without any realistic mechanism for seeking protection or accountability. P4's testimony demonstrates how gender discrimination intersects with widowhood, poverty, economic dependency, and institutional collapse to create deeper forms of vulnerability.

A related theme concerned the interaction between economic marginalization and intersectionality more broadly. Dr. Latifa Alavi Jafari, a researcher whose work focuses on intersectionality and marginalized communities, emphasized that poverty and economic inequality remain among the most significant yet often overlooked barriers shaping women's access to justice. While ethnicity, religion, and gender remain important dimensions of analysis, Alavi Jafari argued that economic conditions frequently determine whether women are able to access education, healthcare, legal assistance, mobility, and institutional protection: women from the same ethnic or religious community may experience vastly different realities depending on their access to resources, geographic location, social networks, and economic opportunities. Alavi Jafari cautioned against approaches that reduce vulnerability to ethnicity alone or that create implicit hierarchies between different groups of women, reinforcing this paper's broader argument that intersectionality is most effective when it illuminates complexity rather than ranks experiences of marginalization.

#### 8.5 Informal and Patriarchal Systems

The interviews also revealed the growing power of informal and patriarchal systems in shaping women's access to justice. Multiple participants explained that women are often pressured by family members, community elders, or informal dispute resolution mechanisms to remain silent in cases involving domestic violence, forced marriage, or abuse, and are frequently encouraged to “adjust” to abusive conditions to preserve family reputation or social stability. While many of these pressures existed before the Taliban takeover, interviewees emphasized that the weakening of

formal legal institutions after 2021 has further strengthened patriarchal control within households and communities.

## 8.6 Visibility, Representation, and International Accountability

Another important theme concerned visibility and representation within international reporting and accountability mechanisms related to Afghanistan. Several participants expressed concern that international organizations frequently rely on urban advocacy spaces, elite networks, and internationally connected actors when documenting Afghan women's experiences. While acknowledging the importance of international attention, interviewees argued that many rural women, minority communities, displaced populations, and linguistically marginalized groups remain underrepresented within dominant human rights narratives. One participant noted that many international actors remain unaware that Sikh and Hindu communities historically existed in Afghanistan at all; others emphasized that women with greater access to education, media, advocacy spaces, or international networks are naturally more visible globally, while women in isolated rural communities often remain undocumented despite experiencing severe forms of oppression.

At the same time, participants consistently viewed international accountability mechanisms not as irrelevant, but as necessary components of long-term justice efforts for Afghan women and girls. Multiple interviewees emphasized the significance of ongoing legal discussions surrounding the recognition and codification of gender apartheid, arguing that such efforts play an important role in naming and documenting the systematic nature of gender-based exclusion under Taliban rule. Participants stressed that documenting violations and maintaining international legal pressure are essential, particularly in a context where women inside Afghanistan face increasing restrictions on visibility, mobility, and public participation, while also stressing that accountability efforts would benefit from greater engagement with Afghan-led organizations and community-based documentation initiatives capable of reflecting local realities more comprehensively.

## 8.7 Child Marriage as a Convergence of Exclusion

A complementary line of evidence comes from a June 2026 report by Women's Rights First (WRF), the same organization whose participant network supported the interviews for this paper, examining how girls' education restriction has driven child marriage since 2021. Drawing on a desk review and in-depth interviews with 40 women across 18 provinces, the WRF report finds that school exclusion functions as a direct driver of marriage risk: schooling had long provided a socially legitimate reason for families to delay marriage, and its removal leaves that protective pathway weakened or gone. The report traces this through several interlocking mechanisms: intensified economic pressure on households already living under crisis conditions, deepened isolation and reduced agency once girls lose daily contact with peers and teachers, and the collapse of the referral pathways that schools and teachers once provided for identifying girls at risk.

The scale involved is substantial. Nationally, UNICEF's MICS 2022–23 survey found that 28.7 percent of Afghan women aged 15–49 were married before 18, with 9.6 percent married before 15 (Women's Rights First 2026); among the cohort aged 20–24, the share first married as children rises to approximately 49 percent. Prevalence varies enormously by province, from 22.6 percent in Paktya to 64.1 percent in Helmand: a range of more than forty percentage points (Figure 1).

