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**The Systematic Violation of Women's Human Rights in the Islamic Republic of Iran
and Afghanistan and its correlation with US Foreign Policy**

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‘Human rights are interdependent and indivisible’.

(Alenna Douhan, UN Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, 2022)

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INTRODUCTION

Object and motivation

Throughout history, women have faced discrimination and inequality in various areas of life, including education, employment, politics, and social norms. The struggle for gender equality and recognition of women's rights has a long and ongoing history, and despite the significant progress in the fight for women's rights, gender inequality still exists in various forms. Women continue to face discrimination and violations of their rights, remaining a critical issue worldwide, especially in certain countries.

“Islamic Republic of Iranian woman dies ‘after being beaten by morality police’ over hijab law¹” “Afghanistan: Taliban ban women from universities amid condemnation”.²

Those are some of the abundant headlines the international public opinion has been reading throughout the recent years; making them to acknowledge how Iranian and Afghan women have been losing their human rights in their respective states. It is a reality that both countries have consolidated autocratic regimes with very conservative measures and heavily impacted by the most radical faction of Islam, resulting in significant consequences for women rights. Women have been oppressed and discriminated losing human rights such as access to education, freedom of marriage or medical attention, and the fight for their rights is a critical defy for these countries.

Even though both countries have different histories, they share a common aspect: they have been in the spotlight of the United States' foreign policy and economic interests. The Islamic Republic of Iran and Afghanistan are very rich in natural resources, in petroleum, something which has made the US and other Western powers fight for the control of those states since the discovery of those sources. For all the above this Final Dissertation Project aims to devolve into the US influence in the current human rights situation of women in both Iran and Afghanistan.

Research question and hypothesis

Hence, the present Final Dissertation Project purports to give an answer to the following research question:

Has US foreign policy determined the current political situation in Islamic Republic of Iran and the Islamic Emirate of Afghanistan where the human rights of women are systematically violated?

The hypothesis that will guide this analysis established that the foreign policy designed and practiced by the US in both states has had direct impact in the economic situation as well as the public opinion and social and political structures of both States since the 20th century.

¹ Strzyżyńska, Weronika. 2022. ‘Iranian Woman Dies “after Being Beaten by Morality Police” over Hijab Law’. The Guardian, 16 September 2022. <https://www.theguardian.com/global-development/2022/sep/16/iranian-woman-dies-after-being-beaten-by-morality-police-over-hijab-law>. (Viewed 04/03/2023).

² BBC News. 2022. ‘Afghanistan: Taliban Ban Women from Universities amid Condemnation’. BBC, 20 December 2022. <https://www.bbc.com/news/world-asia-64045497>. (Viewed 04/03/2023).

This foreign policy, where the use of sanctions as a pivotal tool will be highlighted and where invasions and support to coup d'états have also been important, has arguably led to the formation of autocratic and conservative governments which have implemented measures and practices incompatible with the internationally recognised human rights of women.

Methodology, objectives and structure

This dissertation follows a deductive- analytical methodology primarily based on the review of academic articles and international instruments to serve the analysis of the events which have taken place on Iran and Afghanistan in relation to the situation of women in those countries. To this end, both primary and secondary sources of information have been used. Most notably reference has been made to the works of the United Nations Human Rights Council and reports by the Committee on the Elimination of Discrimination against Women. Additionally, this analysis is also based on the analytical review of academic and opinion essays from acknowledged scholars in International Law, international and regional newspapers, and reports from non-governmental organizations such as International Amnesty and Red Cross. Other primary on International Human Rights Law have been used such as, The International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of all Forms of Discrimination Against Women or the Cairo Declaration among others.

The method followed matches the objectives established for this Final Dissertation Project. To start, a research through encyclopaedias, international and regional newspapers, and official papers on the history of the bilateral relations of Iran and Afghanistan will be made aiming at better understanding the roots of their relations and US implication in the shaping of the national politics of both countries. Once that information is recompiled in the first chapter of this project, a study will be made regarding the applicable international law in these Islamic countries concerning women rights and taking special note of the conventions these countries have signed in order to examine the international commitment of the States to the human rights of women in the second part. Next, in the same part, it is intended to engage in a deep study on the situation of women in Iran and Afghanistan. To this end, UN reports and other official sources will be considered. Consequently, by using the applicable international conventions, the purpose is to highlight the breaches of the relevant international human rights obligations. To continue with the investigation, the last two chapters will research about the US foreign policy on both countries and how they have been affected by it, relating it to women's issue and the rise and perpetuation of the current regimes on both countries. The objective is to observe if US foreign policy has some relation with the appearance and enduringness of radical governments which violate women's rights, and thus affirm or refute the hypothesis in the final conclusions.

PART 1: US HISTORICAL TIES WITH IRAN AND AFGHANISTAN

In order to comprehend the relation between the imposition of US sanctions and the systematic disregard for women's human rights in Afghanistan and the Islamic Republic of Iran, it is crucial to examine the historical background of both nations, and their ties with the American country. Both nations have very different histories but their geopolitical and economic interests which have influenced their relations with United States, which has approached some foreign policies which have affected directly to the current political and social situations both countries are facing.

I. HOW THE US INFLUENCED THE ISLAMIC REPUBLIC OF IRAN'S POLITICAL SITUATION UNDER ITS INTERESTS ON NATURAL RESOURCES

It is important to highlight the Islamic Republic of Iran is the second-largest country in size in the Middle East after Saudi Arabia; and in population after Egypt, being the world's most Shia Muslim populous, affecting its traditions and customs specially on women's matter. This country has an influential role in the region and beyond.³

The relationship between the Teheran and the Washington has been characterized by a long and complex history, ranging from periods of cooperation and friendly ties to periods of tension, conflict, and diplomatic strains, such as most notably the hostage crisis, which have affected the human rights situation. Arguably, these relations are related on the degree in which the US interests have been satisfied and how his global hegemony has been threatened.

United States was not interested in Persia⁴ until 1908 when Great Britain discovered the large oil reservoirs the region owned. Great Britain made considerable benefit from Persian oil provisions by the foundation of the Anglo-Persian Oil company generating a huge profit from which it just shared a 16% with Persia. This situation generated an extensive discomfort among the Persian population and government, provoking nationalist tendencies which are still alive influencing the country's politics.⁵

The Persian society was not willing to tolerate anymore the big forces making fortunes with its petroleum, as in addition to Great Britain's oil company, Great Britain and the Soviet Union had occupied Persia for six months to exploit its natural resources and ensure their supply for the Allied forces fighting against Germany in North Africa and the Middle East.⁶

Consequently, the nationalist ideologies reached the national assembly, and in 1951 the Persian parliament approved the nationalisation of the British Oil Company and elected Mohammad Modasseq as prime minister. This nationalist leader governed for two years with the country blocking the British and Soviet oil companies and threatening the special interest

³ CIA. 2023. 'Iran'. Cia.gov. 5 2023.

⁴ Persia was the predecessor of the Islamic Republic of Iran. This region was not constituted as Iran until 1935, when Reza Pahlavi decided to change the official name of the Persian Empire. Later in 1979, after the Iranian Revolution, the Islamic Republic of Iran was declared.

⁵ Abrahamian, Ervand. 2018. A History of Modern Iran. 2nd ed. Cambridge: Cambridge University Press.

⁶ Kinzer, Stephen. 2011. All the Shah's Men: An American Coup and the Roots of Middle East Terror. John Wiley & Sons.

the United States, Great Britain and other powers had in its strategic location and vast oil reserves.⁷

For this reason, as the professor and activist Mansoureh Ebrahimi explains, the American and British intelligence services (CIA and MI16 respectively) planned a coup d'état to depose president Modasseq. The CIA began a disinformation campaign with anti-Modasseq propaganda, buying off Persian press with bribes, recruiting allies among the Islamic clergy and convincing the shah that Modasseq was a threat.⁸ The first coup d'état attempt failed as the prime minister fought it back, but Roosevelt's intentions were not appeased and orchestrated a second coup d'état which finally succeed in 1953.⁹ Modasseq was deposed and placed on trial, and the Shah Mohammad Reza Pahlevi returned to power with its Prime Minister Fazlollah Zahedi. They governed the country during twenty-five years with the so-called White Revolution with pro-Western policies as a true ally of the US in the Middle East.¹⁰

During these decades the US and British oil companies benefited from the political change while the shah received massive US aid that he used to modernize the economy and to expand the military. Even the political agenda improved women's rights and increased the standard of living, those benefits were not distributed evenly, and this 'modernisation' was symbolic as the government was not democratic and human rights were violated.¹¹

These policies of the US imposed government increased the people's discontent sparking into the Islamic Republic of Iranian Revolution in 1978 – 1979. Massive demonstrations brought together Islamic Republic of Iranians across many different social groups who revelled to bring down the shah and overthrow the state controlled by the US. Under this movements the main tendencies were Islamist (Islamist, Marxist-Islamic, Democratic-Islamic), anti-imperialist and Marxist-Leninist (Fada'i, Tudeh, Maoist, Trotskyist, and others), the opposed ideologies to the US in a Cold War Scenario.¹²

These massive protests were violently repressed with bloody shootings, but the revolutionary movement grew. In January 1979 the Shah and his family fled to the US and in February Ruhollah Jomeini, the opposition leader to Pahlevi who was on exile, returned to Islamic Republic of Iran and effectively ended with the Shah's regime. Some months later, in April he declared the Islamic Republic of Islamic Republic of Iran values and named himself

⁷ Abrahamian, Ervand. 2018. *A History of Modern Iran*. 2nd ed. Cambridge: Cambridge University Press.

⁸ Yusoff, Mansoureh Ebrahimi Kamaruzaman. 2011. *The Aftermath of Coup d'Etat Against Mohammad Mosaddeq of Iran in 1953: Reflections from British Documents*. TAWARIKH: International Journal for Historical Studies.

⁹ Wu, Lawrence, and Michelle Lanz. 2019. 'How the CIA Overthrew Iran's Democracy in 4 Days'. NPR, 7 February 2019. <https://www.npr.org/2019/01/31/690363402/how-the-cia-overthrew-irans-democracy-in-four-days>. (Viewed 10/03/2023)

¹⁰ Muzaffar, Muhammad. 2018. 'Muhammad Reza Shah Pahlavi Reign: An Analysis of White Revolution'. *Pakistan Languages and Humanities Review* 2 (II): 1–12. [https://doi.org/10.47205/plhr.2018\(2-ii\)2.1](https://doi.org/10.47205/plhr.2018(2-ii)2.1).

¹¹ The Editors of Encyclopedia Britannica. 2023. 'Mohammad Reza Shah Pahlavi'. In *Encyclopedia Britannica*. Accessed 5 June 2023 <https://www.britannica.com/biography/Mohammad-Reza-Shah-Pahlavi>

¹² Edition, Viewpoints Special. n.d. 'The Iranian Revolution at 30'. Mei.edu. Accessed 16 May 2023. <https://www.mei.edu/sites/default/files/publications/2009.01.The%20Iranian%20Revolution%20at%2030.pdf>.

the religious and political leader for life. He followed religious and conservative values and repressed the revolutionary movements.¹³

In November 4, a group of Iranian students, aligned with Jomeini's religious agenda, invaded the US embassy in Teheran seizing 52 Americans for 444 days.¹⁴ For their release the supreme leader asked the US to extradite the shah, who was under US asylum for cancer treatment, in exchange for releasing the hostages. This provision was refused by the US president, who brought the case before the ICJ accusing Iran of violating customary law and 1961 and 1963 Vienna Conventions. Even the offence was not orchestrated by the Iranian government, Jomeini's regime perpetuated such acts, and therefore was considered responsible under international law. The court published two opinions, on the first, dated on November 15, the court remarked the inviolability of the diplomatic envoys and embassies and entailed Tehran the obligation to organise the immediate release of the hostages, to allow their safe departure, and restore the embassy compound. However, the Iranian government did not abide with such obligations, and the US attempts to negotiate a release failed. In April 24 of 1980, the US attempted an illegal military rescue operation 1980 (Operation Eagle Claw) with a failed outcome and the death of 9 people. The ICJ published another judgement in May 1980 condemning the US operation, notwithstanding Iran was still violating its obligations. It engaged Teheran's responsibility, remembering the Iranian Government was bound to secure the immediate release of the US hostages, restore the Embassy premises and to make reparation of injury to the US. Iran did not comply with the ICJ's Judgment immediately, and the US froze all the Iranian assets.¹⁵

On July, the former Shah died, and in September Saddam Hussen invaded Iran, making the country more receptive to resolve the crisis acceding to negotiate with the US with Algeria as mediator. Finally, the Algiers Accords were signed in January 1981 and the hostages were released. In addition, this agreement established the Iran-United States Claims Tribunal on the Hague, with the aim to execute claims from both countries.¹⁶

This was the turning point in the US-Islamic Republic of Iran relations, which were deteriorated as the new government's foreign policy, which will dominate since 1979, meant a threat to the US interests. The revolution placed a Shia cleric-dominated regime, which has exercised its rule of law till nowadays, with strong nationalist and secular ideologies opposed to the US who had exploited its oil resources for decades, and therefore with anti-American foreign policies expressing a complete opposition to the existence of Israel; and allied with Iraq, Syria, Lebanon, Yemen and Gaza Strip, seriously threatening the US interests in the region; and in global terms, establishing economic relations with the great US enemies: Russia and China. These ideologies also turned down the western concept of women's human rights, seriously weakening their enjoyment as it will be analysed in this work.¹⁷

¹³ Katouzian, Homa. n.d. 'The Iranian Revolution of February 1979'. Middle East Institute. Accessed 5 June 2023. <https://www.mei.edu/publications/iranian-revolution-february-1979>.

¹⁴ The Editors of Encyclopedia Britannica. 2023. 'Mohammad Reza Shah Pahlavi'. In Encyclopedia Britannica. <https://www.britannica.com/event/Islamic-Republic-of-Iran-hostage-crisis>

¹⁵ United States diplomatic and consular staff in Tehran (United States of America v. Iran). (n.d.). Icj-cij.org. Retrieved 31 May 2023, from <https://www.icj-cij.org/case/64>

¹⁶ United States diplomatic and consular staff in Tehran (United States of America v. Iran). (n.d.). Icj-cij.org. Retrieved 31 May 2023, from <https://www.icj-cij.org/case/64>

¹⁷ Humud and Clayton Thomas, Carla. 2023. 'Iran: Background and U.S. Policy'. <https://crsreports.congress.gov/product/pdf/R/R47321>.

