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Criminalization of Survival of Afghan Women under Taliban Regime

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Criminalization of Survival of Afghan Women under Taliban Regime

ABSTRACT

Since the Taliban regained power in August 2021 Afghan women have seen their legal rights get worse. The Taliban moved from rules to written laws that punish the very actions Afghan women use to stay safe. The latest law, the 2024 Law on the Promotion of Virtue and Prevention of Vice shows how far this has gone. Two new decrees, Decree No. 12 In January 2026 and Decree No. 18 In May 2026 are even harsher. Decree No. 12 Limits domestic-violence cases to those with broken bones, open wounds or obvious bruises and gives only fifteen days in prison. Decree No. 18 Lets men decide on divorce by themselves while Afghan women must go through court steps and the decree even allows child marriage. Scholars have written a lot about how the Taliban cuts women's chances to study, work and move around. Not much has been said about how these two decrees punish Afghan women for trying to survive. They punish women for resisting abuse and forced marriage instead of punishing the abusers. This article looks at the text of both decrees takes notes from UNAMA, UN Women and Amnesty International. Checks data, on how Afghan women's work, travel and justice access changed from 2021 to 2026. The study uses the law texts UN reports and human-rights data. The results show that the Taliban's decrees shut down the legal ways Afghan women could leave abuse turning the family into a place where the state enforces bad rules. The article says the international community needs to keep watching from outside set up reporting ways require the Taliban to drop bad rules before helping them and keep funding independent Afghan groups that record what happens. These are the ways to stop the Taliban from taking away Afghan women's rights.

KEYWORDS

Afghanistan, Child Marriage, Domestic Violence, Taliban Decrees, Women's Rights

1. INTRODUCTION

Since the Taliban have returned in power in August 202, they have issued more than 250 decrees and over 150 of them targeting women.¹

¹ Alex Kwok, "New Taliban Penal Code Legalizes Domestic Violence Against Women", *JURIST*, 21 February 2026, available at: <https://www.jurist.org/news/2026/02/taliban-new-penal-code-legalizes-domestic->

The 2024 Law on the Promotion of Virtue and Prevention of Vice was followed by two decrees marking a sharper turn including Decree No. 12 (January 2026) which decriminalizes most domestic violence and Decree No. 18 (May 2026) which entrenches unequal divorce rights and implicitly permits child marriage.² Existing scholarship has examined Taliban restrictions on education and mobility in depth but little research studies how these two decrees turn the acts of resisting abuse or seeking divorce into criminal punished conduct. This article fills that gap by analyzing Decrees 12 and 18 as instruments criminalizing women's survival.

2. LITERATURE REVIEW

Legal experts don't agree on which "box" to put Taliban crimes against women into. An older idea which states that the state is taking away your basic rights *because* of who you are. This idea is called "persecution" and has been used in international law since 1980s.³ But a professor named Karima Bennouna says this box is too small as it doesn't capture that the Taliban isn't just taking away rights here and there rather they have built an *entire system* designed to control women.⁴ Other legal writers who agree are pushing for a bigger box called "gender apartheid". "Gender Apartheid comes under the same category as the South Africa's old race-based apartheid system."⁵

A Completely separately set of writing is about American women who get *punished by their own justice system* for surviving abuse like being arrested for defending themselves against an abuser.⁶ This is called "criminalization of survival." However, the difference is that American

[violence-against-women/](#) .

² United Nations Assistance Mission in Afghanistan (UNAMA), "Statement on Afghanistan's De Facto Authorities' Decree No. 18 'Code on Judicial Separation of Spouses'", 21 May 2026, available at:

<https://unama.unmissions.org/en/news/unama-statement-on-afghanistans-de-facto-authorities-decree-no-18-code-on-judicial>

³ Valerie Oosterveld, "Gender, Persecution, and the International Criminal Court: Refugee Law's Relevance to the Crime Against Humanity of Gender-Based Persecution", 17 *Duke Journal of Comparative & International Law* 49 (2006).

⁴ Karima Bennouna, "The International Obligation to Counter Gender Apartheid in Afghanistan", 54 *Columbia Human Rights Law Review* 1 (2023).