This pattern maps closely onto this paper's broader argument that geography, poverty, and access to institutions interact to shape women's and girls' experiences differently even under a single shared policy of exclusion. After declining from an estimated 52 percent in the 1970s to roughly 33 percent by 2016 as girls' education expanded, child marriage is now rising again: UN Women (2025) projects a further 25 percent increase attributable to the education bans, and a 2023 survey cited in the WRF report already shows prevalence climbing back toward 39 percent (Figure 2). A 2026 decree, the “Principles of Separation of Spouses,” issued by the Taliban supreme leader, further entrenches this reversal by formally regulating rather than restricting child marriage.

Read alongside this paper's interview findings, the WRF data make a concrete, measurable case for treating access to justice as encompassing more than courts: a functioning school system operated, in practice, as an informal protection and referral mechanism, and its removal has produced a documented rise in a harmful practice that is itself a barrier to future access to justice, education, and health. It is also a clear illustration of intersectionality operating empirically rather than only conceptually: the same national policy of school exclusion produces very different marriage outcomes for girls depending on the province, household economy, and protective networks available to them.

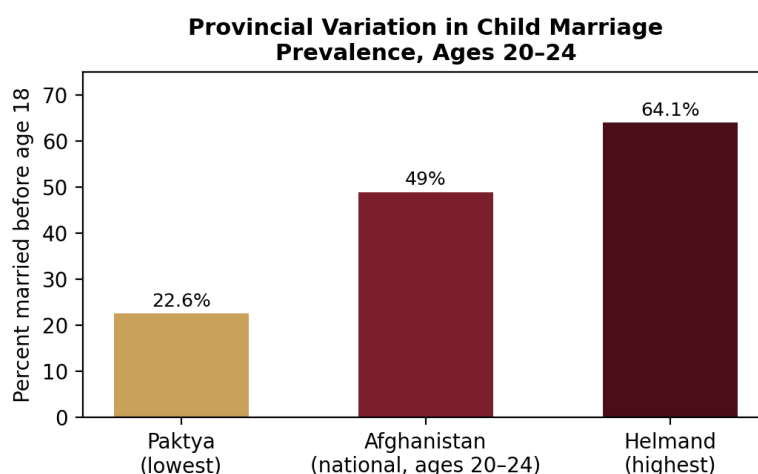


*Figure 1. Provincial variation in child marriage prevalence, women aged 20–24. Source: recreated from Afghanistan MICS 2022–23 data as reported in Women's Rights First (2026).*

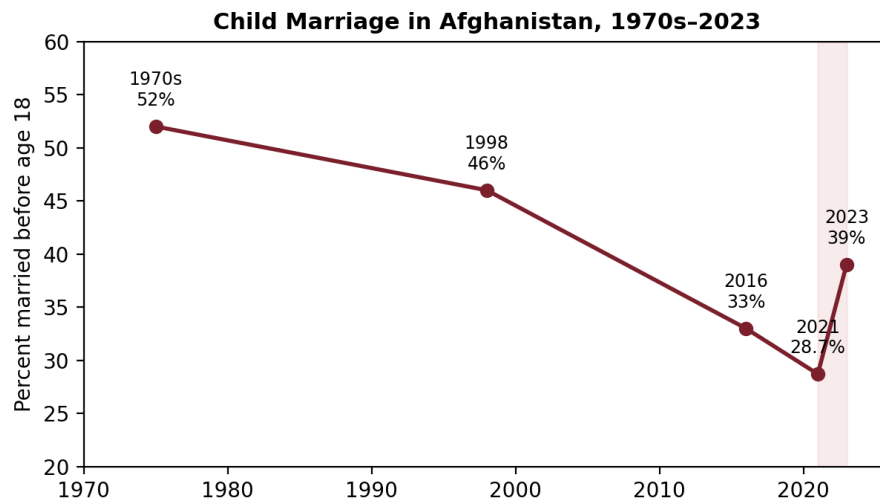


Figure 2. Child marriage prevalence in Afghanistan, 1970s–2023. Source: recreated from data reported in *Women's Rights First* (2026) and UNICEF.