As an outcome, the US has imposed several sanctions on the Islamic Republic of Iran since 1979, which have seriously affected the economy and therefore women's human rights. In the first sanctions, after the hostage crisis, Washington froze all the assets of the government of Islamic Republic of Iran in the United States and under the control of US banks, businesses, and individuals outside the United States, depriving Tehran of the use of more than 12 billion dollars in bank deposits, gold, and other properties. In addition, the Carter administration imposed an embargo on US trade and on travel to Islamic Republic of Iran.¹⁸

Plus, the 22nd of September 1980 the Iraqi armed forces invaded Western part of the country leading to the Iran-Iraq War which lasted till 1988. Jomeini's purpose was to overthrow Saddam Hussein. This conflict was another detachment point between both countries as the US supported Iraq.¹⁹

Finally, Iran accepted Carter's negotiation proposal the 20th of January of 1981, so the Algiers Accords were signed, where Islamic Republic of Iran agreed on releasing the hostages while United States revoked all the trade Sanctions imposed since the beginning of the Hostage Crisis. This provision was not completely accomplished by the US as not all the frozen assets were returned. Five billion dollars were released to repay the debts Islamic Republic of Iran owned to US banks, and another 1.1 billion dollars were transferred to an escrow account held by the Algerian Central Bank to settle claims by Americans against the Islamic Republic of Iranian government; and the assets of the royal family remained frozen. This agreement also created the Islamic Republic of Iran-US Claim Tribunal of The Hague to deal with claims from citizens from both nationalities against the other state.²⁰

Even the agreement was signed, the relations between the US and Islamic Republic of Iran remained severed. In 1985-1986 the Islamic Republic of Iran-Contra scandal was discovered, as the Reagan administration secretly shipped weapons to Islamic Republic of Iran and used the profits to illegally finance the rebels in Nicaragua. In addition, in 1988 an American warship shot down an Islamic Republic of Iranian passenger plane killing the 290 civilians on board who were pilgrimaging to Mecca. The US alleged the plane was mistaken for a fighter jet, but the bilateral relations were worsened.²¹

During the late 1990s a new front was opened, as the US accused Islamic Republic of Iran of the Proliferation of nuclear weapons for the sponsorship of terrorism. Therefore, the US

¹⁸ 'Timeline of U.S. Sanctions'. 2023. The Iran Primer. 27 April 2023. <https://iranprimer.usip.org/resource/timeline-us-sanctions>.

¹⁹ 'U.S. Involvement in the 1980s Iran-Iraq War: America's Haphazard Extension of Gulf Insecurity'. 2018. The Yale Review of International Studies. 3 December 2018. <http://yris.yira.org/comments/2729>.

²⁰ The. 1981. 'Text of Agreement between Iran and the u.S. To Resolve the Hostage Situation'. The New York Times, 20 January 1981. <https://www.nytimes.com/1981/01/20/world/text-of-agreement-between-iran-and-the-us-to-resolve-the-hostage-situation.html>.

²¹ 'Irán y Estados Unidos Entre 2009 y 2018'. 2018. Unisci.Es. 26 November 2018. <https://www.unisci.es/iran-y-estados-unidos-entre-2009-y-2018/>.

Encyclopedia Britannica. Viewed 22 de march 2023, de https://www.britannica.com/event/Islamic_Republic_of_Iran-Contra-Affair

imposed new sanctions on Islamic Republic of Iran including an embargo which prohibited the US firms to trade or invest with Islamic Republic of Iran.²²

Even the US was the pioneer in imposing economic coercive measures over Iran, it was not the unique country doing so. Later, specially at the beginning of the 2000s, other Western countries joined the imposition of sanctions to condemn Iran's support on terrorist organisations and its nuclear program, not complying with the international obligations from the Non-Proliferation Treaty which had acceded in 1967. Later, in the early 2000s with the IAEA indicators of Iranian work on uranium enrichment, the United Nations and the European Union joined the sanctions, blocking the country's access to nuclear-related materials and economic block on the Iranian government, seriously worsening the economic situation of Iran and its population's access to basic goods.²³

As the US coercive diplomacy attempts to limit the Islamic Republic of Iranian nuclear power were not effective, in 2015 Obama Administration pursued a dual track strategy imposing stronger economic pressure on Islamic Republic of Iran forcing it to negotiate an agreement, the Joint Comprehensive Plan of Action (JCPOA) which limited Islamic Republic of Iran nuclear capabilities to the civilian energy use and in exchange the US lifted the sanctions. During the period between 2015 and 2018 the tensions were calmed till the election of Donald Trump.²⁴

In 2018 Donald Trump was elected so he pulled out the agreement and reinstated the sanctions, causing the fall of the Islamic Republic of Iranian economy and the block of humanitarian aid. As a response to those sanctions and break of the JCPOA agreement, the Islamic Republic of Iran escalated its regional military activities with some direct military conflict with the United States. The tensions continued till 2020, when Islamic Republic of Iran attacked to the US embassy in Iraq, and the US killed Qassem Soleimani. During this point, Islamic Republic of Iran continued with its nuclear proliferation and overcoming the limits established in the JCPOA.²⁵

Biden's administration considered Trump's Islamic Republic of Iran Policy as a 'dangerous failure' and offered it to reinstate the diplomatic relations by re-joining the JCPOA. Islamic Republic of Iran refused to engage with the USA till it decreased its sanctions pressure. Nowadays the negotiations are still developing.²⁶

II. THE LATE BUT INTENSE PRESENCE OF THE US IN THE ISLAMIC REPUBLIC OF AFGHANISTAN

In contrast, the relations between United States and Afghanistan began some decades later than with Islamic Republic of Iran. Even the diplomatic relations between both countries

²² Laub, Zachary. 2009. 'International Sanctions on Iran'. Council on Foreign Relations. 22 September 2009. <https://www.cfr.org/backgroundunder/international-sanctions-iran>.

²³ Laub, Zachary. 2009. 'International Sanctions on Iran'. Council on Foreign Relations. 22 September 2009. Accessed the 5 of June 2023 <https://www.cfr.org/backgroundunder/international-sanctions-iran>.

²⁴ Carla E. Humud, Clayton Thomas. 2023. Iran: Backgroun and U.S. Policy. US Congressional Research Service.

²⁵ *Ibidem*.

²⁶ *Ibidem*.

were established on 1935, the US presence was not relevant until the Soviet Invasion in 1978, as Afghanistan had special relations with the Soviet Union, the great enemy of the US during the Cold War.²⁷

Afghanistan emerged as a classic buffer state between the rivalry within Russian and the British Empire, which was in control of India. Both empires fought to control this region for political ideologies and commercial influence. Once the Afghan independence from Great Britain took place in 1919, the Soviet Union had a special friendship with the new-born state as in the independence they signed a treaty of friendship with the Bolshevik regime, causing a certain economic dependence in the USSR.²⁸

The Afghan region is of great interest, due to its location on the heart of south-central Asia, and its borders with Islamic Republic of Iran, Pakistan, China, Turkmenistan, Uzbekistan, and Tajikistan. This geographical position is interesting for the creation of energetic (gas and electricity pipelines) and commercial central-Asian corridor. In 2017, China included the country in its new Silk Road.²⁹

In addition, Afghanistan is markedly rich on natural resources. It is estimated this region owns 60 million tons of copper and 1.4 million tons of rare earths such as lanthanum, cerium, and neodymium which are calculated to have a commercial value of 908,000 million dollars.³⁰

Due to its high regard interests, during the 70s this region constituted a dispute scenario within the two main rivals of the Cold War; even though Afghanistan followed a non-alienation policy. Therefore, taking advantage of the rivalry between both powers, Afghanistan received deposits from the United States and the Soviet Union.³¹

In 1978, the Afghan president Daud was killed in a coup d'état supported by the USSR, and a new government was settled following communist tendencies. In December 1979 the Soviet Union occupied Afghanistan, starting a civil war which lasted till 1989. An armed Muslim resistance was formed against the communist Afghan regime operated under the name of 'mujahideen'. This religious armed groups were financed by the US since 1978 as even they

²⁷ 'Iran - Countries - Office of the Historian'. n.d. State.gov. Accessed 5 June 2023. <https://history.state.gov/countries/iran>.

²⁸ Weinbaum, Marvin G., Victor P. Petrov, Louis Dupree, Frank Raymond Allchin, Mohammad Ali, and Nancy Hatch Dupree. 2023. 'Afghanistan'. In *Encyclopedia Britannica*.

²⁹ Pérez Triana, Jesús M. 2021. 'El problemático potencial económico de Afganistán'. *The Political Room*. 2 September 2021. <https://thepoliticalroom.com/el-problematico-potencial-economico-de-afganistan/>.

³⁰ Chandrashekar, T. S. n.d. 'The Great Game over Rare Earth Minerals in Afghanistan'. *Samvada World*. Accessed 5 June 2023. <https://samvadaworld.com/big-block-of-4/the-great-game-over-rare-earth-minerals-in-afghanistan/>.

³¹ Nazif, M., and M. Nazif Shahrani. n.d. 'Resisting the Taliban and Talibanism in Afghanistan: Legacies of a Century of Internal Colonialism and Cold War Politics in a Bufferstate'. *Cloudfront.net*. Accessed 7 June 2023. https://d1wqtxts1xzle7.cloudfront.net/37521921/Resisting_the_Taliban_and_Talibanism_in_Afghanistan-libre.pdf?1430793104=&response-content-disposition=inline%3B+filename%3DResisting_the_Taliban_and_Talibanism_in.pdf&Expires=1686138141&Signature=EDEZ0g2c9YGYwqDYrsP3mCMav~tCk4B3mZ5K7rx6Hfgwu7Z65cJFIhbEMcy6YLjPuZt7kwEv-5nO-SHmj9uvaf-kxkvDgd3ThZtE9c4Y-UKJ62hA2mYANEEIMq~Dqw2PzHeqM4oXYbcXxVE~KRRayJWVLKCWwGZU~mPOrIVcvyRPQYxaAdiKbEnAPnzFQjVyxqtqtrAQ~iOgE8NLFtOcz-HmA4zf1sMLma2vNs7BebzZC1P2Fe1cibdUYCABA5ndUBH9RjkDmPX5FKLncDYM8hoNsm0o8srJh4~vzB9ApCPahXssdrmkYa9m65jicbOt31gu2Rfq7TTGJU47o2n2qA__&Key-Pair-Id=APKAJLOHF5GGSLRBV4ZA.

had different interests, the US saw them as an instrument to strike the foundations of Soviet powers.³²

Within this rebel group, some internal rivalries led to the split of a radicalised group called the Taliban who defended the extreme social control in the name of the religion by the imposition through the military use of force.³³ This radical group consolidated its power and has been the main US enemy since the beginning of the 2000s, and in 2021 seized the power of Afghanistan, establishing an Islamic Republic and committing serious violations against women's human rights which will be analysed in this work.³⁴

Finally, the Soviets withdrew their forces, giving victory to the 'mujahideen'. As it was explained before, the Afghan economy was dependant on the Soviet Union, so when the Soviets were deposed they cut their financial support to the completely devastated country after ten years of war, the Afghan economy was completely collapsed in 1992.³⁵

In that year, the mujahideen created the Islamic State of Afghanistan under the Peshawar Agreements. During the four years this government lasted, there were several intra-rivalries which finally led to its fall in 1996 when the Taliban undertook Kabul and imposed oppressive measures under the Taliban regime. During this period, Osama Bin Laden, an Islamic extremist and leader of the terrorist group of Al Qaeda, was based in Afghanistan and he killed Ahmad Shah Massoud, the commander of the Northern Alliance, the main anti-Taliban coalition. Bin Laden was accused by the United States of planning violent acts and organizing a global terrorist network, however, the Taliban regime refused to extradite him. This position, tensed the relations with the international community, and specially with United States, which in 1999 and 2001 imposed sanctions with the backing of the UN.³⁶

The tension sparked with the terrorist Attacks of September 11 undertaken by the Muslim extremist group al-Qaeda. Repeatedly, the Taliban refused to extradite bin Laden and his associates and to dismantle the terrorist training facilities in Afghanistan. Therefore, the US together with Great Britain launched an intensive bombing campaign against the Taliban to invade Afghanistan which started a war which lasted till 2021. The US objectives were to get Bin Laden, to whom they killed in 2011; to end with the Taliban Regime, something they

³² Barfield, Thomas. 2010. *Afghanistan: A Cultural and Political History*. Princeton, NJ, USA: Princeton University Press.

³³ *Ibidem*.

³⁴ 'From Insurgency to Governance: Who's Who in Afghanistan Today?' 2023. In *The Return of the Taliban*, 72–104. Yale University Press.

³⁵ Ferro, Comunicación Desperta. 2021. 'La invasión soviética de Afganistán y el ascenso de los talibanes'. *Desperta Ferro Ediciones*. 1 September 2021. <https://www.despertaferro-ediciones.com/2021/afganistan-historia-invasion-derrota-sovietica-ascenso-talibanes/>.

³⁶ Maley, William. 2010. 'Afghanistan: An Historical and Geographical Appraisal'. *International Review of the Red Cross* 92 (880): 859–76. <https://doi.org/10.1017/s1816383111000154>.

Cordero, Álvaro. 2022. 'Los talibanes, historia del grupo que domina Afganistán'. *France 24*. 20 August 2022. <https://www.france24.com/es/programas/historia/20220820-los-talibanes-historia-del-grupo-que-domina-afganist%C3%A1n>.

achieved in the same year of the invasion, and to build a new government by fighting terrorism.³⁷

The US troops achieved the fall of the Taliban Regime in November of 2004, and together with the international community, they installed a transitional government and created an international peacekeeping force to maintain security in Kabul. This transitional government was significantly supported by the US and the international community and received support to fight Al-Qaeda and to reconstruct the country with the humanitarian and reconstruction assistance. In this year, the government approved a constitution which included the enrichment of women's rights and gender equality, creating a Ministry of Women's Affairs and an Independent Human Rights Commission.³⁸

Finally in 2011 Osama Bin Laden was killed and Obama announced the withdrawal plan of American troops within three years, however the operation was difficult, as the Taliban forces were gaining weight and the US withdrawal could mean the restoration of the Taliban Regime. On 2017 Donald Trump won the elections and announced the continuation of the war in Afghanistan as the Taliban were widening their influence. In 2019, negotiations between the US and the Taliban began focused on United States withdrawing its troops in exchange of the Taliban pledging to block the international terrorist groups operating on Afghanistan. The deal was not concluded till 2020, when the US announced its troop withdrawal, which became effective in 2021 when Biden arrived at power. Once the US removed its troops, the Taliban fighters easily overthrew the former government and took Kabul establishing the 'Islamic Emirate of Afghanistan'. The 7th of September of 2021, the Taliban announced an all-male cabinet with many Da'esh and Al-Qaida members included on international sanctions international lists.³⁹

This government is considered *the facto* as other states neither the United Nations recognise it, but it is the only authority exercising effective power over the territory. This regime follows ultra-nationalist, conservative and radical Islamic policies which seriously affect women's rights. They suspended the 2004 Constitution, which defended women's human rights, and they are in the process of drafting a new constitution based on Sharia Law. They also dissolved the independent oversight mechanisms and institutions, including the Afghanistan Independent Human Rights Commission and the Ministry of Women's Affairs.⁴⁰

³⁷ Ferro, Comunicación Desperta. 2021. 'La invasión soviética de Afganistán y el ascenso de los talibanes'. Desperta Ferro Ediciones. 1 September 2021. <https://www.despertaferro-ediciones.com/2021/afganistan-historia-invasion-derrota-sovietica-ascenso-talibanes/>.

³⁸ Farhoumand-Sims, Cheschmak. Nov-2009. CEDAW and Afghanistan. Journal of International Women's Studies, Bridgewater State University. <https://core.ac.uk/download/pdf/48828409.pdf>

³⁹ 2017. 'The U.S. War in Afghanistan'. Council on Foreign Relations. 1 May 2017. https://www.cfr.org/timeline/us-war-afghanistan?gclid=Cj0KCQjwiZqhBhCJARIsACHHEH8153BmbV_Aeepntm043UhePYwEsC63dcpXEtEgshvbah4kna6alEaAoBrEALw_wcB.

