
WOMEN'S RIGHTS UNDER AUTHORITARIAN REGIMES: AFGHANISTAN AND IRAN IN INTERNATIONAL LAW

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ABSTRACT

This paper analyses the interplay between state sovereignty and the safeguarding of women's rights within the context of international law, utilizing Afghanistan and Iran as case studies. Both countries show how their own laws, politics, and cultural or religious rules can keep women from being involved in public life, even though there are international human rights standards. Afghanistan, especially when the Taliban were in charge, is one of the worst cases of institutionalized gender exclusion. Women have been systematically denied access to education, jobs, and the freedom to move around. Iran has a more complicated legal system. Women can go to school and work, but they still face structural barriers in family law, guardianship systems, and political eligibility. These cases show how there is a difference between what international law says about gender equality and how it is actually put into practice in the home country.

The paper also talks about how international laws that protect women's rights have changed since the UN Charter was created and the Universal Declaration of Human Rights was passed. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is the most recent example. While these tools are important steps forward in getting the world to recognize gender equality, they don't have very good ways to be enforced. International human rights treaties predominantly depend on state consent, reporting mechanisms, and diplomatic pressure, rather than direct coercive enforcement.

The paper also talks about feminist criticisms of international law, which say that the field's traditional focus on states and its separation of public and private spheres have historically pushed issues that affect women to the side. Gender discrimination happens in many ways in social institutions and legal systems at home, and international law has a hard time keeping track of them.

The paper concludes that while international law has profoundly influenced global expectations concerning gender equality, its efficacy is still hindered by inherent structural limitations within the international legal framework. To better protect women's rights around the world, we need to strengthen monitoring systems, give civil society actors a bigger role, and include

gender perspectives in international governance.

Keywords: Women's Rights; International Human Rights Law; Gender Discrimination; Afghanistan; Iran; CEDAW; Feminist Approaches to International Law; State Sovereignty; Gender Equality; Human Rights Enforcement

I. Introduction

The situation of women in Afghanistan and Iran is one of the most obvious examples of the conflict between state sovereignty, cultural governance, and the universality of international human rights standards.¹ In both states, laws and institutions have often been used to control women's participation in public life, limit their freedom of movement, and limit their access to education and political participation. Even though the histories of these two countries are very different, both have had trouble enforcing gender equality laws at home, even though these laws are recognized by international law. Afghanistan exemplifies one of the most severe instances of systemic gender discrimination in contemporary society. During the time that the Taliban were in power, which started in the late 1990s, they put in place a lot of rules that kept women out of public life. Women were not allowed to work in most fields, go to school or college, or move around freely without a male guardian.² These rules weren't just informal social norms; they were part of the Taliban's official system of government. This led to what some scholars have called a form of "sexual apartheid," where women were legally barred from participating in public life and systematically kept out of civic life.³

II. Gender Discrimination in Afghanistan and Iran

Women in Afghanistan were not only limited in their ability to get an education and a job, but they were also subject to more general patterns of violence and persecution that came with Taliban rule. Reports from the time showed a lot of different kinds of abuse, such as forced displacement, extrajudicial killings, torture, and systematic persecution of minority groups.⁴ Even though many of these abuses weren't just against women, women were especially at risk because the way the law was set up made it hard for them to get legal protection or fight unfair

¹ Mark A. Drumbl, The Taliban's "Other" Crimes, 23 Third World Q. 1121, 1121 (2002).

² Id. at 1122.

³ Guglielmo Verdirame, Testing the Effectiveness of International Norms: UN Humanitarian Assistance and Sexual Apartheid in Afghanistan, 23 Hum. Rts. Q. 733, 733-34 (2001).