## 8.8 Indicators of Exclusion Since 2021

Alongside the interview evidence, publicly available indicators illustrate the scale of the exclusion described by participants. Since the Taliban removed all women from the bench in August 2021 (a group estimated at approximately 270 judges), the judiciary has operated without female representation at any level (International Association of Women Judges 2024; Figure 3). In education, the ban on girls' secondary schooling has excluded an estimated 2.2 million adolescent girls, and roughly 100,000 women have lost access to university study (UNESCO and UNICEF 2025). In the labor market, women's labor force participation stood at approximately 24 percent in 2025, compared with approximately 89 percent for men (International Labour Organization 2023), and nearly 80 percent of young Afghan women are currently excluded from education, employment, or training altogether (UN Women 2025; Figure 4). On composite measures of women's status, Afghanistan ranked last of 177 countries assessed on the Georgetown Institute's Women, Peace and Security Index in 2023, with a score of 0.286 out of a possible 1.0 (Georgetown Institute for Women, Peace and Security 2023; Figure 5). Read together with the interview findings, these figures support this paper's central claim: the scale of exclusion is broadly shared across Afghan women as a group, even as its specific form, whether felt through the loss of a judicial career, a closed classroom, an informal job, or a blocked pension claim, depends on where a woman lives, what she does, and what resources and institutional access she can draw on.

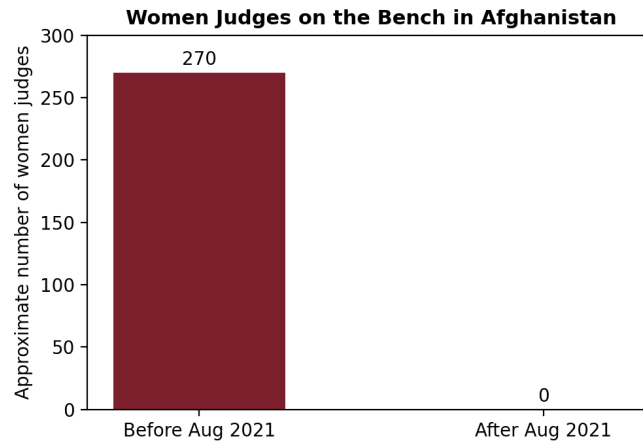


Figure 3. Women judges on the bench before and after the Taliban takeover, August 2021.

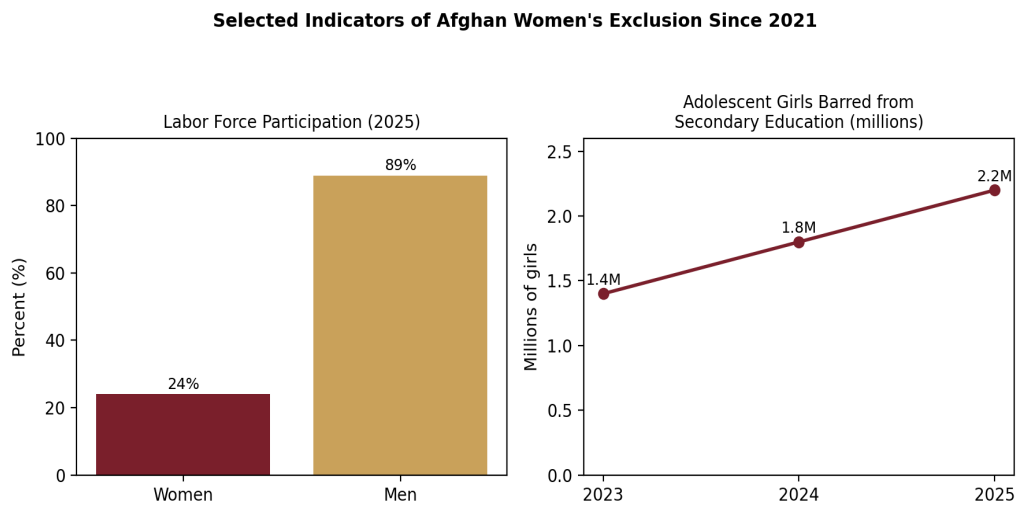


Figure 4. Labor force participation and adolescent girls barred from secondary education, 2023–2025.