⁵ Azadah Raz Mohammad & Akila Radhakrishnan, "The Growing Imperative to Recognize and Codify Gender Apartheid: Demonstrating the Need and Responding to Critics (Part II)", *Opinio Juris*, 7 April 2025, available at:

<https://opiniojuris.org/2025/04/07/the-growing-imperative-to-recognize-and-codify-gender-apartheid-demonstrating-the-need-and-responding-to-critics-part-ii/>

⁶ Elizabeth Langston Isaacs, "The Mythology of the Three Liars and the Criminalization of Survival", 42 *Yale Law & Policy Review* 2 (2024).

research is about the system failing victims by accident and not a government written law.

Nobody has combined these two ideas of “criminalization of survival” and applied it to a place where the *government itself* wrote that survival is illegal. This is done in recently formulated and implemented Afghanistan's Decree 12 and Decree 18. That is the research gap that this paper will be filling in.

3. RESEARCH METHODOLOGY

This study is a legal and social research project that combines two methods. It studies the actual laws and decrees of the Taliban such as the PVPV Law of 2024 and Decrees 12 and 18 of 2026. It uses data from trusted international sources mainly UN Women, OHCHR plus academic papers and treaties like CEDAW and the ICCPR.⁷ The study covers the period from August 2021 to 2026 and focuses on women's autonomy and access to justice. It has limits. We cannot visit Afghanistan or interview women directly so we rely on reports and surveys that may undercount violence. Some data could not be collected because it was unsafe. We use three standards from international law to analyze the findings which are legality meaning laws must be clear and fair, equality meaning men and women have the same rights and protection from gender-based violence. These standards come from the treaties and UN reports we studied.

4. DISCUSSION AND ANALYSIS

Analyzing Statutory Provisions

The one aspect that have remained consistent is that were less inclined to draft a constitution or enact laws that would guide their government and facilitate the functioning of an effective bureaucracy. The Taliban don't run a normal country with a normal constitution. Their basic idea is that the God's law which is the sharia and Hanafi fiqh is stated as the supreme law of the land. A report by International IDEA that looked at their old 1990s laws found that most of their laws don't even bother telling people their rights. Out of 32 old laws they studied, 30 were just lists of duties that people were obligated to do and only 2 were about rights.⁸ While

⁷ Richard Bennett, Special Rapporteur on the Situation of Human Rights in Afghanistan, “Access to Justice and Protection for Women and Girls and the Impact of Multiple and Intersecting Forms of Discrimination”, U.N. Doc. A/HRC/59/25, 11 June 2025, available at: <https://www.ohchr.org/sites/default/files/2025-06/a-hrc-59-25-auv-1-en.pdf>

⁸ M. Bashir Mobasher, Mohammad Qadam Shah & Shamshad Pasarlay, *The Constitution and Laws of the Taliban 1994–2001: Hints from the Past and Options for the Future*, International IDEA, 2022.

listing punishments use of vague words was common such as "sharia punishment". There was no mention of actual number of years or no fine amount. This matter is taken into consideration because it specifies the Taliban's legal style consisting of vague duties and decided case by case by whosoever in charge.

The Ministry for the Promotion of Virtue and Prevention of Vice, which has existed since the 1990s, was specifically made to police people's behaviour. It was one of the very first things the Taliban brought back the moment they retook Kabul in August 2021.

The Taliban's approach since their return 2021 to power has seen a remarkable departure from that minimal protection afforded to rights in their Constitution as well as a complete backtracking of fundamental rights enshrined in the country's 2004 Constitution. The Taliban didn't pass one big women's law instead they issued decree after decree which stated one restriction at a time. According to UN Women's count, they had issued over 100 decrees affecting women by 2026. Femena separately counted over 130 edicts just from 2021–2024 which have severely restricted the rights of women and girls and suffocated every dimension of their lives. Some example of said edicts are women government workers ordered to stay home (2021), girls banned from school past grade 6 (September 2021), women banned from working at Afghan and international NGOs (December 2022), that ban extended to UN offices (April 2023), beauty salons shut down (July 2023), and quite recently women banned from medical training, including midwifery in December 2024. So even healthcare which was one of the last professions open to women also got cut off.