⁴⁰ 'A/HRC/52/84: Situation of Human Rights in Afghanistan - Report of the Special Rapporteur on the Situation of Human Rights in Afghanistan, Richard Bennett'. n.d. OHCHR. Accessed 16 May 2023. <https://www.ohchr.org/en/documents/country-reports/ahrc5284-situation-human-rights-afghanistan-report-special-rapporteur>.

III. INTERMEDIATE CONCLUSIONS

All in all, both countries were exploited by imperial powers (by United Kingdom in the Case of Iran and by the Soviet Union in Afghanistan) before the US presence, and therefore lacked of strong democratic and political structures; and the US intervention on the 20th only worsened the situation by imposing a dictatorship in the case of Iran to exploit its resources, and financing a radical group and a civil war in the case of Afghanistan, creating strong nationalist, anti-western and radical sentiments on the populations. These sentiments ended reaching political power imposing quite autocratic, traditional, and radical regimes which violate women's fundamental human rights as it will be explained in the following section. To solve this, the US imposed strong sanctions on these countries together with other foreign policies which highly affected these countries' economies which were strongly dependent on international trade.

PART 2: AN ANALYSIS ON THE APPLICABLE HUMAN RIGHTS ON IRANIAN AND AFGHAN WOMEN

I. THE END OF STATE-CENTRISM IN INTERNATIONAL LAW

Since its foundation, International Law had been state-centric, as it only contemplated states as subjects of international law and jurisdiction. However, in 1945, after the two World Wars, individuals were included as subjects of international law.

The objectives of the United Nations Charter were to maintain the international peace and security, but it also introduced the first references towards the respect for human rights as its preamble declares: ‘to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small’. As well *Article 1.3* aims at ‘promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion’. In addition, *Article 55.3* it declares the universal respect for human rights without distinction of race, sex, language, or religion.⁴¹

Despite the Charter attempt to introduce human rights as a sort of constitutional concern for the international community, the real turning point in the so-called humanization process of international law was the adoption of the Universal Declaration of Human Rights in 1948. Although it does not establish a jurisdiction, the UDHR purports to be as its preamble describes ‘a common standard of achievement for all peoples and all nations’ that goes beyond all other international commitments. It inspired and prepared the basis for more than 60 treaties concerning human rights which are applied at global level; together with numerous regional instruments for the protection of human rights chiefly in Europe, America, and Africa. It is worth highlighting also, for the purpose of this Final Dissertation project that despite this *humanization* reaching all peoples and nations; the Asian region has not yet developed any human rights protection system.⁴²

As a next step, the UN Human Rights Commission produced two major Covenants to establish the mechanisms needed to enforce the implementation and use of the human rights law based on the Declaration: the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). They were agreed on 1966 and came into force in 1976.⁴³

The ICCPR is focused on issues as the right to life, freedom of speech, religion, or voting; and created a committee for its supervision: the Human Rights Committee. As Pastor Ridruejo, former judge from the European Court of Human Rights, comments, this committee does not exercise jurisdictional activity, as it cannot dictate mandatory decisions or sentences, but its functions are almost jurisdictional, as it emits reports which accuses the demanded states for vulnerating any of the rights or liberties agreed on the pact. In contrast, Ridruejo highlights

⁴¹ United Nations, Charter of the United Nations, 24 October 1945, 1 UNTS XVI, available at: <https://www.refworld.org/docid/3ae6b3930.html> (accessed 8 June 2023).

⁴² ‘Una guía básica a los sistemas regionales de derechos humanos’. 2017. Universal Rights Group. Universal Rights Group (URG). 6 June 2017. <https://www.universal-rights.org/lac/guias-basicas-de-derechos-humanos/una-guia-basica-a-los-sistema-regionales-de-derechos-humanos/>.

⁴³ *Ibidem*.

the ICESCR, focused on food, education, shelter, and health issues and their international protection mechanisms, simply provides intergovernmental protection mechanisms not providing jurisdictional applications either.⁴⁴

In relation the focus of our study even if these instruments include references to women's rights, the formulation and intent do not go far enough to promote and protect them and ensure women's full presence and participation at national and international level. The UN Charter declared in its preamble the 'equal rights of men and women', being the first international instrument that referred specifically to the equal rights of men and women. In the case of ICCPR and ICESCR conventions, they alluded to 'all peoples' or 'every human', referring to men and women, an advance in comparison to previous treaties or declarations, such as the predecessor of the UN Charter, the Declaration of the Rights of Man and of the Citizen, which merely alluded to men and their rights; including several articles with the clause 'without distinction of any kind, such as...sex', clarifying no discrimination should take place in the enjoyment of such rights.' Additionally, such conventions include a specific article (*Article 3* respectively) stressing the 'equal right of men and women to the enjoyment' of the rights provided on each.⁴⁵ However, without undervaluing such advances, UN Women considers they were insufficient to guarantee their enjoyment, as more specialised mechanisms were needed to solve such complex issue.⁴⁶

Other facts which influenced the creation of the special committee were the absence of women in the drafting of such instruments. Out of the 800 present delegates in the signing of the UN Charter, there were just eight women.⁴⁷ In addition, the ICCPR and ICESCR provide a framework to promote gender equality and non-discrimination, but do not explicitly address quotas or specific mechanisms for female representation, and consequently, as this essay will demonstrate, there are several governments which do not comply with them. Therefore, some scholars consider the dominant definitions and mechanisms of human rights had largely excluded the experiences of women and they had been under-represented, leading to the creation of a specialised instrument for women's rights, which will be analysed in the coming section.⁴⁸

⁴⁴ Catedrático, Emérito, Internacional De Derecho, Complutense Universidad, Del De, Europeo Tribunal, and Derechos De. n.d. 'LA HUMANIZACIÓN DEL DERECHO INTERNACIONAL Y EL ACCESO DEL INDIVIDUO A SUS INSTITUCIONES JURISDICCIONALES'. Dpz.Es. Accessed 16 May 2023. <https://ifc.dpz.es/recursos/publicaciones/29/19/02pastor.pdf>.

⁴⁵ Plattner, M. (1996). The Status of Women Under International Human Rights Law and the 1995 UN World Conference on Women. Kentucky Law Journal. <https://core.ac.uk/download/pdf/232590779.pdf>

⁴⁶ Short History of CEDAW Convention. (n.d.). Wwww.un.org. Retrieved 2 June 2023, from <https://www.un.org/womenwatch/daw/cedaw/history.htm>

⁴⁷ Women, U. N. 2021. 'Gender Equality and the UN General Assembly: Facts and History to Know'. Medium. 14 September 2021. <https://un-women.medium.com/gender-equality-and-the-un-general-assembly-facts-and-history-to-know-75fc32b35dd3>.

⁴⁸ 'The Committee on the Elimination of Discrimination against Women'. 2002. In Human Rights and the UN: Practice Before the Treaty Bodies, 95–123. Brill | Nijhoff.

2.1. The specialised convention and committee on women's human rights

In the early days of the United Nations, it was recognised that women needed a special attention and therefore in 1946 the Commission on the Status of Women was established. This Commission was aimed to prepare a draft declaration combining a single instrument with international standards which articulated the equal rights of women and men. The outcome was the 'Declaration on the Elimination of Discrimination Against Women' and the creation of the Committee on the Elimination of Discrimination against Women in 1979.

The CEDAW is one of the most important and well-known instruments of the United Nations, consisting of a body of 23 independent experts who monitor the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women. The state parties to this convention are legally obliged 'to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise' (*article 2e*), 'to ensure the full development and advancement of women' (*article 3*) and allow the Committee to implement the treaty by reporting to the body on a regular basis. State parties must provide a report of the human right's situation of women in their country each four years, and the Committee gives them observations and recommendations to improve the implementation for the treaty.⁴⁹

It is important to underline that *Article 2 established* a distinguished obligation on states that is to advance the issue of equality of sexes via the inclusion of women's rights on national constitutions and national legislation, to whom many state parties have presented reservations, but Afghanistan, did not present any objection but continues to discriminate women in their national constitutions, providing them inferior rights.⁵⁰

This international treaty has been ratified by 165 states, but there are 22 United Nations member states which have not ratified it.⁵¹ However, several countries which ratified the convention, especially in the Middle East and North Africa region, made some reservations based on the Sharia law or their incompatibility with their national legislation, which have been accused by organisms such as Amnesty International and some states, like Spain, to be incompatible with the objective and purpose of the treaty, and to exempt those states from the essential obligation from the Convention.⁵²

⁴⁹ Women, U. N. 2021. 'Gender Equality and the UN General Assembly: Facts and History to Know'. Medium. 14 September 2021. <https://un-women.medium.com/gender-equality-and-the-un-general-assembly-facts-and-history-to-know-75fc32b35dd3>.

⁵⁰ Raday, F. 2012. 'Gender and Democratic Citizenship: The Impact of CEDAW'. *International Journal of Constitutional Law* 10 (2): 512–30. <https://doi.org/10.1093/icon/mor068>.

⁵¹ 'List of States Parties'. n.d. [Www.un.org](http://www.un.org). Accessed 16 May 2023. <https://www.un.org/womenwatch/daw/cedaw/cedaw20/list.htm>.

⁵² Peter Benenson House. 2004. 'Reservations to the Convention on the Elimination of All Forms of Discrimination against Women Weakening the Protection of Women from Violence in the Middle East and North Africa Region'. Amnesty.org. November 2004. <https://www.amnesty.org/en/wp-content/uploads/2021/09/ior510092004en.pdf>.

The states this investigation is focused on are two exceptional cases, as Afghanistan was the first Islamic Country to ratify the convention with any reservation⁵³, and Iran did not take part in it, as it will be developed hereafter.⁵⁴

2.1.1. The absence of the Islamic Republic of Iran

Islamic Republic of Iran is one of the 22 UN members that has not ratified the Women's Rights' Convention. In 1979, when the Convention was adopted, as explained in the historical context of Iran in the first part of this Dissertation Essay, the Iranian Revolution had just been repressed by Jomeini, who had proclaimed the Islamic Republic of Iran. The post-revolution political chaos together with the economic crisis provoked by the war with Iraq caused the ratification to be considered as a low priority, as Mahnaz Vahdati explains on her article *Women's Political Empowerment and CEDAW: The Case of Iran and Turkey*.⁵⁵

Additionally, the post-revolutionary situation exercised strong suppression over secular and progressive activist international pressure, seriously affecting the feminist movements in the country. Moreover, the Islamist constitution created an institution, the Guardian Council, responsible for verifying the eligibility of candidates for national elections and ratifying the legislation, blocking the access to any progressive legislation or treaty. In fact, on the late 90s, the Iranian women's rights movement was revived thanks to the opening of the political space under Khatami's presidency which sparked a reform movement strengthening the Iranian civil society. Such efforts increased the female positions in deputy and advisory positions to the government, increasing the priority of the empowerment of women, which led to the pass of a bill which acceded on the implementation of CEDAW in May 2003. However, the Guardian Council opposed to its ratification arguing this convention is opposed to the Islamic teachings. They consider CEDAW is against Sharia laws in 40 cases and against national laws in 70 cases., including essential principles on inheritance, blood-money, divorce, testimony, age of puberty, Hijab and polygamy.⁵⁶

Following to this intend, the reformist era came to an end, and the activities of the Iranian civil society were restricted by the ruling conservative section, shutting down the "power" the revolutionary women's movement had achieved.⁵⁷

Because of this historical and political reasons, the Islamic Republic of Iran is not a state party of the CEDAW convention and jurisdiction, and consequently, it will not be possible to examine Iranian case under it. However, since Mahsa Amini's case in September 2022, women's revolution is reemerging and women are protesting for their basic human rights,

⁵³ *Ibidem*.

⁵⁴ *Ibidem*.

⁵⁵ Vahdati, M. (s/f). Women's political empowerment and CEDAW: The case of Islamic Republic of Iran and turkey. Wilson Center. Recuperado el 4 de abril de 2023, de <https://www.wilsoncenter.org/article/womens-political-empowerment-and-cedaw-case-Islamic-Republic-of-Iran-and-turkey>

⁵⁶ 'Why the Iranian Regime Does Not Join the CEDAW?' 2016. NCRI Women Committee. 5 March 2016. <https://women.ncr-iran.org/2016/03/05/why-the-iranian-regime-does-not-join-the-cedaw/>.

⁵⁷ Vahdati, Mahnaz. n.d. 'Women's Political Empowerment and CEDAW: The Case of Iran and Turkey'. Wilson Center. Accessed 2 June 2023. <https://www.wilsoncenter.org/article/womens-political-empowerment-and-cedaw-case-iran-and-turkey>.

gaining an international focus, introducing a possible scenario which will pressure the Iranian government to ratify CEDAW convention and respect women's rights.⁵⁸

2.1.2. *The Islamic Republic of Afghanistan, a particular case*

Afghanistan is a state party of the CEDAW treaty as it signed it in 1980, under the government of Babrak Karmal and its communist rule after the coup d'état. However, due to the years of conflict and unrest which proceeded, it was not ratified till 2003 with the fall of the Taliban.⁵⁹

Kabul's ratification made history across the Muslim world as it became the first Muslim state to ratify CEDAW without any reservation. During that time the Afghan Interim Government was drafting and adopting the new Constitution, where even the Islamic Republic was proclaimed, where the Islamic (Sharia) beliefs and provisions had precedence over any law, the equality principle was included guaranteeing the equal rights between women and men before the law and an independent Ministry for Women's Affairs was created.⁶⁰

Despite some controversies regarding the application of the CEDAW, Afghanistan periodic reviews during the 2004 Constitution regime some advances. In the 2018 report, the Committee welcomed the progress made by the member state through the adoption of some legislative reforms which criminalised sex and labour trafficking, prohibited the so called 'virginity tests', established quotas for the women representation in the parliament and councils, and improved the institutional and policy framework aiming to eliminate the discrimination against women and promote gender equality.⁶¹

However, in 2021, with the fall of Kabul, and the rise into power of the Taliban previously mentioned, the situation has changed drastically, and the CEDAW is not accomplished. Once in power, the Taliban refused the Afghan Constitution of 2004, and barred women from secondary and higher education, established a women's strict dress code, travel restriction and segregation in the workplace enforced through intimidation and inspection. Even the Taliban regime is not recognised by the international community, it is a *de facto* state as it is the only one exercising effective power in the territory, and therefore it must respect all the binding treaties, including the CEDAW. The Taliban regime has stated that they will accomplish with Human Rights once they are recognised by the international community.⁶²

⁵⁸ Baghernia, Niloufar, Haleh Esfandiari, Tito Ambyo, and Will McEniry. 2023. 'Understanding the Protests in Iran: Similar Demands with New Features'. Australian Institute of International Affairs. 7 March 2023. <https://www.internationalaffairs.org.au/australianoutlook/understanding-the-protests-in-iran-similar-demands-with-new-features/>.

⁵⁹ Farhoumand-Sims, Cheschmak. Nov-2009. CEDAW and Afghanistan. Journal of International Women's Studies, Bridgewater State University. <https://core.ac.uk/download/pdf/48828409.pdf>.