⁴ Drumbl, *supra* note 1, at 1122.

policies.⁵ The invisibility of these crimes in international discourse was exacerbated by the tendency of global attention to focus primarily on the Taliban's links to international terrorism, particularly following the attacks of September 11, 2001.⁶

Iran has a different, but still very controversial, legal system when it comes to women's rights. Iran has a working constitution and legal system, and women can go to school, work, and use public services. This is not the case in Afghanistan when the Taliban were in power. But this participation happens within a framework that is shaped by how people understand Islamic law and the moral rules that the government sets. Legal regulations pertaining to family law, dress codes, and political engagement have frequently been condemned for perpetuating gender hierarchies and constraining women's autonomy in both private and public domains.⁷

When scholars look at women's rights in Iran, they often talk about how state law and social norms affect women's daily lives. Even though Iranian women have done well in school and have been active in civil society and the professional world, there are still structural barriers in the laws about guardianship, inheritance, and political eligibility.⁸ These limitations show how complicated the connection is between formal legal rights and real gender equality in practice.

The problems women face in Afghanistan and Iran show that there are bigger problems with the international human rights system as a whole. Even though there are comprehensive international legal tools, like the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)⁹, enforcement is still weak when countries use sovereignty, cultural autonomy, or religious governance to justify policies that limit rights. The fact that these gaps still exist shows that the international legal system that protects women's rights often works more as a set of rules than as a set of laws that can be enforced.

Even when legal systems officially recognize some rights, those rights may not be fully realized in practice because of larger political and institutional factors. For example, in Iran, a lot more women are going to college and working in professional fields than they were a few decades

⁵ Id. at 1123.

⁶ Id. at 1121.

⁷ Sanam Vakil, *Women and Politics in the Islamic Republic of Iran: Action and Reaction*, 30 *Contemp. Politics* 289, 290–92 (2014).

⁸ Nayereh Tohidi, *Women's Rights and Feminist Movements in Iran*, in *Women's Movements in the Global Era* 37, 40–42 (Amrita Basu ed., 2010).

⁹ *Convention on the Elimination of All Forms of Discrimination Against Women*, Dec. 18, 1979, 1249 U.N.T.S. 13.

ago. Today, a large number of Iranian women graduate from college and have made their presence felt in fields like medicine, academia, journalism, and civil society groups.¹⁰ Scholars frequently observe that institutional frameworks persist in constraining women's political authority and decision-making capabilities, notwithstanding these advancements. Some parts of the Constitution and laws make it harder for women to run for high political office. Other laws that govern family law make it easier for men to be guardians and give them more rights to inherit property. These legal restrictions show how complicated the relationship is between modernization and gender equality in hybrid legal systems. Many Iranian women have been able to take part more actively in public discourse and social movements thanks to better access to education. However, formal legal reforms have often not kept up with these changes in society.¹¹ This creates a paradox in which women can make big strides in their education and careers but still face legal barriers in areas like family law and political representation. This gap between social progress and legal reform shows how limited it is to rely only on domestic legal systems to ensure real gender equality. Afghanistan is a more extreme example of this structural problem, especially when state institutions have actively enforced gender exclusion instead of just ignoring discrimination. Under Taliban rule, laws that controlled how women behaved went far beyond just limiting their jobs and education. Women had to follow strict dress codes, couldn't go out in public without a male relative, and were punished harshly for what were thought to be violations of moral rules.¹² Religious police institutions enforced these rules and had a lot of power over how people acted in everyday life.¹³

Such policies had an effect on more than just individual freedoms; they also changed Afghan society in a big way by keeping women out of many parts of public life. When women couldn't work in fields like healthcare, education, and administration, the resulting lack of institutions made already weak social infrastructures even weaker.¹⁴ Because of gender segregation policies, many times female doctors couldn't treat female patients, and male doctors couldn't treat women. These contradictions had terrible effects on people's lives, especially in rural areas where healthcare was already hard to get.

¹⁰ Nayereh Tohidi, *Women's Rights and Feminist Movements in Iran*, in *WOMEN'S MOVEMENTS IN THE GLOBAL ERA* 37, 40–42 (Amrita Basu ed., 2010).