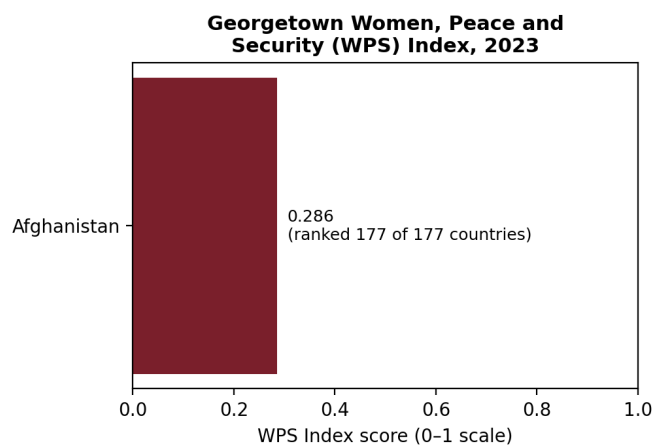


Figure 5. Afghanistan's score on the Georgetown Women, Peace and Security Index, 2023.

## 9. Discussion

Taken together, the findings support this paper's central argument: Afghan women share a common system of gender-based exclusion under Taliban rule, but the intensity, form, and visibility of that exclusion vary along lines of geography, ethnicity, religion, language, class, and displacement. This is not a claim that some groups of women suffer more than others in any measurable or rankable sense. It is a claim about mechanism: the same policy (for example, the ban on women's employment, or the mahram requirement) is filtered through different local conditions, producing different practical consequences for a rural Pashtun widow, an urban Hazara professional, a displaced Uzbek-speaking mother, and a Sikh shopkeeper's daughter alike.

The implication for documentation and accountability practice is direct. If international reporting continues to rely on a narrow set of visible, well-connected, or urban cases as representative of “Afghan women's experience” writ large, it will systematically under-document precisely the populations (rural, displaced, linguistically marginalized, or disabled) that this research suggests are least likely to have their experiences captured through existing channels. Addressing the conceptual-empirical gap identified in this paper therefore requires not only theoretical acknowledgment of intersectionality but changes to how documentation is resourced, where researchers and advocates seek out interviewees, and which languages and modalities of evidence collection are prioritized.

## 10. Limitations

This study also had some limitations. First, the sample size is relatively small and therefore does not seek statistical generalization; instead, it aims to provide qualitative insights into patterns and experiences. Second, access restrictions under Taliban rule make it difficult to reach women in certain geographic locations, particularly rural and highly restricted areas. Third, diaspora participants may have different experiences from women currently living inside Afghanistan. These limitations are mitigated through triangulation of interviews, literature, policy documents, and practitioner perspectives, but they should be kept in mind when generalizing from this paper's findings to the broader population of Afghan women.

## 11. Policy Recommendations

The findings of this research suggest that improving Afghan women's access to justice requires approaches that recognize both the systematic nature of gender-based exclusion under Taliban rule and the diverse factors that shape women's lived experiences across Afghanistan. While women face common restrictions on education, employment, mobility, and public participation, the interviews demonstrate that access to justice is also shaped by geography, poverty, displacement, language, literacy, religion, disability, and access to institutions. The following recommendations seek to strengthen accountability efforts while ensuring that policy responses better reflect the complexity of Afghan women's realities.

## 11.1 Support the Recognition and Codification of Gender Apartheid

International actors, legal scholars, human rights organizations, and United Nations mechanisms should continue supporting efforts to recognize and codify gender apartheid within international legal frameworks. The interviews conducted for this research consistently described a system of exclusion affecting nearly every aspect of women's lives, including access to justice, education, employment, mobility, and political participation. Recognizing gender apartheid would provide a clearer legal framework for documenting systematic gender-based discrimination, strengthen future accountability efforts related to Afghanistan, and help prevent the normalization of women's exclusion from public life.

## 11.2 Strengthen International Accountability Mechanisms

International accountability efforts, including United Nations mechanisms, documentation initiatives, the International Criminal Court, and other international legal processes, should continue to investigate and document violations of women's rights in Afghanistan. While participants acknowledged the limitations of international accountability mechanisms, they consistently emphasized their importance in preserving evidence, maintaining international attention, and creating pathways for future justice. Long-term accountability efforts should remain a central component of the international response to Afghanistan.