⁶⁰ *Ibidem*.

⁶¹ 'Committee on the Elimination of Discrimination against Women: Concluding Observations on the Third Periodic Report of Afghanistan'. n.d. OHCHR. Accessed 16 May 2023. <https://www.ohchr.org/en/documents/concluding-observations/committee-elimination-discrimination-against-women-concluding-1>.

⁶² Aiyub Kadir, M. Yakub, and Siti Nurhaliza. 2023. 'State Responsibility of Afghanistan under Taliban Regime'. Jurnal Media Hukum 30 (1): 1–18. <https://doi.org/10.18196/jmh.v30i1.16020>.

"Recognize us first, then human rights," declared Zabiullah Mujaheed, the Taliban spokesperson.⁶³

2.2. The UNHRC and its concern with the human rights violations

The Human Rights Council is an inter-governmental body which works for the promotion and protection of all human rights in worldwide terms. It is made by two organs, the High Commissioner and the Office, whose role consists in promoting and protecting human rights, helping to empower people, assist governments, and inject a human rights perspective in UN programmes. Each four years and a half the council reports each country's situation through the Universal Periodic Review.⁶⁴ However, when an extraordinary situation takes place, a Special Review is made. On these Reports the situation of the country is analysed, including the situation of the accomplishment or violation of Human Rights, and provides recommendations for its improvement.⁶⁵

Since its foundation it has made three Universal Periodic Review Cycles and is currently working on its fourth cycle, which began in 2022 and will finish in 2027.⁶⁶

2.2.1. The alarming situation of the Islamic Republic of Iran

As a United Nations member state since 1945 is a member of the UNHRC and has provided its corresponding three periodic reviews. Its last Universal Periodic Review corresponded to the Third Cycle and took place on 2019 on the 33rd session; and the fourth UPR Cycle is programmed for 2025.⁶⁷

However, this organism is highly concerned with the current alarming situation on the human rights in the Islamic Republic of Islamic Republic of Iran. The latest Special Report was published on February of 2023; and on the 4th of April of 2023, the Council adopted the resolution 52 in which it declared the extension for the mandate of the special rapporteur on the situation of human rights in the Islamic Republic of Islamic Republic of Iran for one year, due to the widespread and persistent violations of human rights.⁶⁸ In addition and in general terms other special reports have been published analysing the negative impact of the unilateral coercive measures, which have been imposed on Iran, on the enjoyment of human rights. These reports were published under resolution 52 by Alena Douhan a specialised rapporteur on

⁶³ Sifton, John. 2021. 'Afghanistan: Taliban Rights Pledges Raise Concerns'. Human Rights Watch. 18 August 2021. <https://www.hrw.org/news/2021/08/18/afghanistan-taliban-rights-pledges-raise-concerns>.

⁶⁴ Initially the Universal Periodic Review was carried out every 4 years, but on 2011 reform, it was changed to 4 years and a half (Parragraph 3, resolution A/HRC/RES/16/21).

⁶⁵ 'HRC Home'. n.d. OHCHR. Accessed 16 May 2023. <https://www.ohchr.org/en/hrbodies/hrc/home>.

⁶⁶ 'UPR Sessions'. n.d. OHCHR. Accessed 7 June 2023. <https://www.ohchr.org/en/hr-bodies/upr/upr-sessions>.

⁶⁷ 'Ciclos del Examen Periódico Universal'. n.d. OHCHR. Accessed 16 May 2023. <https://www.ohchr.org/es/hr-bodies/upr/cycles-upr>.

⁶⁸ 'Human Rights Council Adopts Eight Resolutions, Extends Mandates on Sale and Sexual exploitation of Children, Iran, Democratic People's Republic of Korea, Belarus, and Syria'. n.d. OHCHR. Accessed 16 May 2023. <https://www.ohchr.org/en/news/2023/04/human-rights-council-adopts-eight-resolutions-extends-mandates-sale-and-sexual?sub-site=HRC>.

sanctions impact on human rights.⁶⁹ As well, the UN Secretary General has published numerous reports on the situation of human rights in the Islamic Republic of Iran, including resolutions 77⁷⁰, 50⁷¹ and 76⁷² since 2001.⁷³

2.2.2. *The Afghan de facto government's serious human rights violations*

The state of Afghanistan as United Nations member party has also provided the corresponding Universal Periodic Reviews which have been published to date. Its third UPR was published in 2018, and the Fourth is dated for 2024.⁷⁴

However, due to the latest events and the rise of *the facto* Taliban government, the UNHRC is deeply concerned with the Human Rights of girls and women and with their targeting by the Taliban. The experts consider the 20 years of progress for their rights has erased since the Taliban takeover. The council has ordered two special reports, one in 2022 and, the latest, in 2023. As it will be analysed in the following pages, these reports present a deep concern with the current situation of human rights, and specially girls and women's, in Afghanistan as they consider they have suffered a significant setback.

In addition, the Human Rights Council established in 2002 a Human Rights Service (HRC) integrated within the United Nations Assistance Mission in Afghanistan (UNAMA) which also report to the High Commissioner about the situation of Human Rights on the country.

2.3. The OIC implication on human rights

Both Iran and Afghanistan belong to the same geographic regions. Even there is not any existing regional human rights protection system and no specific regional organization or body protecting women's rights in Asia, there is an organization for the protection of human rights

⁶⁹ UN Human Rights Council resolution 51/33, *Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Alena Douhan*, A/HRC/51/33 (12 August 2022), available from <https://www.ohchr.org/en/documents/country-reports/ahrc5133add1-visit-islamic-republic-iran-report-special-rapporteur>

⁷⁰ UN General Assembly resolution 77/525, *Situation of human rights in the Islamic Republic of Iran-Report of the Secretary General*, A/77/525 (14 October 2022), available from <https://www.ohchr.org/en/documents/reports/a77525-situation-human-rights-islamic-republic-iran-report-secretary-general>

⁷¹ UN General Assembly resolution 50/19, *Situation of human rights in the Islamic Republic of Iran-Report of the Secretary General*, A/50/19 (31 August 2022), available from <https://www.ohchr.org/en/documents/reports/ahrc5019-situation-human-rights-islamic-republic-iran-report-secretary-general>

⁷² UN General Assembly resolution 76/268, *Situation of human rights in the Islamic Republic of Iran-Report of the Secretary General*, A/76/268 (04 August 2021), available from <https://www.ohchr.org/en/documents/reports/a76268-situation-human-rights-islamic-republic-iran-report-secretary-general>

⁷³ 'Iran (Islamic Republic Of)'. 2021. In *World Statistics Pocketbook (Ser. V)*, 133–133. United Nations.

⁷⁴ Session, 41st, 42nd Session, 43rd Session, 44th Session, 45th Session, 46th Session, and 47th Session. n.d. 'Human Rights Council Universal Periodic Review (Fourth Cycle)'. Ohchr.org. Accessed 16 May 2023. https://www.ohchr.org/sites/default/files/Documents/HRBodies/UPR/UPR_4th_cycle.pdf.

in the Islamic world: the Organization of the Islamic Cooperation (OIC).⁷⁵ It constitutes the second largest organization after the United Nations and counts with a total membership of 57 states, and its aim consists in the promotion international peace and harmony protecting the interest of the Muslim world, and *Sharia law*. Due to the fundamental importance of human rights for the achievement of international peace and harmony, this organisation established some instruments for its control through the adoption of a declaration concerning human rights, and a special commission for the promotion of human rights.

In 1990, the OIC adopted the ‘Cairo Declaration of Human Rights in Islam’, a declaration on the human rights under a Muslim perspective, including among other rights, some women’s rights considering them equal to men with their own civil property and economic independence, and proclaiming all individuals are equal before law. For the control of its implementation, the Independent Permanent Human Rights Commission (IPHRC) was adopted in 2011 as an independent human rights mechanism with advisory competences. In the first year of its creation the Commission identified concrete areas of priority including the ‘rights of Women and Children’ as one of them. This commission is comprised by 18 members which are elected under the principle of equitable geographical representation (six members from each of the three geographical regions) and regarding the gender balance. Such members are nominated by the respective governments and are elected every three years.⁷⁶ However, as Mostafa Alaei declares, this mechanism is not effective as it has not established special procedures and practices and is in a learning process.⁷⁷

The subject countries to this study are state parties of this organization since its foundation in 1969. The Islamic Republic of Iran was elected as a member of the IPHRC in 2020⁷⁸, and in December 2014 this commission published a document analysing the impact of the economic and financial sanctions on the enjoyment of human rights in several countries, including Iran, whose government collaborated in. This document condemns the illegality of such sanctions and their outcomes including ‘shrinking national income’ which ‘reduce the ability of Member States to respect, protect and fulfil human rights of peoples and individuals’.⁷⁹ In the case of Afghanistan, the OIC expressed a deep disappointment over the Afghan Interim Government’s ban on girls’ schools designating it as a regressive and

⁷⁵ The Islamic Republic of Iran is located in Western Asia, and the so-called Middle East, meanwhile the Islamic Republic of Afghanistan is in Southern-Central Asia and does not belong to the Middle East even it connected with it.

⁷⁶ ‘Independent Permanent Human Rights Commission. n.d. ‘IPHRC-the Independent Permanent Human Rights Commission’. [Oic-iphrc.org](https://oic-iphrc.org/home/post/1). Accessed 4 June 2023. <https://oic-iphrc.org/home/post/1>.

⁷⁷ Alaei, Mostafa. 2014. ‘Independent Permanent Commission of Human Rights’. [Ohchr.org](https://www.ohchr.org/Documents/Countries/Cooperation/MostafaAlaei.ppt). 10 June 2014. <https://www.ohchr.org/Documents/Countries/Cooperation/MostafaAlaei.ppt>.

⁷⁸ ‘Iran Elected to OIC Human Rights Commission | Taghribnews (TNA)’. 2020. <https://www.taghribnews.com/en/news/483843/iran-elected-to-oic-human-rights-commission>.

⁷⁹ OIC. 15-16 december 2014. OUTCOME DOCUMENT OF THE OIC INDEPENDENT PERMANENT HUMAN RIGHTS COMMISSION’S (IPHRC) INTERNATIONAL SEMINAR ON “NEGATIVE IMPACT OF ECONOMIC AND FINANCIAL SANCTIONS ON THE FULL ENJOYMENT OF HUMAN RIGHTS BY PEOPLES OF THE AFFECTED COUNTRIES”. OIC.

discriminatory decision and declaring they violate several international conventions, which will be analysed in the following chapter.⁸⁰

It is important to highlight, that even Afghanistan and Iran are Muslim countries and belong to the OIC, they are not Arab countries, and therefore they do not belong to the Arab League. An Arab country consists in that whose majority of population belongs to the Arab ethnic group, and therefore speaks Arab as its first language. In the case of Iran, the majority of its population is Persian and speak Persian or Farsi, a language with Indo-European roots, while the Arab population constitutes just a 2%; and in Afghanistan, the majority is Pashtun, with Persian origins, who speak Pashtun or Dari.⁸¹

II. INTERMEDIATE CONCLUSIONS

INTERNATIONAL APLICABLE LAW ON WOMEN’S MATTER		
	Iran	Afghanistan
<i>ICCPR</i>	✓	✓
<i>ICESCR</i>	✓	✓
<i>CEDAW</i>	✗	✓
<i>CAIRO DECLARATION</i>	✓	✓

Due to the humanization process of international law, there are several international and regional conventions and mechanisms which defend women and girls’ human rights and condemn such violations. Iran and Afghanistan do not belong to any regional mechanisms, as there are not any existing ones on their regions but are part of the international ones and to the OIC regarding their religious culture. Therefore, the applicable legal framework for these issue on these countries which will be analysed in the following chapters are the *ICCPR*, *ICESPR* and *Cairo Declaration*; and in the case of Afghanistan, also *CEDAW*.

⁸⁰ OIC. 2022. OIC-IPHRC Expresses Deep Concerns over the Regressive and Discriminatory Decision of the Afghan Authorities to Ban Women and Girls from Attending Schools and Universities Which Is a Denial of Right to Education and Exposes Afghan Women to Intersecting Discrimination in Contradiction to Islamic Principles and International Human Rights Law. Jeddah: OIC. <https://oic-iphrc.org/home/article/545>.

⁸¹ Isabel Sebastián, ed. 2020b. ¿Por Qué Irán y Turquía No Son Países Árabes? El Orden Mundial. <https://elordenmundial.com/por-que-iran-turquia-no-son-paises-arabes>.

PART 3. HOW THE AFGHAN AND IRANIAN GOVERNMENTS' DECISIONS HAVE DETERIORATED WOMEN'S HUMAN RIGHTS

I. IRANIAN POST-REVOLUTIONARY GOVERNMENT'S REPRESSIVE POLICIES ON WOMEN

1.1. Women's rights and their limits under Sharia Law

‘Repressive enforcement of Iranian hijab laws symbolises gender-based persecution’ (United Nations News, 2023)⁸²

According to the UNHRC special report published in February 2023 and its special rapporteur, Javaid Rehman, the Iranian authorities exercise extreme violence on women and girls under the pretext of the obligatory of wearing of the hijab.⁸³

In August 2022 the Iranian president signed a decree with repressive measures to advocate mandatory wearing of the hijab, for girls over 7 years old, and implement a ‘chastity and hijab’ law. This decree includes a plan to use surveillance artificial intelligence technology to detect women not wearing proper hijabs with financial penalties, banning those women from entering in banks and government offices and taking public transport. In the case of women not wearing hijab, Iran’s Islamic Penal Code establishes a condemn from ten days to two months of imprisonment; and women who incite others to take off their hijab are condemned to be jailed for 10 years and 74 lashes. The Morality Police oversees women who fail to wear headscarves and attires covering their bodies in public and harasses them with arbitrary detentions. On these detentions the Morality Police tortures and gives ill-treatment to the victims by slapping them across the face, beating them with batons, dragging them on the ground, violently pulling their hair to remove headscarves or sexual harassment among others.⁸⁴

One of the most notorious detention cases was Jina Mahsa Amini’s, who was killed the 16th of September 2022 by the Morality Police after her arbitrary detention because of attire issues. This event was the spark of mass protests around the country which gained international attention.⁸⁵ The special rapporteur on Iran informed about the brutal response of the Islamic Republic of Iranian authorities and expressed concern about the continuing violence against women and girls. The 24th of November 2022 the Human Rights Council convened a special session on the ‘deteriorating situation of human rights in the Islamic Republic of Islamic Republic of Iran, especially with respect to women and children’ and adopted the resolution S-35/I, establishing an independent international fact-finding mission with a mandate to

⁸² ‘Repressive Enforcement of Iranian Hijab Laws Symbolises Gender-Based Persecution: UN Experts’. n.d. OHCHR. Accessed 13 May 2023. <https://www.ohchr.org/en/press-releases/2023/04/repressive-enforcement-iranian-hijab-laws-symbolises-gender-based>.

⁸³ A/HRC/52/67: Situation of Human Rights in the Islamic Republic of Iran - Report of the Special Rapporteur on the Situation of Human Rights in the Islamic Republic of Iran, Javaid Rehman’. n.d. OHCHR. Accessed 16 May 2023. <https://www.ohchr.org/en/documents/country-reports/ahrc5267-situation-human-rights-islamic-republic-iran-report-special>.