¹¹ Ziba Mir-Hosseini, *Muslim Women's Quest for Equality: Between Islamic Law and Feminism*, 32 *CRITICAL INQUIRY* 629, 632–35 (2006).

¹² Mehrangiz Kar, *Legal Reform and Women's Rights in Iran*, 20 *HARV. HUM. RTS. J.* 185, 188–90 (2007).

¹³ Mark A. Drumbl, *The Taliban's "Other" Crimes*, 23 *THIRD WORLD Q.* 1121, 1122–23 (2002).

¹⁴ Drumbl, *supra* note 13, at 1122–23.

So, the Afghan case shows that gender discrimination can not only be a violation of individual rights, but it can also be a bigger problem that affects governance, development, and social stability. When half of a population is systematically kept out of school, work, and public life, the long-term effects go beyond gender inequality to include a weak economy and weak institutions. Because of this, many scholars say that limits on women's rights shouldn't just be seen as cultural practices in the home country, but as problems with big legal and humanitarian effects around the world. These changes bring the conversation back to a key issue in international law: how to find a balance between respecting state sovereignty and enforcing universal human rights standards. CEDAW and other international legal tools were made to set common standards for ending discrimination against women. However, their success depends on the willingness of governments to follow through on these obligations.¹⁵ When states use sovereignty, cultural autonomy, or religious legitimacy to defend strict policies, international organizations often can't do much to enforce them.¹⁶ Because of this, the fact that gender inequality is still a problem in places like Afghanistan and Iran raises important questions about whether international law can turn moral commitments into real protections for women on the ground.¹⁷

The lives of women in Afghanistan and Iran show how gender discrimination can happen in different political and legal systems but still have the same effects, such as limiting women's freedom and participation in public life. The Taliban's systematic exclusion of women in Afghanistan shows how government institutions can enforce gender segregation and limit basic freedoms. In Iran, on the other hand, gender inequality works through more complicated legal systems. Women can go to school and work, but they are still limited by formal laws in areas like family law and political representation. Even though these two situations are different, they both show a bigger problem with the way the international human rights system is set up. International legal norms are starting to see gender equality as a key part of protecting human rights. However, when states use sovereignty, cultural autonomy, or religious legitimacy to justify restrictive policies, there aren't many ways to enforce these norms. Because of this, the fact that gender discrimination still happens in these situations raises important questions about how well current international legal systems work. To understand these limits, we need to look

¹⁵ Guglielmo Verdirame, *Testing the Effectiveness of International Norms: UN Humanitarian Assistance and Sexual Apartheid in Afghanistan*, 23 *HUM. RTS. Q.* 733, 736–39 (2001).

¹⁶ *Id.* at 738.

¹⁷ Martha C. Nussbaum, *Women's Education and Human Development*, 3 *STUD. COMP. INT'L DEV.* 325, 327–29 (2002).

at how international legal standards for protecting women's rights have changed over time and how those standards are supposed to work.

III. Women's Rights Under International Law

III. A. How international laws have changed to protect women

After World War II, international human rights standards slowly changed to include the protection of women's rights. The signing of the United Nations Charter in 1945 was a key moment because it made it clear that men and women have the same rights and that the world should work to make sure that everyone respects human rights without discrimination.¹⁸ The Charter didn't set up specific rules for gender equality, but it did set up the institutions and norms that would later be used to make international laws about women's rights. The Universal Declaration of Human Rights (UDHR), which was passed in 1948, made these promises even stronger by saying that everyone is born free and equal in rights and dignity. The Declaration set up a wide range of rules that protected basic civil, political, social, and economic rights, guaranteed equality before the law¹⁹, and freedom from discrimination. The UDHR doesn't just talk about gender equality, but its principles of non-discrimination were an important legal basis for later international documents that dealt with the specific types of discrimination that women face.