## 11.3 Adopt More Inclusive and Intersectional Documentation Practices

International organizations, human rights bodies, and researchers should adopt more comprehensive approaches to documenting Afghan women's experiences. Current reporting often relies on communities and individuals who are more visible to international actors, potentially overlooking the experiences of rural women, displaced populations, women with disabilities, religious minorities, linguistic minorities, and economically marginalized communities. Documentation efforts should move beyond singular categories of identity and seek to capture the multiple factors shaping women's access to justice.

## 11.4 Expand Engagement with Afghan Women-Led Organizations

International actors should strengthen partnerships with Afghan women-led organizations, grassroots networks, researchers, and community-based initiatives. Interview participants repeatedly emphasized that local actors possess critical contextual knowledge regarding women's experiences, community dynamics, and barriers to justice. Supporting Afghan-led initiatives can improve both the quality of documentation and the effectiveness of policy responses while ensuring that Afghan women remain active participants in shaping solutions rather than simply subjects of international interventions.

## 11.5 Adopt a Broader Understanding of Access to Justice

Access to justice should be understood broadly, not narrowly as court access alone. Policy responses should support education, healthcare, economic opportunity, mobility, and protection from violence as part of a holistic approach that addresses both legal and non-legal barriers preventing women from exercising their rights.

## 11.6 Increase Representation of Underrepresented Communities in Policy and Human Rights Discussions

International forums, policy discussions, and reporting mechanisms should make greater efforts to include perspectives from communities that often remain underrepresented in discussions on Afghanistan. This includes women from rural areas, displaced populations, religious minorities, linguistic minorities, women with disabilities, and geographically isolated communities. Ensuring broader representation would contribute to a more accurate understanding of women's experiences and reduce the risk of relying on a limited number of representative narratives.

## 11.7 Expand Economic Opportunities and Livelihood Support for Afghan Women

The interviews conducted for this research consistently identified economic marginalization as one of the most significant barriers affecting women's access to justice. Women who lack economic resources often face additional obstacles in accessing healthcare, education, legal assistance, transportation, and protection mechanisms. International actors, humanitarian organizations, development agencies, and Afghan women-led initiatives should therefore prioritize programs that expand safe and sustainable economic opportunities for Afghan women, including support for remote employment, women-owned businesses, vocational training, digital work opportunities, educational scholarships, and community-based livelihood initiatives. Strengthening women's economic independence is not only a development objective but also a critical component of improving access to justice and reducing vulnerability to exploitation and abuse.

## 11.8 Invest in Future Research on Intersectionality and Access to Justice in Afghanistan

This research demonstrates the need for further empirical work on how different forms of marginalization shape women's access to justice across Afghanistan. Future studies should pay particular attention to underexplored areas including disability, displacement, environmental vulnerability, language barriers, literacy, economic inequality, and religious minority experiences. Expanding evidence-based research in these areas will contribute to more informed policymaking and more effective accountability and justice initiatives.

## 12. Conclusion

This paper has argued that intersectionality remains an important framework for understanding Afghan women's access to justice, but that its application in Afghanistan requires greater attention to context, complexity, and lived realities. While women across the country face a shared system of gender-based exclusion under Taliban rule, the findings demonstrate that their experiences are also shaped by geography, poverty, displacement, language, literacy, religion, ethnicity, disability, and access to institutions. These factors interact in different ways, producing varied barriers to justice, protection, and opportunity.

The paper introduced the concept of a conceptual and empirical gap to describe the divergence between the theoretical recognition of multidimensional discrimination and its uneven representation within policy and human rights discourse. Although international actors increasingly acknowledge that Afghan women experience overlapping forms of marginalization,

the empirical application of intersectionality often remains selective, leaving some experiences more visible than others. At the same time, the findings suggest that the challenge is not whether intersectionality should be applied to Afghanistan, but how it should be applied: reducing women's experiences to a single identity or relying on representative narratives risks obscuring the complexity that intersectionality was designed to capture.

Ultimately, this paper does not argue that some Afghan women suffer more than others. It argues that women experience exclusion differently, and that these differences matter for policy, accountability, and justice efforts. A more comprehensive and context-sensitive application of intersectionality can contribute to a deeper understanding of Afghan women's realities while helping ensure that future responses are more inclusive, evidence-based, and reflective of the diversity of women's experiences across Afghanistan. As international efforts continue to address the situation of Afghan women and girls, recognizing this complexity will be essential for advancing meaningful pathways toward justice, accountability, and lasting change.