⁸⁴ *Ibidem*.

⁸⁵ Begum, Rothna. 2022. ‘Iranian Women’s Demands for Freedom Must Be Heard’. Human Rights Watch. 16 November 2022. <https://www.hrw.org/news/2022/11/16/iranian-womens-demands-freedom-must-be-heard>.

investigate the alleged human rights violations related to the protests since the 16th of September, especially of women and children. In addition, on the 14th of December of 2022 the Economic and Social Council adopted a resolution to remove the Islamic Republic of Iran from the Commission on the Status of Women for the remainder of its four years term ending in 2026.⁸⁶

However, the hijab is not the only repressive measure over women imposed by the Iranian authorities. Iranian law does not consider domestic violence as a crime, as it considers it as a private family matter. This law considers domestic violence murders as ‘honour killings’, and therefore with lighter penalties than those for other acts of murder. Even the Iranian government does not report official statistics about honour killings, the academic research indicates an estimation of 375 to 450 honour killings per year. Furthermore, marital rape is legal in Iran, and de facto deters most cases of non-marital rape victims from reporting. Rape victims who denounce rape, can face prosecution by adultery (punished by execution), indecency or immoral behaviour crimes; while the accused rapists can only be convicted with the testimony of four Muslim men witnesses or a great number of a combination of male and female witnesses, making just 20% of the cases be reported. In addition, death penalty is legal in Iran, following the *Hudud* practices which condemn every act against God, penalising fornication, prohibited sexual relations, political dissidence, rebellion, or adultery.⁸⁷

Girls’ Child marriage is also covered under Iranian law. A girl can be legally married at 13 years old, meanwhile a boy at 15, and if her father or grandfather agrees even younger. The age of criminal responsibility is also unequal for men and women, as women are criminally liable over the age of 9, while men over the age of 15; and they enjoy of different rights and punishments, by which women receive harsher punishments including death penalty by the commission of the same crime.⁸⁸

Regarding marriage, men are allowed to have four wives and unlimited temporary wives (*sigheh*), while women can just have one husband and are prosecuted for adultery. If a woman wants to marry, she needs to be virgin, and the consent of her father or grandfather or a court, while men do not; and women can only marry Muslim women, while men do not require that condition. In addition, married women are obliged by *Article 1108* of the Penal Code to always satisfy the sexual necessities of their husband; and a woman cannot get passport without the consent of her husband. Divorce is also different between sexes, as men do not need to cite a reason, while women need their husband to sign a contract and have the right just for some reasons while men don’t. In divorce cases, the child custody is granted for women when the

⁸⁶ ‘A/HRC/52/67: Situation of Human Rights in the Islamic Republic of Iran - Report of the Special Rapporteur on the Situation of Human Rights in the Islamic Republic of Iran, Javaid Rehman’. n.d. OHCHR. Accessed 16 May 2023. <https://www.ohchr.org/en/documents/country-reports/ahrc5267-situation-human-rights-islamic-republic-iran-report-special>.

⁸⁷ ‘A/HRC/52/67: Situation of Human Rights in the Islamic Republic of Iran - Report of the Special Rapporteur on the Situation of Human Rights in the Islamic Republic of Iran, Javaid Rehman’. n.d. OHCHR. Accessed 16 May 2023. <https://www.ohchr.org/en/documents/country-reports/ahrc5267-situation-human-rights-islamic-republic-iran-report-special>.

⁸⁸ ‘Iran’. n.d. Girls Not Brides. Accessed 5 June 2023. <https://www.girlsnotbrides.org/learning-resources/child-marriage-atlas/regions-and-countries/iran/>.

children are under seven, and when they reach the age seven the custody is granted to the fathers.⁸⁹

Likewise on inheritance, women receive the half than men in equal circumstances. If a childless man dies, her wife is just entitled to get one-quarter of the inheritance, and if they have children, one-eighth. In contrast, a widower without children is entitled to inherit one-half, and in the case, it has children, one quarter. In the case of descendants, daughters are entitled to receive the half than sons.⁹⁰

As regards to public life, Iranian law requires compulsory gender segregation in public transportation, public weddings, university classes, schools, and airport, university, and public building entrances. Iran is considered the fifth worst country in political empowerment according to the World Economic Forum's 2022 Global Gender Gap Report⁹¹. Women are not allowed to serve in the highest ranks of Iran's leadership and are prohibited from serving as judges. In terms of economic opportunities, the Global Gender Gap report of 2022 ranked Iran as the second worst country ensuring economic participation of women and because of women's ban to work in some government departments, the legal husband control over women's ability to work. Men are legally allowed to block their wives from working, some employers require husband's consent to hire women; they can also prevent them from traveling abroad and move without the male company. There isn't protection against sexual harassment on the workplace; and women are restricted from around 80 majors including computer science, nuclear physics, business, and English literature. Regarding cultural opportunities, the government censors all cultural materials which inform about women's rights, including publications or movies.⁹²

1.2. An analysis on the violation of Iranian women's human rights

1.2.1. Analysing the Civil and Political rights with the ICCPR

Article 2 of the ICCPR dictates the rights which the signatory parties have recognised must be legislated without any kind of distinction regarding sex, together with *Article 3* which guarantees the equal right of men and women to the enjoyment of civil and political rights. Arguably these two articles are violated by the Iranian government, as its Penal Code legislates different rights for men and women.⁹³

Regarding the mentioned arbitrary detentions for women protesting against the hijab obligations, and the ill treatment they receive; this convention declares on *Article 6* that every

⁸⁹ IHRDC. 2011. 'The Civil Code of the Islamic Republic of Iran'. Iran Human Rights Documentation Center. 19 January 2011. <https://iranhrdc.org/the-civil-code-of-the-islamic-republic-of-iran/>.

⁹⁰ 'Civil Code of Iran (Inheritance)'. n.d. LII / Legal Information Institute. Accessed 5 June 2023. [https://www.law.cornell.edu/women-and-justice/resource/civil_code_of_iran_\(inheritance\)](https://www.law.cornell.edu/women-and-justice/resource/civil_code_of_iran_(inheritance)).

⁹¹ World Economic Forum. 2022. Global Gender Gap Report 2022. https://www3.weforum.org/docs/WEF_GGGR_2022.pdf.

⁹² 'Iran's War on Women'. n.d. UANI. Accessed 16 May 2023. https://www.unitedagainstnucleariran.com/irans-war-on-women?gclid=CjwKCAjwrpOiBhBVEiwA_473dAdBGMpU-Y7JzkVyO4G01Ix9AsngJa-4DSE3IEeGnhyv9kLkXopZqxoCNbEQAvD_BwE.

⁹³ General Assembly resolution 2200A, *International Covenant on Civil and Political Rights* (16 December 1966) available from <https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/ccpr.pdf>

human being has the inherent right to life and must be protected by law against the arbitrary deprivation of life, together with *Article 7* that establishes no human shall be tortured or subjected to inhuman or degrading punishment, and *Article 9* which grants the right to liberty and security of every person condemning arbitrary arrest or detention, and dictating in case of arrest the right for a trial or judicial proceeding.⁹⁴

Article 18 defends the freedom of thought, conscience, or religion of each person; however, the Iranian women are not enjoying from this right, as they are obliged to follow the Muslim religion and its traditions, including the attire, and to marry Muslim men. Moreover, *Article 19* protects the opinion without interference, the freedom of expression, and to receive or impart information and ideas of all kinds; something women are not enjoying of, as they cannot protest against the regime and its sexist policies, women who spread ideas against hijab wearing are condemned to 10 years of prison; and the regime censors all kinds of cultural instruments with Women's Rights information. In addition, *Articles 21* and *22* provide the right of peaceful assembly and association, which are also violated by the state institutions, as the mass repressions show.⁹⁵

The requirements women have, according to the penal code, before, during and after marriage, and the girl's forced child marriages violate *Article 23.3* and its right to marriage with free and full consent; and *23.4* which gives the state parties the obligation to ensure the equality of rights and responsibilities of spouses before, during and after the marriage dissolution.⁹⁶

The right and opportunity to take part in the conduct of public affairs and to have access to the public service of the country provided by clauses *a* and *c* of *Article 25* are breached by the developed above Iranian prohibition to women for participating on the judicial system and on leadership and high rank positions.⁹⁷

And one of the most important articles regarding the gender equality on human rights:

'Article 26. All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.'⁹⁸

⁹⁴ United Nations, Human Rights Council, Situation of human rights in the Islamic Republic of Iran: Report on the situation of human rights in the Islamic Republic of Iran, Javaid Rehman, (A/HRC/52/67), available from <https://www.ohchr.org/en/documents/country-reports/ahrc5267-situation-human-rights-islamic-republic-iran-report-special>

⁹⁵ United Nations, Human Rights Council, Situation of human rights in the Islamic Republic of Iran: Report on the situation of human rights in the Islamic Republic of Iran, Javaid Rehman, (A/HRC/52/67), available from <https://www.ohchr.org/en/documents/country-reports/ahrc5267-situation-human-rights-islamic-republic-iran-report-special>

⁹⁶ General Assembly resolution 2200A, International Covenant on Civil and Political Rights (16 December 1966) available from <https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/ccpr.pdf>

⁹⁷ *Ibidem.*

⁹⁸ *Ibidem.*

Lastly, as all these facts demonstrate, evidently women in Iran are not equal under law to men, and do not receive any protection, but discrimination by the law.⁹⁹

1.2.2. *Analysing the Economic, Social and Cultural rights with the ICESCR*

As the World Economic Forum revealed, *Article 1* of the ICESCR and its right of every human to freely pursue its economic, social, and cultural development¹⁰⁰; *Article 2* and the obligation of the state party to guarantee those rights without discrimination sex; and *Article 3* equal right of men and women to enjoy economic, social cultural rights, are violated. Iranian women cannot pursue their economic, social, and cultural development as due to the public segregation and the need of consent of a male relative imposed by the state, they are excluded from certain places and some degrees, complicating them the access to the job market, and therefore to achieve economic independence; and, in addition, their cultural rights are not respected, due to that segregation, and the government censorship to cultural materials.¹⁰¹

Regarding job opportunities, the discrimination to women in the workplace and the need of father or husband consent seriously violate *Article 6*'s right to work and right to gain its own living by working where freely chosen; and *Article 7*'s right for favourable and just conditions to work including equal wages, safe and healthy working conditions.¹⁰²

The prohibition of women to be in public spaces without the hijab and the gender segregation, together with the prohibition of women to study certain degrees we talked about, go in the opposite direction of *Articles 13* and *15* which guarantee the right of everyone to education, and the right of every individual to take part in cultural life.¹⁰³

1.2.3. *An analysis under the Islamic perspective of human rights with the Cairo Declaration*

Most Islamic states claim the UN Covenants are Western impositions; however, they neither accomplish with the Islamic Declaration they signed. Just the first article of the Cairo Convention, declares the right of equal dignity, rights, and obligations with no discrimination by sex; something the Islamic Republic of Iran is not obeying.¹⁰⁴

The death penalties for women for some crimes, and the deaths as an outcome of the inhuman treatment in the arbitrary detentions for Iranian women protesting for their rights, do not respect the right to live, provided by *Article 2.a* of this convention, which considers life as

⁹⁹ O'Flaherty, Michael, y Liz Heffernan. 1995. International Covenant on Civil and Political Rights. Dublin, Ireland: Round Hall.

¹⁰⁰ World Economic Forum. 2022. Global Gender Gap Report 2022, Insight Report. World Economic Forum.

¹⁰¹ United Nations General Assembly resolution 2200 (XXI), *International Covenant on Economic, Social and Cultural Rights*, A/RES/2200 (16 December 1966), available from [https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F2200\(XXI\)&Language=E&DeviceType=Desktop&LangRequested=False](https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F2200(XXI)&Language=E&DeviceType=Desktop&LangRequested=False)

¹⁰² *Ibidem*.

¹⁰³ Saul, Ben, David Kinley, y Jacqueline Mowbray. 2016. The international covenant on economic, social and cultural rights: Commentary, cases, and materials. London, England: Oxford University Press.

¹⁰⁴ Organization of the Islamic Conference (OIC), Cairo Declaration on Human Rights in Islam, 5 August 1990, available at: <https://www.refworld.org/docid/3ae6b3822c.html> [accessed 3 June 2023]

‘a gift by Allah Almighty’ which must be protected by the State. Under the *Qisas* and *hudud* punishments, the right to life is also not protected, and the State is not protecting female citizens from their arbitrary deprivation of life.¹⁰⁵

The arbitrary detentions because of attire or protests against the regime’s abusive measure towards women, together with the legally permitted *qisas and hudud* practices, violate *article 4*’s right to liberty and security, which prohibit the arbitrary arrest and detention (clause *a*), together with psychological torture and inhuman treatment (clause *b*).¹⁰⁶

Article 5.b declares no marriage can take place without the full and free consent of both spouses, while on Iran women must follow a series of requirements, and forced marriages are abundant; and the *c* clause prohibits all forms of violence or abuse to the spouses, particularly to women, however the Iranian authorities permit the domestic violence and do not consider it as a crime.¹⁰⁷

The core article regarding women’s rights is number 6 which ensures women and men have equal human dignity, rights and responsibilities, women own legal status and financial independence (*a*); together with the state responsibility to take all necessary legislative and administrative measures to eliminate the difficulties for women’s empowerment, access to education, healthcare, employment and job protection and the effective participation in all spheres of life (*b*); and the women and girl protection against discrimination, violence, abuse and harmful traditional practices by the state. These provisions, as it has been explained previously are not fulfilled. In addition, the law which permits girls child marriage is violating *article 7.a* of the convention, which binds the state to take the necessary measures to protect every child from its status as a minor without sex discrimination.¹⁰⁸

Article 9 considers education is a fundamental human right and a state duty to protect it, including the availability to higher education; something which the facts prove is not respected by the Islamic Republic, as women cannot attend education without proper hijab, they are segregated, and they cannot attend to certain degrees.¹⁰⁹

The inherent right to freedom of movement by every human being provided by *Article 11*, is not granted for Iranian women, as their husbands can prevent them from moving or traveling without their consent, they cannot move without a proper hijab, and there are some places they are not permitted to attend due to segregation.¹¹⁰

As it has been explained before, women cannot get their passport without the consent of their husband, contradicting *Article 13* and the right of every human being to get a nationality and prohibiting the arbitrary deprivation of it.¹¹¹

¹⁰⁵ *Ibidem.*

¹⁰⁶ *Ibidem.*

¹⁰⁷ *Ibidem.*

¹⁰⁸ *Ibidem.*

¹⁰⁹ *Ibidem.*

¹¹⁰ *Ibidem.*

¹¹¹ *Ibidem.*

The right to work where each person freely chooses, stated on *Article 14*, is not given for women on the Islamic Republic of Iran as their husbands can ban them from working, and many employers demand women the consent of their husbands to hire them.¹¹²

The prohibition to manifest ideas against the attire norms and the mass repressions, the obligation to wear a hijab, and to marry a Muslim man breach *Article 19* and the right of privacy for every person to live its religion; *Article 20*'s right to freedom of thought, conscience and religion, and its prohibition to use coercion to impair the freely adoption of religion.; and *Article 21*'s right of freedom of opinion and expression without interference. In addition, the arbitrary detentions are protected by *Article 22* which guarantees the right of every person to have access to justices and to a fair and impartial trial.¹¹³

And lastly, *Article 23* provides the right to participate in the conduct and administration of public affairs under equality of opportunity and non-discrimination (b), which is not provided by the Iranian state as women do not have access to high rank positions in the public service; and the right to freedom of peaceful assembly and association, which is neither respected as women cannot associate to protest against the violation of their human rights.¹¹⁴

II. TALIBANS DISCRIMINATORY POLICIES ON WOMEN

2.1. The limited rights of Afghan women

According to the last two Special Reports of the UN Human Rights Council, Afghanistan 's current situation is the following on women human right's matter.