Over time, the world realized that general protections for human rights were not enough to fix the structural problems that women face. Because of this, more specific legal systems started to show up. The most important of these is the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which the United Nations General Assembly passed in 1979.²⁰ CEDAW is often called the international bill of rights for women. It lays out a full set of duties that states must follow to end discrimination against women in all areas of life, including politics, economics, society, culture, and civil life. The Convention not only bans discrimination, but it also says that states must take steps to make sure that men and women are truly equal.

¹⁸ U.N. Charter art. 1, ¶ 3; art. 55(c).

¹⁹ Universal Declaration of Human Rights arts. 1, 2, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III) (Dec. 10, 1948).

²⁰ Convention on the Elimination of All Forms of Discrimination Against Women art. 1, Dec. 18, 1979, 1249 U.N.T.S. 13.

CEDAW defines discrimination as any difference, exclusion, or restriction based on sex that makes it harder for women to enjoy their human rights and basic freedoms on the same level as men.²¹ This broad definition shows that people understand that gender inequality is often caused by legal and social systems that are unfair, not just by individual acts of discrimination. Because of this, the Convention says that countries must take legislative, administrative, and policy steps to break down institutional barriers to gender equality. CEDAW not only had important rules, but it also set up the Committee on the Elimination of Discrimination Against Women to keep an eye on things around the world. The Convention requires states that are parties to it to send in regular reports that explain how they are meeting their treaty obligations.²² The Committee uses this reporting system to check how well states are following the rules and make suggestions for how to make things better. The Committee's observations are not legally binding, but they help shape global expectations about gender equality and help set international human rights standards.

III.B What the state must do and what it can't do to enforce it

Even though international human rights instruments have set up a lot of laws, enforcing women's rights in international law still relies heavily on the cooperation of individual states. International human rights treaties like CEDAW work mostly through state consent, reporting, and monitoring, not through direct coercive enforcement. Because of this, the effectiveness of these legal tools often depends a lot on the political and institutional situations in each country.

State sovereignty is still one of the most important parts of international law. Most of the time, international legal norms depend on states being willing to take on responsibilities and include them in their own legal systems. Even when international standards provide strong protections against gender discrimination, countries still have a lot of freedom in how they carry out these duties at the national level.²³ This structural dependence on state consent can hinder the efficacy of international law in addressing systematic violations of women's rights perpetrated by governments.

Researchers looking into the link between international law and gender equality have therefore

²¹ Convention on the Elimination of All Forms of Discrimination Against Women art. 2

²² Convention on the Elimination of All Forms of Discrimination Against Women art. 18.

²³ Karen Knop, *Re/Statements: Feminism and State Sovereignty in International Law*, 3 *Transnat'l L. & Contemp. Probs.* 293, 300–306 (1994).

focused on the conflict between the universality of human rights norms and the important role of sovereign states in the international legal system. The international legal order still mostly works through state actors. This means that states are the ones who make, interpret, and enforce international legal rules.²⁴ Because of this, when governments make laws that limit women's rights or defend discriminatory actions by appealing to cultural, religious, or political sovereignty, international organizations often can't do much to help.

This limitation is especially clear when gender discrimination is built into the law or the state. Even when international law clearly says these kinds of things are wrong, there aren't many ways to make sure people follow the rules. International monitoring groups can make suggestions or complaints, but these actions usually rely on diplomatic pressure and the threat of damage to reputation instead of legally binding enforcement mechanisms.

III.C Gaps in the International Human Rights System's Ability to Enforce

The fact that gender inequality still exists in many parts of the world shows how hard it is for the international human rights system to enforce its rules. International law has made a lot of rules that say women can't be discriminated against, but these rules are often not fully put into place to protect women. One important reason for this gap is that international human rights bodies don't have a lot of power in their own countries. Most international human rights treaties have monitoring committees that look over state reports and make suggestions instead of making decisions that must be followed. Because of this, these mechanisms mostly work as tools of normative persuasion instead of direct enforcement. Also, how well international human rights norms are put into practice often depends on the political situation in the country. Some governments that want gender equality may make changes to their laws to bring them in line with international standards. Other governments may not want to do this or may only follow some of their international obligations. This difference in how laws are enforced at home can lead to big differences in how well women's rights are protected in different legal systems.