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## Annex A: Interview Questionnaire

### *Research on Intersectionality and Afghan Women's Access to Justice*

The research drew on ten semi-structured interviews with Afghan women located inside and outside Afghanistan, including academics, advocates, practitioners, former officials, and women with lived experience of seeking justice, representing diverse ethnic, religious, geographic, socioeconomic, and professional backgrounds. Because interviews were semi-structured, questions were adapted to each participant's background and expertise; not every question was posed to every participant. The themes below consolidate the principal lines of inquiry.

A. Background and Experience. How would you describe women's access to justice in Afghanistan before August 2021, and how has the Taliban's return to power affected women's lives and their ability to seek justice or protection?

B. Access to Formal and Informal Justice. What are the most significant institutional, economic, mobility-related, and social barriers that Afghan women face in accessing justice, and what role do informal mechanisms (jirgas, shuras, elders) play in resolving disputes involving women?

C. Intersectionality and Different Experiences of Justice. Do Afghan women experience barriers to justice differently depending on ethnic, religious, geographic, linguistic, or socioeconomic background, and how can intersectionality be applied without reducing women's experiences to fixed categories or ranking their suffering?

D. Ethnicity, Geography, and Language. How do geography, ethnic majority/minority status, and language or literacy shape women's exposure to Taliban restrictions and their ability to navigate formal institutions?

E. Religious Minorities and Legal Pluralism. What distinct barriers do women from religious minority communities (e.g., Sikh, Hindu, Shi'a) face in accessing justice, and what does the experience of the Shi'a Personal Status Law suggest about the gap between legal recognition and substantive justice?

F. Economic Marginalization, Widowhood, and Lived Experience. How does economic dependency, compounded by restrictions on employment, affect widows, single women, and women heading households in leaving abusive situations or pursuing legal remedies?

G. International Reporting, Representation, and Knowledge Production. Do international organizations and human rights reports adequately reflect the diversity of Afghan women's experiences, and which women or communities are most likely to remain underrepresented, and why?

H. Women's Agency and Resistance. How are Afghan women adapting to restrictions and preserving agency under Taliban rule, and how should research better document this agency alongside violations?

I. International Accountability and Gender Apartheid. What role can mechanisms such as the International Criminal Court and the codification of gender apartheid play in advancing accountability for the systematic exclusion of Afghan women and girls, and what are their limitations?

J. Policy and Future Research. What should international organizations, donors, and human rights mechanisms prioritize to improve Afghan women's access to justice, and what areas remain insufficiently researched?

Closing Question: Is there anything about Afghan women's access to justice, intersectionality, or accountability that you believe is important but often overlooked in research or policy discussions?

## Annex B: Interviewee Overview

The table below summarizes the ten research participants for this study. Six diaspora-based participants agreed to be identified by name; four participants inside Afghanistan are referred to by anonymized code (P4, P7, P9, P10) to protect their security. Roles and backgrounds reflect only what participants shared in the interview text itself, consistent with the confidentiality protocol described in the Methodology.

| Interviewee             | Role / Background (as described in interview)                         | Location                |
|-------------------------|-----------------------------------------------------------------------|-------------------------|
| Metra Mehran            | Women's rights and gender apartheid advocate                          | United States           |
| Shabnam Salehi          | Academic, Pashtun background                                          | Canada                  |
| Dr. Anarkali Honaryar   | Former Afghan Senator representing the Sikh community                 | France                  |
| P4                      | Woman with lived experience of widowhood and pursuit of a legal claim | Kabul, Afghanistan      |
| Dr. Latifa Alavi Jafari | Researcher focusing on intersectionality and marginalized communities | France                  |
| Nazila Elmi             | Intersectionality researcher, Uzbek background                        | United States           |
| P7                      | Woman with lived experience, Helmand province                         | Helmand, Afghanistan    |
| Spozhmai Akbarzai       | Development expert, Pashtun background                                | United States           |
| P9                      | Single woman navigating an inheritance dispute                        | Herat, Afghanistan      |
| P10                     | Woman affected by mobility and education restrictions                 | Badakhshan, Afghanistan |