Richard Bennett, the special Rapporteur on Afghanistan, expressed the stunning regression in women and girl's political, civil, economic, social, and cultural rights since the Taliban took power of Afghanistan. Women are disadvantaged in every aspect of their lives and have disappeared from every sphere of public life.¹¹⁵

The Taliban use fear and repressive policies aimed at suppressing communities, and particularly women. They have banned women from nearly all public spaces. Since November of 2022 women have banned the access to the parks, gyms, and public baths. Other measures include, enforcing women to wear hijab covering everything except their eyes for girls over seven years old, stipulating women should stay home unless necessary, revoking its lawyer licence to female lawyers and demanding women not to wear coloured attire. In addition, male

¹¹² *Ibidem.*

¹¹³ *Ibidem.*

¹¹⁴ Organization of the Islamic Conference (OIC), Cairo Declaration on Human Rights in Islam, 5 August 1990, available at: <https://www.refworld.org/docid/3ae6b3822c.html> [accessed 3 June 2023]

¹¹⁵ United Nations, High Commissioner for Human Rights and the Secretary General, *Situation of human rights in Afghanistan: Report of the Special Rapporteur on the situation of human rights in Afghanistan, Richard Bennett**, A/HRC/52/84, available from <https://www.ohchr.org/en/documents/country-reports/ahrc5284-situation-human-rights-afghanistan-report-special-rapporteur>

family members are punishable from women's conduct, influencing men's attitude towards women, and increasing the domestic abuse.¹¹⁶

The adoption of *mahram*, a measure which bans women from traveling without a male family member, has affected nearly all aspects from women's lives, preventing women's access to healthcare and education, earning a living, and escaping from situations of violence.¹¹⁷

Regarding education, girls' secondary education schools have been suspended as it is considered their policies and uniforms do not follow Islamic law and the Afghan culture. As an outcome, around 850,000 girls have been prevented from enjoying their secondary education. Firstly, tertiary education remained open for women, with the condition classes were not taught or attended by men; and finally on 21st December of 2022 they announced the immediate suspension of women from universities.¹¹⁸

Professional opportunities have also been hardly affected, by March 2022 61% percent of women lost their jobs. Women's markets have been closed, female public servants, including lawyers and judges whose titles have been revoked, have been excluded from their public offices, women have been forbidden from working on national and international NGOs; and even they are not forbidden to work in the tertiary sector, all the liberty restrictions women face challenge their working possibilities.¹¹⁹

Due to the evaporation of livelihood, educational and professional opportunities, girl's child marriage has increased significantly; and even the *de facto* government issued a decree in December 2021 banning forced marriage, a minimum age for marriage is not settled, so the regulation is effectless and girls are not protected against this violation of their human rights.¹²⁰

The special rapporteur considers there is a high level of violence against women and girls as the domestic violence counts with no mechanisms for the protection, support, and accountability of victims; and the justice system to deal with those cases is not formal. The *mahram* policy makes difficult for victims to seek for help, especially for women and girls with disabilities. Besides, women human rights defenders have been harassed, detained, and ill-treated or tortured.¹²¹

One of the most serious measures is the restoration of the *Hudud* and *Qisas* punishments from the 1990s Taliban regime. The *Hudud* consists on the claims against God with mandatory punishments of death penalty, stoning and lashing; these practices include adultery and fornication (*zina*), apostasy (*riddah*), waging war against society (*hirabah*), theft (*sariqa*), drinking alcohol (*shub al-khamr*), and slander or defamation (*qadhif*). Whereas *Qisas* consist in

¹¹⁶ 'Afghanistan: Latest Taliban Treatment of Women and Girls May Be Crime against Humanity, Say UN Experts'. n.d. OHCHR. Accessed 16 May 2023. <https://www.ohchr.org/en/statements/2022/11/afghanistan-latest-taliban-treatment-women-and-girls-may-be-crime-against>.

¹¹⁷ United Nations, Human Rights Council, *Situation of human rights in Afghanistan: Report of the Special Rapporteur of human rights in Afghanistan*, A/HRC/51/6 (9 september 2022), viewed from <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F51%2F6&Language=E&DeviceType=Desktop&LangRequested=False>

¹¹⁸ *Ibidem*.

¹¹⁹ *Ibidem*.

¹²⁰ *Ibidem*.

¹²¹ *Ibidem*.

retribution, and the ‘an eye for an eye’ principle which permit murder and serious intentional bodily harm.¹²²

The Taliban suspended the 2004 Constitution dissolving the specialised courts for women, the Ministry of Women’s Affairs. And even the *de facto* government has reinstated the Human Rights and Women’s International Affairs Department within the Ministry of Foreign Affairs, it is not an independent organ.¹²³

Because of these reasons, Afghanistan was ranked as the worst country from the Gender Gap Index of 2022 taking the 146th place, as it got a score of 0.435 out of 1 due to women’s poor economic participation opportunity, political attainment, health and survival, and political empowerment.¹²⁴

2.2. An Analysis on the Deprivation of Human Rights to Afghan Women

These practices suppose enormous violations for the International Conventions protecting human rights to which Afghanistan is a member party, and which the government as a *de facto* authority should accomplish.

2.2.1. Application of the ICCPR to the Afghan Case

As Richard Bennet, the special rapporteur indicates in its report, *Articles 2.1* and *3* from the ICCPR are violated as the government is not respecting all individuals and ensuring equal civil, political rights to citizens regardless their sex.¹²⁵

The inherent right to life for every human being defended on *Article 6* of the ICCPR is not protected with the *Hudud* and *Qisas* punishments; and specially the *zina* doctrine which highly affects women. These doctrines also violate *Article 7* of the same convention as torture and serious intentional bodily harm are permitted, and this article states no human shall be tortured with inhuman treatment or punishment. And the guarantee of *Article 14* and the equal treatment before courts and tribunals has also been violated as women have been excluded from judges and the courts judging them are not independent from the Taliban power.¹²⁶

¹²² *Ibidem*.

¹²³ Alwis, Naheed Farid And Rangita de Silva de. 2023. AFGHANISTAN UNDER THE TALIBAN: A STATE OF “GENDER APARTHEID”? Princeton Spia Afghanistan Policy Lab.

¹²⁴ ‘Terms of Use and Disclaimer’. n.d. Weforum.org. Accessed 16 May 2023. https://www3.weforum.org/docs/WEF_GGGR_2022.pdf.

¹²⁵ United Nations, Human Rights Council, Situation of human rights in Afghanistan: Report of the Special Rapporteur of human rights in Afghanistan, A/HRC/51/6 (9 september 2022), viewed from <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F51%2F6&Language=E&DeviceType=Desktop&LangRequested=False>

¹²⁶ General Assembly resolution 2200A, *International Covenant on Civil and Political Rights* (16 December 1966) available from <https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/ccpr.pdf>

The *mahram* policy, which prevents women from moving without the company of a man is violating *Article 12* of this convention which provides the right of liberty of movement of all the persons.¹²⁷

The right of women to marry just under their free and full consent, provided by *Article 23.3*, is being violated by the forced child marriages which the Taliban regime is not providing the appropriate steps, violating point four of the same article. Child marriages are also violating *Article 24* as Afghan girls aren't enjoying from the measures of protection for their status as a minor.¹²⁸

The suspension from women public servants violates *Article 25* as each citizen has the right and opportunity without any distinction to participate in the conduct of public affairs and to have access to the public service of its country.¹²⁹

Article 26 guarantees the right of all persons to be equally treated under law without any discrimination for the equal protection, and that those laws prohibit such discrimination and guarantee to all persons the equal protection against discrimination, including sex status. The *de facto* regime is strongly infringing this article, as it is exceedingly discriminating women on its laws, prohibiting them from basic rights such as enjoying public spaces, freedom of movement or working.¹³⁰

2.2.2. Application of ICESCR to the Afghan case

As Afghanistan women are not enjoying the same economic, social, and cultural rights as men, *Article 3* from ICESCR is being violated.¹³¹

Article 6 recognises the right of everyone to freely work, something which is not fulfilled by this state, as women are not permitted to work on the public service, and they are facing problems to work in the private sector due to the lack of rights like freedom of movement and attire restrictions, or the prohibition of women to be, and therefore work, on public spaces. In addition, this article includes the provision that the states should take the steps, including vocational and technical guidance and training programmes to ensure employment for all citizens. Afghan women have been suspended from secondary and tertiary education, and therefore the government is not taking the necessary steps to ensure their employment.¹³²

¹²⁷ General Assembly resolution 2200A, *International Covenant on Civil and Political Rights* (16 December 1966) available from <https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/ccpr.pdf>

¹²⁸ OIC. 2022. OIC-IPHRC Expresses Deep Concerns over the Regressive and Discriminatory Decision of the Afghan Authorities to Ban Women and Girls from Attending Schools and Universities Which Is a Denial of Right to Education and Exposes Afghan Women to Intersecting Discrimination in Contradiction to Islamic Principles and International Human Rights Law. Jeddah: OIC. <https://oic-iphrc.org/home/article/545>

¹²⁹ *Ibidem*.

¹³⁰ O'Flaherty, M., & Heffernan, L. (1995). *International covenant on civil and political rights*. Round Hall.

¹³¹ United Nations General Assembly resolution 2200 (XXI), *International Covenant on Economic, Social and Cultural Rights*, A/RES/2200 (16 December 1966), available from [https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F2200\(XXI\)&Language=E&DeviceType=Desktop&LangRequested=False](https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F2200(XXI)&Language=E&DeviceType=Desktop&LangRequested=False)

¹³² United Nations General Assembly resolution 2200 (XXI), *International Covenant on Economic, Social and Cultural Rights*, A/RES/2200 (16 December 1966), available from

Article 10.1 stipulates marriages must take place under free consent of both spouses, something which isn't respected with the girl's forced marriages on Afghanistan. Whereas *Article 12* grants the right of enjoyment of mental health, something which women are not enjoying due to the systematic prosecution they are facing, and all the discrimination and deprivations they are suffering which highly affects their mental health.¹³³

The special rapporteur also defends women's suspension from secondary and tertiary education breaches *Article 13*, which recognises the right of everyone to education, so that every individual is enabled to participate effectively in society. It declares primary education as compulsory and available for all; secondary education shall be available and accessible for everyone, and the equal access to higher education for tertiary education. Taliban regime is not providing an equal access as women are excluded from the educational access.¹³⁴

Article 15.a binds the state parties to recognize the right of everyone to take part in cultural life; something the Afghan authorities are not respecting, as women have forbidden to be in public spaces, including parks, gyms or public baths; and due to the *mahram* policy, women are not able to go by themselves gravely impacting their enjoyment from cultural life.¹³⁵

2.2.3. Application of the CEDAW

Article 2 from the CEDAW Convention declares the principle of equality of men and women in national constitutions and legislation (2.a); the adoption of appropriate legislative measures to prohibit discrimination against women (2.b); and to establish an effective legal protection for the rights of women against any act of discrimination, through competent national tribunals and public institutions (2.c); to refrain from participating in practices of discrimination against women (2.d), and repelling from national penal provisions which discriminate women (g); and to legislate by modifying or abolishing the existing laws and regulations which constitute discrimination against women (2.f). However, the *de facto* government is not legislating against the discrimination of women, but it is legislating discriminating women; and does not ensure national tribunals for the protection of women, and the government measures are violating the principle of equality in legislation.¹³⁶

The Taliban regime isn't guaranteeing the full development and advancement of women, as it not taking particular social, political, economic, and cultural measures; and therefore, it is violating *Article 3* of this convention. In addition, according to *Article 5*, the state

[https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F2200\(XXI\)&Language=E&DeviceType=Desktop&LangRequested=False](https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F2200(XXI)&Language=E&DeviceType=Desktop&LangRequested=False)

¹³³ *Ibidem*.

¹³⁴ United Nations, Human Rights Council, *Situation of human rights in Afghanistan: Report of the Special Rapporteur of human rights in Afghanistan*, A/HRC/51/6 (9 september 2022), viewed from <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F51%2F6&Language=E&DeviceType=Desktop&LangRequested=False>

¹³⁵ Saul, B., Kinley, D., & Mowbray, J. (2016). *The international covenant on economic, social, and cultural rights: Commentary, cases, and materials*. Oxford University Press.

¹³⁶ UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, available at: <https://www.refworld.org/docid/3ae6b3970.html> [accessed 7 June 2023]

parties have the obligation to modify the social and cultural patterns of the conduct of men and women to achieve the elimination of prejudices about the inferiority or superiority of the sexes; however, Afghanistan is behaving in the opposite direction, and is taking measures to establish the male superiority over women, by giving them more rights, and through the *mahram* policy.¹³⁷

The measure of not allowing women to participate on NGOs, together with the one suspending female public servants violates section b and c from *Article 7* which guarantee the participation of women on the public functions of the state and in national non-governmental organizations; as *Article 8* guaranteeing the participation of women in international NGOs.¹³⁸

Article 10 asserts the equal rights of men and women in the field of education, including equal access to studies and achievement of diplomas in pre-school, general, technical, professional, higher education, and vocational training levels. This article also establishes the duty of the states to reduce the female student drop-out rates. By suspending girls and women from secondary and tertiary education, the Taliban regime is grievously breaking with this obligation, as it is not guaranteeing the equal access; and is promoting female student drop-out rates, instead of reducing it.¹³⁹ In addition, this convention ensures the equal rights for women for the access of employment, as the right to work is an inalienable right of all human rights under *Article 11*. This includes same employment opportunities, the right to freely choose profession or employment, equal remuneration and, the right of health and safety protection working conditions. This condition is also violated, as women are not getting equal working conditions, due to the suspension of female lawyer' titles, as well as public civil servant jobs, the suspension for educational access and the difficulties for working in the private sector because of their lack of freedom of movement among other difficulties. In addition, as the special rapporteur indicated, women are facing abuses on their jobs violating the right to protection and safety in working conditions.¹⁴⁰

Article 12 is also violated, as women do not have equal access to health care and family planning, due to the *mahram* policy which obliges them to go everywhere with a man. In addition, the prohibition of being on public spaces for women goes against *Article 13.c* which provides the right to participate in all cultural aspects of life.¹⁴¹

¹³⁷ *Ibidem*.

¹³⁸ *Ibidem*.