Another problem comes up when international law and bigger geopolitical issues come together. When responding to human rights violations in some countries, especially when strategic or diplomatic interests are at stake, international organizations may have to deal with

²⁴ Susan H. Fellmeth, *Feminism and International Law: Theory, Methodology, and Substantive Reform*, 22 *Hum. Rts. Q.* 658, 663–668 (2000)

political limits. In these situations, enforcing international norms may take a back seat to larger political issues, which makes legal protections for women even less effective.

The experiences of countries like Afghanistan and Iran show these bigger structural problems. Even though international laws clearly say that women can't be discriminated against, the principle of state sovereignty and the fact that international law is not centralized make it hard for international organizations to make real changes.²⁵ Because of this, the fact that gender inequality still exists in these situations shows that international law is often better at setting standards than at directly enforcing them.

IV. Feminist Views on International Law and What Needs to Happen Next

IV.A. Feminist Critiques of the State-Centric Framework of International Law

Feminist scholars have been saying for a long time that the way international law is set up makes it harder for women's rights to be protected. Sovereign states are the main actors in the international system, and traditional international law is mostly based on them. Because of this, governments are often the ones who enforce laws and rules instead of directly protecting people.²⁶ This framework has worked well in the past to keep the peace between states, but it hasn't been as good at dealing with systemic gender discrimination that happens in the legal and social systems at home.

Feminist critiques stress that international law was mostly made in political systems that were mostly controlled by men in the past. Because of this, the issues and priorities that are important to international law are often more about state power, diplomacy, and armed conflict than they are about issues that affect women in their daily lives.²⁷ In this way, the international legal system has historically focused more on issues of territorial sovereignty and political authority and less on forms of inequality that are built into domestic legal systems.²⁸

This focus on states also makes it harder for international organizations to respond effectively when governments are the ones who are doing things that are unfair. When cultural traditions,

²⁵ Guglielmo Verdirame, *Testing the Effectiveness of International Norms: UN Humanitarian Assistance and Sexual Apartheid in Afghanistan*, 23 *Hum. Rts. Q.* 733, 734–739 (2001).

²⁶ Karen Knop, *Re/Statements: Feminism and State Sovereignty in International Law*, 3 *Transnat'l L. & Contemp. Probs.* 293, 296–302 (1994).

²⁷ Susan H. Fellmeth, *Feminism and International Law: Theory, Methodology, and Substantive Reform*, 22 *Hum. Rts. Q.* 658, 661–668 (2000).

²⁸ Patricia Viseur Sellers, *Jus Cogens Redux*, 116 *AJIL Unbound* 281 (2022).

religious beliefs, or domestic political authority are used to justify limiting women's rights, international organizations often run into major legal and political problems when they try to step in. International legal norms may not be very useful in places where governments don't want to make changes to promote gender equality because enforcement mechanisms depend on the cooperation of states.

IV.B The Gap Between Public and Private Life and the Lack of Women's Rights

Feminist scholars have also criticized the way international law separates the public and private spheres. In the past, international law mostly dealt with public issues that had to do with relations between states, like diplomacy, war, and trade. Things that happen in the private sphere of family relationships, cultural practices, and social norms were often seen as private matters that international law couldn't touch.

But a lot of the worst kinds of gender discrimination happen in these private or social areas. Family law systems or social norms that are deeply rooted in culture often enforce legal limits on marriage, inheritance, guardianship, mobility, and access to education. Feminist scholars say that the traditional divide between public and private has hidden the systemic inequalities that women have faced in the past.²⁹

This dynamic is especially clear in places like Afghanistan and Iran. Both countries are part of international legal systems that protect human rights, but discriminatory policies against women are often built into their own legal systems or explained away by cultural and religious stories. International legal systems have a hard time dealing with these kinds of issues because they are often seen as matters of national sovereignty.