The Taliban finally wrote all of this into one formal law on 21 August 2024 named as the Law on the Promotion of Virtue and Prevention of Vice (PVPV Law). This is the closest thing to a real "penal code" for daily behavior. The provisions that specifically affect women are highlighted to show how the law intensifies systemic discrimination and control over their lives.

Article 13

This article lays out rigid codes concerning dress and behavior for women stating that they must cover their entire body and face, wear clothes that aren't thin, short or tight. They are flatly forbidden from singing, reciting or speaking loudly in public. The law specifically states that even when forced to leave the house for urgent needs, women are obligated to hide their bodies, faces and voices

Article 20

This article states that no driver is allowed to transport a woman unless she's fully covered, separated from unrelated men, and accompanied by an adult male guardian (a *mahram*). In effect, this article imposes a system of male guardianship that severely restricts women's freedom of movement and consequently also seriously hampers their ability to access education, healthcare, employment, and the enjoyment of a social life.

Article 22

This Article criminalizes a wide range of behaviors, including ones that touch on individual freedoms, ranging from cultural practices such as observing "un-Islamic holidays" such as Nawroz.

Article 23

This article lets enforcers restrict religious minorities from practicing their faith publicly. Hence, making the moral enforcers duty bound to prevent religious minorities living under the Islamic government from openly committing what the authorities deem as "wrongful acts" or un-Islamic.

Article 26

This Article mandates that morality police must refer individuals to a court of law if they fail to perform their core Islamic obligations. It provides a legal mechanism Articles 25–27 and 34–35 put all enforcement power directly under the Amir (the Taliban's supreme leader) with no intervention from judges and no independent check whatsoever on any of it.

On top of implementation of such rigid and inhumane laws, the Taliban has appointed over 3,300 men specifically to enforce these rules and this ministry works *completely outside the normal court system*. This shows that the PVPV regime privatized enforcement by converting male relatives into enforcers of state morality. Decree No. 12 authorises any Muslim man who witnesses an offence to self-policing and surveillance. Mainly husbands and fathers act as unpaid enforcers at home which enforces women's isolation strictly. Men are equally forced if they fail to police female relatives they are on risk to get subjected to beatings or detention. This delegation of authority to private men fails the state's control on legitimate punishment and converts the family into a site of criminal enforcement against women.

Between 21 August 2024 and 31 January 2025 which is after the law was enforced, Afghan Witness documented 130 alleged human rights violations tied to this law, across 16 provinces with 51 incidents where women were the direct victims of arbitrary arrests and intrusive searches in public and at work. UNAMA (the UN mission in Afghanistan) reported an *increase* in public floggings and executions over 2023–24. Female healthcare workers were retracted from vaccination campaigns unless they got a special PVPV travel permit. Women were told not to register for humanitarian aid and forcing male relatives to collect aid on their behalf instead.

Then comes the newest and most important legal development which is yet to be researched and analyzed. The decrees which criminalized the basic survival of women in Afghanistan.

DECREE 12

The Taliban's leader signed this one quietly in January 2026. It wasn't announced publicly and the world only found out about it in March 2026 after a rights group called Rawadari got hold of the original Pashto text and leaked it. That alone tells that even the Taliban didn't want to publicize this law.

It says a husband can only be punished for beating his wife if it leaves a broken bone, an open wound or a visible bruise with the punishment being of just 15 days in prison. Anything less severe covering abuse like psychological or bruise-free physical violence simply isn't a crime under this law. However, the same decree apparently punishes people more harshly for forcing animals to fight than for less severe violence against a wife.

The decree also lets any Muslim man who personally sees an "offence" happen punish the offender himself on the spot with no intervention of a judicial authority. Georgetown University's Institute for Women, Peace and Security spoke directly to women across several Afghan provinces about this law and found that it also removes basic legal protections like the right to a fair trial and effectively lets private individuals monitor and punish each other.

The cruel irony noted by rights groups is that the women in Afghanistan already can't leave the house without a male guardian. So even in the rare case where abuse *is* severe enough to count, a woman still can't get to a judge to report it without a male relative's permission who possibly would be the same relative who hurt her.