¹³⁹ United Nations, Human Rights Council, Situation of human rights in Afghanistan: Report of the Special Rapporteur of human rights in Afghanistan, A/HRC/51/6 (9 september 2022), viewed from <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F51%2F6&Language=E&DeviceType=Desktop&LangRequested=False>

¹⁴⁰ OIC. 2022. OIC-IPHRC Expresses Deep Concerns over the Regressive and Discriminatory Decision of the Afghan Authorities to Ban Women and Girls from Attending Schools and Universities Which Is a Denial of Right to Education and Exposes Afghan Women to Intersecting Discrimination in Contradiction to Islamic Principles and International Human Rights Law. Jeddah: OIC. <https://oic-iphrc.org/home/article/545>.

¹⁴¹ UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, available at: <https://www.refworld.org/docid/3ae6b3970.html> [accessed 7 June 2023]

Regarding legal rights, *Article 15*'s guarantee of equality to women with men before law is not being accomplished, as men do enjoy the right to work, and participate in all aspects of life, while women aren't.¹⁴²

The explained forced marriages are violating *Article 16* from the CEDAW convention, as women are not enjoying the same right to enter marriage and freely choose a spouse.¹⁴³

2.2.4. An analysis under the Islamic perspective of human rights with the Cairo Declaration

The Taliban measures are violating *Article 1* from *Cairo Declaration* as they are not considering equal rights, dignity, and obligations for all their citizens, and they are discriminating a part of their society because of sex reasons.¹⁴⁴

Qisas and *hudud* practices are violating the fundamental right to life protected under *Article 2*; as the duty of the state is to protect it for its citizens, and instead it is promoting it. Under these practices, together with *mahram*, *Article 4* is also violated, as it is the duty of the state to ensure its nationals from bodily harm, and no person shall be deprived from her liberty and/or submitted to physical, psychological, or inhuman treatment.¹⁴⁵

Article 5.b stipulates no marriage can take place without consent from both spouses, and the state should protect them before, during and after marriage in equal terms; and *5c* ensures the state protection for particularly women for any kind of violence or abuse. The *de facto* government is legislating in the opposite way, as is not protecting women from forced marriages, and is taking measures which prompt these abuses with different rights for women than men.¹⁴⁶

The most important article for this subject is the sixth, which stipulates the Rights of Women and, evidently, is utterly breached. Its first point establishes women and men's equal dignity, rights, and responsibilities under law; including women's independent legal status and financial independence. Afghan women are not enjoying this clause as they are treated as second class citizens, with less rights which do not permit them to get financially independent and have a legal status. The second clause state's obligation to take legislative measures to provide the empowerment of women, through the access to education, healthcare, employment with equal remuneration and effective participation in all spheres of life, is also violated in an unsettling way. The *c* section of article ensures the girls and women's protection against all forms of discrimination and violence including traditional practices; a premise which, as it has been explained in the previous paragraphs, is not being obeyed.¹⁴⁷

¹⁴² *Ibidem*.

¹⁴³ «Convention on the elimination of all forms of discrimination against women». 1979. Ohchr.org. 1979. <https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/cedaw.pdf>.

¹⁴⁴ Organization of the Islamic Conference (OIC), Cairo Declaration on Human Rights in Islam, 5 August 1990, available at: <https://www.refworld.org/docid/3ae6b3822c.html> [accessed 3 June 2023]

¹⁴⁵ *Ibidem*.

¹⁴⁶ *Ibidem*.

¹⁴⁷ Organization of the Islamic Conference (OIC), Cairo Declaration on Human Rights in Islam, 5 August 1990, available at: <https://www.refworld.org/docid/3ae6b3822c.html> [accessed 3 June 2023]

As the special rapporteur declared, Afghan girls are taken apart from the educational systems, and therefore they are violating *Article 9* fundamental right to education from the present convention which order the equal access to education and the responsibility of the state ensure it. Furthermore, *Article 11* provides the right of every human to freedom of movement, and to select his or her place of residence; however, the *mahram* policy prohibits the movement of women without the company of a man above 70 kilometres.¹⁴⁸

Article 14 stipulates the right to work for each person, and the obligation of the state to take measures to guarantee it (a), a right women have excluded in the public sector in Afghanistan, and with difficulties in the private sector due to all the rights restrictions women face and hamper their access to work; including the right to safety and security (b), and the small percentage of women who still got a job are suffering high levels of abuse; and the equal wages (c), while in Afghanistan, the female public servants were told to go home and were not paid.¹⁴⁹

Clause a of *Article 18* states that every human shall have the right to live in a safe and clean environment which would foster his or her self-development, and it is the state responsibility to guarantee it. And, after the Taliban take over, the state is fostering an environment which impedes women's self-development because of all the movement, freedom, working and education restrictions; affecting women's mental health and violating the b clause of this article.¹⁵⁰

The suspension of women's judges and lawyers, and of the independent tribunal violates *Article 22.a* and the right for equal access to justice by competent, independent, and impartial tribunals guaranteed by law (b). In the same way that the suspension of female public servants violates *Article 23* and the right of everyone to participate in the conduct of public affairs and to assume public office under the principles of equality of opportunity and non-discrimination. The prohibition of women to take part in national and international NGOs, violates the right of peaceful assembly and association provided by the last clause of this article.¹⁵¹

III. INTERMEDIATE CONCLUSIONS

As these facts demonstrate, women's human rights are strongly violated by the Iranian and Afghan governments. Women's situation in both countries is very similar as their cultural, political and economic rights are nearly absent. In this table we can observe an overall comparison of the situation in both countries

¹⁴⁸ *Ibidem.*

¹⁴⁹ *Ibidem.*

¹⁵⁰ *Ibidem.*

¹⁵¹ Organization of the Islamic Conference (OIC), Cairo Declaration on Human Rights in Islam, 5 August 1990, available at: <https://www.refworld.org/docid/3ae6b3822c.html> [accessed 3 June 2023]

	ISLAMIC REPUBLIC OF IRAN	ISLAMIC REPUBLIC OF AFGHANISTAN
Education	Women are segregated, they must wear a proper hijab, and are excluded from certain majors.	Women are suspended from secondary and tertiary education.
Girls' child marriage	Legal female marriage age is 13 (while male is 15), and younger if father or grandfather agrees.	Prohibited by law, however there is no established marriage age.
Hijab	Legal obligation to wear hijab over age of 7.	Legal obligation to wear <i>Niqab</i> ¹⁵² over the age of 7.
Movement rights	<i>Mahram</i>	<i>Mahram</i>
Public spaces	Excluded from certain places and segregation	Prohibition to be on public spaces except in case of necessity.
Public service	Women are excluded from working in high positions.	Women have the probation to work, in addition they cannot work on NGOs.
Marriage	Women are punished with death penalty from adultery. Men can have four wives and several temporary wives. Women must be virgin before marriage. Men are free to punish their wives under <i>Qisa</i> and <i>Hudud</i> practices.	Men are punishable of their wives acts. Men are free to punish their wives under <i>Qisa</i> and <i>Hudud</i> practices.
Legal rights	Unequal rights and obligations in matter of marriage, divorce, inheritance, and criminal responsibility.	As the Taliban suspended the constitution, and have not drafted the new one yet, it is not clear.

As a conclusion, the situation of women in both countries is alarming, and women rights are systematically violated. However, in Afghanistan the situation is slightly worse than in Iran as Iran policies are more permissive in certain topics than in Afghanistan. Iran allows women to attend secondary and tertiary education (dough with some requirements), and ironically, they even criticized the Taliban from banning women to attend secondary education and offered Afghan women to attend secondary education and University on Iran stressing Women's right to education;¹⁵³ it prohibits women's access to certain places, but Afghanistan prohibits

¹⁵² Similar to hijab but it covers all the face except the eyes.

¹⁵³ Tehran Times. 2022. 'Iran Stresses Afghan Women's Right to Education', 23 December 2022. <https://www.tehrantimes.com/news/480039/Iran-stresses-Afghan-women-s-right-to-education>.

women's presence out of the domestic place in no case except necessity; and, in relation to attire, it obliges women to wear a *hijab* and not a *niqab* as Afghanistan.

Another important highlight is that Iran strongly discriminates women in its legal system, whereas Afghanistan does not, as the Taliban regime has not imposed yet a constitution. But how did Iran and Afghanistan reached to these situations? In the following chapters this dissertation project will examine how the US policies have influenced the political situation in these countries which have led to the systematic violation of women's human rights.

PART 4: US ECONOMIC SANCTIONS ON IRAN AND AFGHANISTAN AND ITS CONSEQUENCES

I. DEFINING THE SANCTIONS PRACTICE

Sanctions are defined by the international community as “coercive measures applied against States, non-State entities or individuals that pose a threat to international peace and security”.¹⁵⁴ As Paz Andrés de Santam María explains, sanctions can only be ordered by particular international organizations with competences in international peace and security, consisting of the United Nations, the European Union and the Organization for Security and Cooperation in Europe (OSCE); from which regarding the topic of this dissertation project, the only organisation which has competence on Iran and Afghanistan is the United Nations.¹⁵⁵

Differently than countermeasures, the UN cannot order sanctions for any illicit act, but only for the illicit actions which breach the main obligations protecting the essential interests of the international community. As *Article 53* of the UN Charter dictates, the Security Council is the only organism with the authority to order sanctions, and no other UN body or state shall adopt sanctions without its authorisation. The General Assembly has the limited competence to discuss those situations which are breaking the international peace and security, and to make recommendations to the Security Council. However, the General Assembly does not have this competence when the Security Council is already discussing this issue; but just in the case this body asks for recommendation, or it is considered the Security Council is not accomplishing its obligation to protect the international peace and security.¹⁵⁶

The Security Council works with a special subsidiary body, the Sanctions Committee, in charge of evaluating the creation of sanctions, their fulfilment and their impact on the affected people. Its resolutions are adopted in the same way as the Security Council, with the veto power of its members.¹⁵⁷

During the Cold War there were not many sanctions due to the rivalry between the US and Soviet Union which projected their rivalry on the Security Council, blocking any resolution. However, after the Berlin Fall, an economic sanctions’ tendency arose extending the traditional concept of international peace and security maintenance, including particular civil conflicts threatening territories’ stability, massive violations of human rights, fighting against international terrorism, and the proliferation of nuclear arms.¹⁵⁸ Under these pretexts, the Committee adopted a special committee for Afghanistan in 2011¹⁵⁹ to combat the Taliban, and

¹⁵⁴ Staibano, Carina, and Peter Wallenstein, eds. 2005. *International Sanctions: Between Wars and Words*. London, England: Routledge. <https://doi.org/10.4324/9780203002421>.

¹⁵⁵ de Santa María, P. A. S. (2020). *Sistema de Derecho Internacional Público*. Thomson Reuters.

¹⁵⁶ *Ibidem*.

¹⁵⁷ *Ibidem*.

¹⁵⁸ *Ibidem*.

¹⁵⁹ UN Security Council, Security Council resolution 1988 (2011) [on establishment of a new Sanctions Committee focusing on the threat from those associated with the Taliban], 17 June 2011, S/RES/1988(2011) , available at: <https://www.refworld.org/docid/4e0c2e092.html> [accessed 7 June 2023]

another for Iran in 2006¹⁶⁰ to combat the nuclear proliferation.¹⁶¹ These committees have adopted some legal sanctions. In the case of Iran, the UN Security Council has implemented several sanctions since 1946. The first sanctions were concerned on resolving the Soviet Invasion (developed at the beginning of this project) and evolved on controlling Iran's nuclear proliferation. In 2015, the UN Security Council declared under Resolution 2231 the end of the sanctions, considering Iran was complying with its responsibilities of the nuclear deal. In the other side, Afghanistan has not received sanctions directly, but for the Taliban. The first sanctions took place on 1999 against the Taliban and Al-Qaida, till 2011 when they were split under UN Resolution 1988, and sanctions were adopted specifically to the Taliban as an armed group considering them 'a threat to the peace, stability and security of Afghanistan'¹⁶², and were updated in 2008.¹⁶³

In the end, all the unilateral sanctions of a state or non-authorized organisation are illicit under international law. However, following that sanctions' tendency several states have taken numerous unilateral sanctions which have seriously worsened the situation on diverse territories; and specially the US under the pretext of the 11s attacks and the fight of counterterrorism.

II. THE CASE OF THE US AND ITS SANCTIONS' POLICIES

2.1. The American Unilateral Coercive Measures

2.2.1. The US Sanctions' imposition on Iran since the Hostage Crisis

The first sanctions the US imposed on Iran and condemned by the International Criminal Court took place in 1979 and were issued on the release of the hostages. However, they just affected the Iranian population and did not have effect on the release. It is questionable whether these sanctions were solely directed for the release of the hostages, and not for the revenge over the regime which had seized its power and influence on Iran, as once the hostages were released, the US did not lift all the sanctions as agreed.¹⁶⁴

After the 11s Al-qaeda attacks on the World Trade Centre, the US has issued an extensive list of around 200 Sanctions on Iran, under the pretext of the Iranian involvement on nuclear proliferation, ballistic missile development, support for terrorist groups and human

¹⁶⁰ UN Security Council, Security Council resolution 1737 (2006) [Non-proliferation], 23 December 2006, S/RES/1737 (2006), available at: <https://www.refworld.org/docid/5821de7d7.html> [accessed 7 June 2023]

¹⁶¹ 'Sanctions and Other Committees'. n.d. Wwww.un.org. Accessed 16 May 2023. <https://www.un.org/securitycouncil/content/repertoire/sanctions-and-other-committees>.

¹⁶² UN Security Council, Security Council resolution 2255 (2015) [on sanctions concerning individuals and entities and other groups and undertakings associated with the Taliban and the threat international terrorism poses to Afghanistan], 22 December 2015, S/RES/2255 (2015), available at: <https://www.refworld.org/docid/568fd2454.html> [accessed 7 June 2023]

¹⁶³ United Nations Security Council. (2023, abril 3). SUBSIDIARY ORGANS OF THE UNITED NATIONS SECURITY COUNCIL. FACT SHEET 2023. Wwww.un.org. https://www.un.org/securitycouncil/sites/www.un.org.securitycouncil/files/subsidiary_organ_series_3apr23.pdf

¹⁶⁴ Fayazmanesh, Sasan. 2008. United States and Iran, the: Sanctions, Wars and the Policy of Dual Containment. Routledge Studies in Middle Eastern Politics. Taylor & Francis Group.

rights abuses.¹⁶⁵ However, again it is questionable if the US dictated these sanctions to protect Iranian's human rights and the promotion of international peace and security, or to protect its own economic and geopolitical interests.¹⁶⁶

These sanctions began in 1995 with a comprehensive trade ban and significant measures isolating the country from international commercial and financial system together by secondary sanctions by other entities and financial institutions. And later in the mid-2000s evolved to a series of executive orders and specific laws creating a broader and complicated framework of prohibitions and bans, which intensified after 2010 by extending them to the energy sector and other key economic sectors, and the designation of asset freezes on the Iranian Central Bank and commercial banks. Even on 2015 the US joined the Joint Comprehensive Plan and lifted some sanctions, in 2018 it withdrew from the agreement reimposing all the lifted sanctions and imposing additional ones. Currently, negotiations are taking place for the sanctions' removal.¹⁶⁷

2.2.2. *The US Sanctions on the Taliban and collaterally on Afghanistan*

The Afghan sanctions are related to the Taliban and not to Afghanistan directly, however, as the Taliban have been in power several times, such sanctions collaterally directly afflict Afghanistan.

