

CHECK AGAINST DELIVERY

Statement by Ms. Karima Bennoune UN Security Council Briefing on Afghanistan 26 September 2023

Your excellencies,

Thank you for the opportunity to brief you.

My name is Karima Bennoune. I am an international legal expert and have worked with Afghan women human rights defenders (WHRDs) for nearly three decades. This Council has heard from many of them about the catastrophic harm women are suffering under the Taliban. Today, I focus on what the UN Security Council and the international community should do in response.

As you are aware, since August 2021, through at least 65 decrees, the Taliban have stripped Afghan women of most of their human rights, including to education, to work, to freedom of movement, to take part in public life and to access remedies. They have arbitrarily detained and tortured WHRDs who bravely resist these apartheid restrictions. Their rule represents the antithesis of the UN Charter and a grave threat to international peace and security. A recently reported increase in suicides among women is a horrible, but predictable, consequence.

Excellencies, day after day, women from across Afghanistan, from different ethnic groups, tell me about the devastating impact of Taliban rule. One Uzbek woman from Takhar who previously worked in civil society said she recently tried to commit suicide. “I am afraid,” she explained, “that they will ban women from breathing without a man’s permission.” A Hazara woman described living under constant threat of widespread, targeted anti-Hazara atrocities by the Taliban. A woman protestor in Kabul said, “The Taliban have imprisoned us in our homes. What we are experiencing every day is gradual death. This is what it feels like to live under gender apartheid.”

Many Afghan women also tell me how concerned they are over increasing attempts by some international actors to normalize the Taliban despite their repressive policies. As a result, some Afghan WHRDs recently undertook a hunger strike, demanding international recognition that gender apartheid is being practiced in their country, and appealing for international action to end it. Too often the international community claims to be combating extremism, but fails to support those peacefully resisting it on the frontlines.

This Council has repeatedly called on the Taliban to end its grave abuses. But there is more you can—and must—do to hold them accountable for their decimation of women’s rights. I am here today to ask the Security Council to make clear through action that the international community will not tolerate the system of gender apartheid the Taliban have imposed.

In June, the Special Rapporteur on Afghanistan and the UN Working Group on Discrimination against Women and Girls called on the international community to galvanize international legal condemnation and action to end gender apartheid, which they described as “an institutionalized system of discrimination, segregation, humiliation and exclusion of women and girls.” The Secretary-General, the High Commissioner for Human Rights, the Executive Director of UN Women and countries from many regions, including members of this Council, have also correctly labeled the situation “gender apartheid.” In the Human Rights Council, South Africa not only recognized that Taliban rule constituted gender apartheid but also called for an international response to it akin to that which helped end racial apartheid. Excellencies, I am here today to call on the international community to heed these words and go beyond condemnation of this worst example of systematic oppression of women in the world and take urgent action to end it.

What has been tried since the Taliban returned to power is not working. Along with many Afghan WHRDs and international human rights experts, I believe the gender apartheid approach is one of the most promising options for a new and more effective way forward. This approach can be pursued both through gender inclusive

interpretation of existing apartheid law today, and by explicitly codifying gender apartheid in international law going forward.

In December 2022, I published a study entitled “The International Obligation to Counter Gender Apartheid in Afghanistan,” which, after consultation with diverse Afghan WHRDs, analyzed the situation as gender apartheid and explained the legal consequences of this analysis.

So, what does this mean legally and what are the consequences of this framing?

Adapted from the international law on racial apartheid, “gender apartheid” emphasizes that discrimination has been made the system of governance itself, such that the aim of public policy is to discriminate. It can be accurately captured by adapting the definition of apartheid in Article 7(2)(h) of the Rome Statute, simply adding “gender.” In other words:

“inhumane acts...committed in the context of an institutionalized regime of systematic oppression and domination by one gender group over any other gender group...and committed with the intention of maintaining that regime.”

The Taliban are not simply failing to uphold women’s rights—oppression of women is central to their system of governance and a core part of their philosophy. The apartheid framework recognizes that the ordinary human rights approach, centering the state as the actor to implement human rights, cannot work here. Positive change will only be possible with a consistent, principled international response, led by this Council, mandated by the 10 women, peace and security resolutions it has adopted, and supported by states from all regions.

The vital concepts of gender apartheid and gender persecution are distinct and complementary: both are needed to hold the Taliban accountable. Gender apartheid is the institutionalized framework within which gender persecution takes place in Afghanistan. The Prosecutor of the International Criminal Court is investigating the situation and may bring charges against some alleged perpetrators of international crimes. This would be an important development. However, individual accountability, while essential, is not by itself sufficient to address the scale of this crisis.

A powerful aspect of the gender apartheid approach is that it not only implicates the perpetrators of apartheid, but it means, as was the case with racial apartheid in South Africa, that no Member State can be complicit in or normalize the Taliban’s illegal actions, and that they must take effective action to end this situation. Hence, it makes clear that there can be no recognition of the Taliban, and certainly no place for them at the UN, at least as long as their system of gender apartheid persists. This would convey to groups in other parts of the world that share the Taliban’s worldview that the international community will not acquiesce to wholesale violations of women’s rights.

The goal of a gender apartheid approach is not to isolate Afghanistan, or cut off desperately needed humanitarian assistance. Principled and non-discriminatory aid delivery is a matter of life and death. However, protection of human rights and humanitarian action are and must be mutually reinforcing, rather than traded off against each other.

2023 marks the 75th anniversary of the Universal Declaration of Human Rights—a touchstone document which confirms that “the peoples of the United Nations have in the Charter reaffirmed their faith... in the equal rights of men and women.” Afghan women are among the most courageous defenders of this foundational principle and deserve your strongest support now.

I therefore recommend the following:

- 1) The Security Council, and other relevant UN bodies, should consider adopting resolutions labeling the treatment of Afghan women by the Taliban as both gender persecution and an institutionalized framework of gender apartheid. Such resolutions should require states and the UN to take effective steps to end these grave violations of international law, including by bringing perpetrators to justice.

- 2) There is an important opportunity to strengthen international law through the Crimes Against Humanity treaty currently under consideration. Council members and other states should not only ensure that the treaty as a whole is gender-competent, but that it includes a reference to gender apartheid.
- 3) The United Nations Assistance Mission in Afghanistan (UNAMA)—whose role is vital—should fully implement all aspects of its mandate on women's rights. In addition, the forthcoming independent assessment, as well as any convening by the international community on Afghanistan, should prioritize protection of women's rights and meaningful participation of Afghan women.

Excellencies,

As an Afghan WHRD once said to me: "Optimism is key to survival." The stalwart Afghan women continuing to protest on the streets will not give up, and are risking their lives for the Charter's promise of equality. The Security Council must show as much courage and commitment as they do. Thank you.