DECREE 18

This one was signed in April 2026 and formally published by the Taliban's Ministry of Justice on 14 May 2026. However, this law demonstrates a vast difference theoretically and practically. A "divorce law" on paper which lays out how a woman can apply to a judge to separate from her husband is entirely different in practice and the three UN bodies (UNAMA, OHCHR, and UN Women) have all separately warned it does the opposite of protecting women.

The stark difference is in the procedure of divorce for a man and a woman. A husband can still divorce his wife whenever he wants with no court involved. On the other hand, a wife has to go through a restrictive legal process just to get permission to leave. UNAMA's Deputy Special Representative called it part of "a broader and deeply concerning trajectory" of stripping Afghan women's rights.

The most alarming part which was flagged by a group of UN human rights experts is what it does for child marriage. Before the Taliban returned, Afghan law required a minimum marriage age and banned forced/child marriage. However, decree No. 18 changed that to setting no minimum age at all. Instead, it only allows a girl to ask for the marriage to be cancelled *after* she reaches puberty. It treats a girl's silence as if she agreed to the marriage. The UN experts said this makes it "almost impossible for girls to report or act on domestic abuse."

This isn't abstract. A human rights piece on this decree documented the case of a 15-year-old girl in Daikundi province who was repeatedly beaten by her husband and had no legal way to leave. She died the same month. This decree gave child marriage a firmer place in Afghan law.

Decrees 12 and 18 criminalize survival by punishing the acts through which women escape harm. Decree No. 12 removes equality before the law by placing husbands in legal authority over wives and criminalizing domestic violence only when it causes visible injuries. Decree No. 18 makes leaving a marriage far harder while preserving men's divorce and implicitly permitting child marriage. These decrees have made resistance and basic survival of women itself an offence. Basic human rights such as seeking divorce, resisting violence or refusing marriage invite criminal liability. Whereas, the violence driving those acts is decriminalized hence, trapping women inside the institutions that punish them.

The implementation of these harsh decrees has caused a severe negative impact on Afghan women. UN Women's most recent survey (April–May 2026) found that a typical Afghan woman now leaves her house once or

twice a month in comparison to every day for men. 90% women need a male relative's permission just to leave home. 7 in 10 women describe their mental health as "bad or very bad." That's the human cost behind these decrees and statutory provisions.

Statistical Analysis

Statistically analyzed, the impact of the regime has been a systematic gendered contraction across all dimensions measured. In 2024, women's labor force participation stood at 24 per cent versus 89 per cent for men and in 2026 only seven per cent of women had jobs (versus 84 per cent for men) which is one of the world's widest gender gaps in the workforce. The rate of young women not in education, employment or training was 78 per cent, almost four times the 20 per cent rate for men. Financial exclusion worsens this dependency: only 6.8 per cent of women had a bank account or used mobile money, compared to 20.1 per cent of men. On the UN Women Gender Index 2024, Afghanistan scored 0.173 on the Women's Empowerment Index and 0.237 on the Gender Gap Parity Index, a gender gap of 76.3 per cent hence placing it second-to-last among 114 countries. Mobility data show confinement in 2025, 88 per cent of men but only 41 per cent of women left home daily and 14 per cent of women left home only once a week and by 2026, 52 per cent of women left home twice a month or less, rising to 62 per cent in rural areas, while 96 per cent of men left daily. Access to justice shows the starkest gap as women are nearly four times less likely than men to access formal justice mechanisms and V-Dem data show women's access to justice dropped to the absolute zero point after the takeover. Nearly 30 per cent of girls under 18 were married in 2023, including 10 per cent under 15.