Because of this, feminist views on international law stress the need to rethink how international legal rules work with domestic legal systems. To make sure that international promises to gender equality really protect women, it may be necessary to look more closely at practices that have been seen as private or cultural.

IV.C The Next Step: Making Women's Rights More Secure Around the World

International law still plays a big role in shaping what people around the world expect from

²⁹ Hilary Charlesworth & Christine Chinkin, *Feminist Approaches to International Law*, 85 Am. J. Int'l L. 613, 621–629 (1991).

gender equality, even though feminist critiques have pointed out its flaws. In the future, a number of things could happen that would make international laws that protect women's rights work better.

First, reporting procedures can be made stronger and civil society organizations can get more involved to make international monitoring systems work better. Non-governmental organizations often provide independent evidence of gender discrimination and human rights violations, which helps international organizations get a better picture of what's going on in states. These contributions are especially important when governments might try to limit or control the information that is included in official reports.

Second, including more gender perspectives in international organizations and humanitarian work may make it easier to put international norms into practice. Research on humanitarian aid programs has shown that even international organizations have trouble consistently putting gender equality principles into practice.³⁰ So, making policies that are more sensitive to gender within international organizations could make international human rights efforts more credible and effective.

Third, transnational advocacy networks and global civil society movements have done more and more to help women's rights move forward across borders. These networks help bring attention to violations that might otherwise stay hidden in domestic political systems through international campaigns, legal advocacy, and public engagement. These kinds of movements can help close the gap between international legal norms and their actual use by getting people all over the world to speak out and work together with activists, scholars, and policymakers.³¹

In the end, to better protect women's rights in international law, states need to make stronger institutional changes and keep their political promises. Feminist critiques point out important structural problems with the international legal system, but they also show how changing legal norms and cross-border advocacy can help make slow but real progress toward gender equality.

Conclusion

The experiences of women in Afghanistan and Iran demonstrate the intricate interplay between

³⁰ Guglielmo Verdirame, *Testing the Effectiveness of International Norms: UN Humanitarian Assistance and Sexual Apartheid in Afghanistan*, 23 Hum. Rts. Q. 733, 734–740 (2001).

³¹ Hilary Charlesworth & Christine Chinkin, *The Boundaries of International Law: A Feminist Analysis* 3–22 (Manchester Univ. Press 2000)

international human rights law and national governance frameworks. The United Nations Charter, the Universal Declaration of Human Rights, and the Convention on the Elimination of All Forms of Discrimination Against Women are all strong international legal instruments that commit to gender equality. However, the way the international legal system is set up makes it hard for them to bring about real change. The cases analyzed in this paper illustrate that states possess considerable authority in defining the interpretation and implementation of international obligations within their domestic legal systems.

Afghanistan exemplifies an extreme case of state-sanctioned gender exclusion, wherein legal and institutional frameworks have been employed to systematically hinder women's engagement in education, employment, and public life. Iran offers women more opportunities in education and the workplace, but it still has laws that make it harder for women to get ahead in family law, guardianship, and political representation. Even though these two systems are different, they both show a bigger problem with international law: it relies on state consent and cooperation to enforce human rights obligations.

Feminist critiques of international law emphasize the discipline's conventional state-centric framework and the historical dichotomy between public and private spheres, which have frequently marginalized women's issues. International law has historically had a hard time effectively regulating many types of gender discrimination that happen in domestic legal and social institutions.

Still, international law is still an important part of setting global standards for gender equality. Strengthening international monitoring mechanisms, increasing the involvement of civil society actors, and integrating gender perspectives into global governance institutions may assist in reconciling the disparity between international legal norms and their practical application. To make real progress, there needs to be more than just legal commitments at the international level. There also needs to be ongoing political and institutional reform within each state.