Interpretation of Empirical Trends

These figures reveal trends and not accidents. First, economic exclusion is deepening over time as the fall from 24 per cent labour force participation to seven per cent employment reflects successive bans on women in the civil service, NGOs, UN entities and beauty salons therefore pushing women into low-paid work. Second, mobility restrictions are tightening as the share of women leaving home daily fell sharply between 2025 and 2026, and rural women are disproportionately confined. Third, the education ban is compounding with girls barred beyond grade six for nearly five years and women excluded from universities and medical training since December 2024. The female secondary completion rate is projected to fall toward zero. Fourth, the psycho social toll is rising. In 2025 close to 75 per cent of women described their mental health as bad or very bad, and in 2026, 65 per cent of women said their lives had turned out worse than expected with 70 per cent of

those reporting increased pressure to adjust their behaviour saying their mental health had worsened. Fifth, child marriage is rising as families marry off daughters as a survival strategy. These trends are the direct result of policies imposed by the de facto authorities and not incidental hardship.

Critical Evaluation of Legal Shortcomings

The regime's legal architecture fails on every benchmark. On legality, the Taliban place sharia at the apex of their legal order without codifying or publicising it. Historically, Taliban courts were ordered to decide cases solely on uncoded Hanafi fiqh. The PVPV Law's vague offences, such as women speaking loudly or wearing dress deemed too thin or tight or giving power to individual inspectors and the operation of PVPV ministry outside the judicial system with no judicial review or remedy. On equality, Decree No. 12 removes equality between men and women before the law and places husbands in legal authority over wives contradicting the guarantee of Article 22 of the 2004 Constitution and of CEDAW. On protection, the EVAW Law's criminalization of 22 forms of violence was suspended, and Decree No. 12 now criminalizes domestic violence only when it causes visible injuries. With no women judges or registered lawyers and courts that reject women's complaints, the system provides neither remedy nor deterrence. In conclusion, the regime criminalizes women's autonomy while decriminalizing violence against them.

5. FINDINGS

The study finds that Afghanistan's post-2021 legal order has shifted from informal restriction to formal codification of gender discrimination. Decree No. 12 sets the threshold for punishable domestic violence at a broken bone, open wound or visible bruise which carries only fifteen days' imprisonment.⁹ It is also letting private citizens punish alleged offenders without judicial process.¹⁰ Decree No. 18 preserves a husband's unilateral right to divorce while forcing wives through court procedures. Allowing a girl to challenge her marriage only after puberty which implicitly sanctions child marriage. Since women already need male-guardian permission to leave home, both decrees close the ways through

⁹ Tushit Pandey, "Bones Must Break Before It's a Crime: Inside Afghanistan's New Taliban Penal Code", *LawStreet*, 7 July 2026, available at:

<https://lawstreet.co/international/bones-must-break-before-its-a-crime-inside-afghanistans-new-taliban-penal-code>

¹⁰ "Taliban's New Penal Code Legalizes Domestic Violence Against Women", *JURIST*, 24 February 2026, available at: <https://www.jurist.org/news/2026/02/taliban-new-penal-code-legalizes-domestic-violence-against-women/>

which abuse could otherwise be escaped turning the family into a site of enforcement rather than protection.

6. RECOMMENDATIONS

UN Women, UNAMA and OHCHR should continue to monitor Decrees 12 and 18 in a coordinated public way in an effort to maintain diplomatic pressure and to build an evidentiary record for future accountability. Humanitarian and legal-aid actors should expand informal, community-based safe-reporting channels for women as formal courts remain inaccessible without male-guardian consent. Targeted sanctions frameworks could nudge the de facto authorities toward repealing provisions inconsistent with CEDAW and customary international law. Donors' ought to give priority to funding for Afghan women led documentation groups such as Rawadari and Afghan Witness whose fieldwork remains the primary source of verified information in absence of independent monitors inside the country.

7. CONCLUSION

This study has shown that Afghanistan's post-2021 legal order has moved beyond restricting women's public life toward criminalising the acts through which they might escape harm. Decree No. 12 protect the offenders of domestic violence from punishment by demanding visible injury while Decree No. 18 keeps divorce easy for men and difficult for women and leaves room for child marriage to continue. Together, these decrees close off legal exits at the exact moment international attention has turned toward accountability with UNAMA and UN Women publicly warning that the situation is worsening rather than stabilizing.² Unless coordinated diplomatic steps are not taken, future decrees are likely to further worsen this framework. Hence, making the criminalization of survival a lasting feature of Afghan law.