Such sanctions date back to 1990 when the Taliban took power and therefore the US began issuing illegal economic sanctions to the Taliban, accusing them of terrorism. However, they were not intensified till the 9/11 attacks, when the US blamed the Taliban Regime to be behind them and labelled them as Specially Designated Global Terrorists (SDGTs) and blocked and seized the assets of the two militant groups and invaded Afghanistan, increasing the sanctions which have lasted for 20 years till nowadays. However, as the US deposed the Taliban regime, those sanctions did not affect directly to the Iranian population.¹⁶⁸

However, in 2021, when the Taliban seized the power again, and established a *de facto* regime, the US increased the sanctions and froze all the Afghan government assets, seriously affecting the Afghan economy and humanitarian situation.¹⁶⁹

2.2. Washington violation of International Law

Even the numerated reasons the United States gives to justify its unilateral measures were true, they do not turn their sanctions legal within the International Law framework, as the UN declares the imposition of such unilateral coercive measure run in contrary of the goals and

¹⁶⁵ Timeline of U.s. sanctions. (2023, abril 27). The Iran Primer. <https://iranprimer.usip.org/resource/timeline-us-sanctions>

¹⁶⁶ Fayazmanesh, Sasan. 2008. United States and Iran, the: Sanctions, Wars and the Policy of Dual Containment. Routledge Studies in Middle Eastern Politics. Taylor & Francis Group.

¹⁶⁷ Douhan, A. (2022). Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Alena Douhan. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/511/85/PDF/G2251185.pdf?OpenElement>

¹⁶⁸ James Dobbins, Andrew Radin, Laurel E. Miller. ay 2022. Engage, Isolate, or Oppose. RAND Cooperation.

¹⁶⁹ VOA News. 2022. 'Explaining US Sanctions against Taliban'. Voice of America (VOA News). 5 February 2022. <https://www.voanews.com/a/ready-explaining-us-sanctions-against-taliban-/6427771.html>.

principles of the UN Charter and weaken the rule of law, world order and the UN authority.¹⁷⁰ The UN considers these measures violate the core principles of sovereignty, non-intervention, self-determination, non-discrimination, and peaceful settlement of disputes, as states 'are not allowed to forcibly intervene in the economic relations of others'.¹⁷¹

In addition, the International Court of Justice declared over the last Iranian sanctions that 'the US "violated" international law by freezing some Iranian assets'¹⁷². In October 2018 it issued an interim order to end the implementation of unilateral coercive measures in medicine, food, humanitarian equipment, and air transportation services; and the imposition of such organised sanctions on a wide scale are considered to constitute a crime against humanity.¹⁷³

As Richard Nephew explains in his book, United States does not have the competences to adopt unilateral sanctions to any other state in no case, so if United States considers Iran and Afghanistan are supporting the terrorist groups, proliferating nuclear arms, and violating Human Rights, and that the Security Council is not taking enough measures; it should bring up the situation to the General Assembly, which would recommend the Security Council to take action and the Special Committee on Sanctions would evaluate which sanctions could be issued and under which consequences; and after that, the Security Council, from which the US is member, would pass or not a resolution issuing those sanctions, only with the consensus of all its members.¹⁷⁴

The UN Charter states sanctions can only be issued for the maintenance of the international peace and security, however, as it has been developed at the beginning of this essay, it is questionable whether United States is acting for this interest and not for its own political and economic interests posed on these two regions.¹⁷⁵ And in addition, as Alena Douhan, the UN Special Rapporteur on the Unilateral Coercive Measures Impact, declares 'Maintaining international peace and security is unfeasible without respecting human rights'.¹⁷⁶

Even United States claims to take these actions for the detriment of the governments, as these measures have not been studied by the Special Committee on Sanctions, their collateral

¹⁷⁰ Nephew, Richard. 2023. *The Art of Sanctions the Art of Sanctions: A View from the Field*. New York, NY, USA: Columbia University Press.

¹⁷¹ 'United States: Efforts to Use Sanctions to Expand Jurisdiction Abroad Violate Human Rights Says UN Expert'. n.d. OHCHR. Accessed 6 June 2023. <https://www.ohchr.org/en/press-releases/2023/03/united-states-efforts-use-sanctions-expand-jurisdiction-abroad-violate-human>.

¹⁷² 'The Hague Rules US Violated International Law with Iran Sanctions'. n.d. Middle East Eye. Accessed 16 May 2023. <https://www.middleeasteye.net/news/hague-rules-us-violated-international-law-iran-sanctions>.

¹⁷³ 'A/HRC/51/33/Add.4: Report of the Special Rapporteur on the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights on Her Visit to the Islamic Republic of Iran – Comments by the State'. n.d. OHCHR. Accessed 16 May 2023. <https://www.ohchr.org/en/documents/country-reports/ahrc5133add4-report-special-rapporteur-negative-impact-unilateral>.

¹⁷⁴ Nephew, Richard. 2023. *The Art of Sanctions the Art of Sanctions: A View from the Field*. New York, NY, USA: Columbia University Press.

¹⁷⁵ *Ibidem*.

¹⁷⁶ 'A/HRC/51/33/Add.4: Report of the Special Rapporteur on the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights on Her Visit to the Islamic Republic of Iran – Comments by the State'. n.d. OHCHR. Accessed 16 May 2023. <https://www.ohchr.org/en/documents/country-reports/ahrc5133add4-report-special-rapporteur-negative-impact-unilateral>.

impact on its citizens, who are not guilty of their government actions, is of alarming concern, as it will be explained below. As Alena Douhan, the Special Rapporteur on Iran declares ‘the negative impacts of secondary sanctions sometimes exceed the primary unilateral ones.’¹⁷⁷

2.3.The direct and collateral consequences of sanctions

2.3.1. How the US Sanctions affected the Iranian Economy, and therefore its society

The UN has remarked a significant concern on the outcomes of the infinite Unilateral Coercive Measures taken on Iran with the publication of several special reports focused on the negative impact of the unilateral coercive measures on the enjoyment of human rights. Alena Douhan, the Special Rapporteur, especially highlights the US sanctions, and how they have pushed to other states to follow their illicit measures, worsening the humanitarian conditions of the country.¹⁷⁸

‘On multiple occasions, the U.S. authorities have openly acknowledged to having imposed the most painful and extensive sanctions in the history of the United States against the Iranian people’.¹⁷⁹

The first sanctions which the US took during the Hostage Crisis were aimed to be a source of pain for the Iranians to motivate them to release the hostages. However, the people in charge of the hostages were just a group of students, and the regime which supported them only constituted a minority of the Iranian population, with no power of decision on the release matter and who suffered the harsh consequences. These sanctions did not achieve their goal and prolonged the crisis for two years, seriously worsening the Iranian economy which collaterally affected the humanitarian situation of the innocent Iranians with no decision competences on the release of the hostages, and which had been taken down by the Shia Clergy rule. Unlike, they weakened the Iranian society decreasing their opportunities to dismantle Jomeini’s regime.¹⁸⁰

Such sanctions provoked the Soviet Union together with its allies (including Mexico, Austria, Poland and Sweden) instead of normalising the US trade relations with Iran and expand their economic and commercial relations to offset the US effects, tried to counter them by aiding Iran and making it dependent on trade and business with the Western world. So collaterally, the US sanctions caused Iran lack of independence from the Western countries.¹⁸¹

¹⁷⁷ *Ibidem.*

¹⁷⁸ United Nations, General Assembly, *Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Alena Douhan, on her visit to the Islamic Republic of Iran Comments by the State*, A/HRC/51/33/Add.4 (13 September 2022), available from [A/HRC/51/33/Add.4 \(undocs.org\)](https://undocs.org/A/HRC/51/33/Add.4)

¹⁷⁹ Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Alena Douhan

¹⁸⁰ Blakemore, Erin. 2018. ‘U.S.-Iran Tensions: From Hostage Crisis to Sanctions to Drone Strikes’. HISTORY. 8 May 2018. <https://www.history.com/news/iran-nuclear-deal-sanctions-facts-hostage-crisis>.

¹⁸¹ Hewitt, K., & Nephew, R. (2022, 9 marzo). How the Iran hostage crisis shaped the US approach to sanctions. Brookings. <https://www.brookings.edu/blog/order-from-chaos/2019/03/12/how-the-iran-hostage-crisis-shaped-the-us-approach-to-sanctions/>

The substantial impact this had, together with the continued sanctions which have followed since that date, have submerged Iran in a deep economic and humanitarian crisis, which has perpetuated the power of the Islamic Regime.¹⁸² The sanctions the US imposed on direct foreign investment, main export groups and international financing caused the shutdown of an important number of international enterprises, and highly affected tourism, industry, mining, agriculture, farming and pharmaceuticals causing a massive loss of jobs. Unemployment especially affected women, as the unemployment rate for women is nearly double than men and 2 out of every 3 job losses affected women since 2018 sanctions according to the 2020 *Human Development Report*.¹⁸³

This high rate of unemployment significantly reduced the average house income of the Iranian population hindering their access to basic goods (such as food and medicines) with pushed up prices due to the lack of supply caused by the ban on certain imports and the inflation caused by the devaluation of the Iranian currency. The foreign asset freezes on the Iranian Central Bank and commercial banks, sharply decreased its available assets and currency supply, and at the same time caused an upward pressure on the exchange rate, leading to multiple depreciations in foreign exchange rate.¹⁸⁴

Since the reimposition of the sanctions in 2018, the general prices in Iran rose by 85% and food prices doubled, raising the national poverty rate provoking a humanitarian crisis, making more improbable the takeover of the regime, and increasing the violation of women and girl's human rights.¹⁸⁵

Moreover, sanctions had broad implications on Iran's engagement with the international community. Iran has been vetoed from participating in some international organisations and forums, and due to the lack of financial assets, it has been unable to pay participation quotas. A particular example was the case of the UN, from which Iran was suspended from its voting rights in January 2021 and 2022 because of its dues due to the government's inability to access to its funds held in foreign accounts. This seriously helps the perpetuation of the actual regime and its conservative and patriarchal measures, as the international community could pressure the regime into more democratic policies and the respect of human rights, especially women's human rights.¹⁸⁶

In addition, International Humanitarian Aid faces problems to aid the vulnerable population, as they lack humanitarian licenses to receive humanitarian goods and services due to the ineffectiveness of humanitarian exemptions on the sanctions because of the over-

¹⁸² Kordzadeh, K. M. 2014. Immorality and Illegality of Sanctions and Iranian Response. SID.

¹⁸³ Conceição, Pedro. 2020. Human Development Report 2020. UNDP. <https://hdr.undp.org/system/files/documents/hdr2020pdf.pdf>.

¹⁸⁴ Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Alena Douhan

¹⁸⁵ Amir Vahdat 2022b. 'UN Envoy: US Sanctions on Iran Worsen Humanitarian Situation'. The Seattle Times, 18 May 2022. <https://www.seattletimes.com/business/un-envoy-us-sanctions-on-iran-worsen-humanitarian-situation/>.

¹⁸⁶ United Nations, General Assembly, Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Alena Douhan A/HRC/51/33/Add.1 (4 October 2022) available from [A/HRC/51/33/Add.1 \(un.org\)](https://www.un.org/A/HRC/51/33/Add.1)

compliance of banks, suppliers, and other public and private external actors with them; and the lack of equipment and support facilities supply at national level.¹⁸⁷

Therefore, the unilateral coercive measures have caused a profound impact on Iranian society, whose purchasing capacities and economies have been highly reduced, hindering their access to basic goods and services, and causing a humanitarian crisis. Such humanitarian crisis faces difficulties to be aid due to the overcompliance on sanctions and the ongoing sanctions. A society under difficult humanitarian conditions does not have strength to imply in politics, or to organise a political opposition to the Islamic regime; and even in some cases is easily radicalised, as the extremist ideas give them an enemy and promises them a solution. This lack of political organisation strengths the regime's perpetuation and popularity, permitting them to continue adopting discriminatory policies against women, who are the most affected of the economic and humanitarian crisis as it will be developed in section 2.3.3.

2.3.2. *How the sanctions against the Taliban affect the Islamic Republic of Afghanistan*

Even the US sanctions are supposed to be issued against the Taliban, they have influenced considerably the economic situation of Afghanistan, provoking a catastrophic crisis, and therefore the human and political one since the beginning of the 21st century, which has facilitated the rise of the Taliban.¹⁸⁸

The US sanctions provoked a shrinking economic activity in the private sector, the collapse of the Afghan banking system as they cut off the to cut off the Afghanistan Central Bank (Da Afghanistan Bank) from the international banking system causing a massive liquidity crisis and nationwide shortage of banknotes in US dollars and Afghanis, the freezing of 9 billion dollars of Afghan foreign reserves in the US and European countries, the suspension of international assistance (from which Afghanistan was 75% dependent), massive layoffs in the public sector and sharply increased prices, especially in food. This caused that the gross domestic product decreased a 20 percent on 2020-2021 and 30-35 percent by 2021-2022.¹⁸⁹

This economic crisis caused a humanitarian crisis on the Afghan society, who has lost its access to food, water, shelter, and healthcare. According to the World Food Programme more than 23 million of Afghans are in need of food assistance, and approximately 95% of the population is suffering from insufficient food consumption. This problem is not caused by a shortage of food, but because citizens cannot afford to pay it. Due to the international fundings removal, more than 4 out of 5 Afghan households experienced a significant decrease or elimination of income, due to the lack of credit to pay salaries; and at the same time the economic sanctions have provoked spiking prices, aggravating the purchasing capacity of the citizens, which makes for most of them unaffordable to buy basic goods for their nutrition.¹⁹⁰

¹⁸⁷ US Economic Sanctions Harm Iranians' Right to Health. 2019. "Maximum Pressure". Human Rights Watch. <https://www.hrw.org/report/2019/10/29/maximum-pressure/us-economic-sanctions-harm-iranians-right-health>.

¹⁸⁸ 'A/HRC/52/84: Situation of Human Rights in Afghanistan - Report of the Special Rapporteur on the Situation of Human Rights in Afghanistan, Richard Bennett'. n.d. OHCHR. Accessed 16 May 2023. <https://www.ohchr.org/en/documents/country-reports/ahrc5284-situation-human-rights-afghanistan-report-special-rapporteur>.

¹⁸⁹ *Ibidem*

¹⁹⁰ 'Afghanistan: Economic Roots of the Humanitarian Crisis'. 2022. Human Rights Watch. 1 March 2022. <https://www.hrw.org/news/2022/03/01/afghanistan-economic-roots-humanitarian-crisis>.

In addition, the US block of foreign assets to the Afghan Central Bank impede the provision of humanitarian assistance to cover the basic needs of the tens of millions of the Afghans which are at risk, according to United Nations Human Rights Watch. Even the US sanctions exempt the transactions to Afghan Central Bank for humanitarian assistance, it is ineffective due to the lack of guidance and legal framework. The humanitarian actors face serious challenges when they try to operate in the territory, due to the uncertainty caused by the zero risk policies and over compliance with sanctions of the banks, so even international actors donate funds for humanitarian consumption, in most of the cases they cannot be used, as banks block them because their lack on credit, and fear to not comply with the sanctions. In addition, the Special Rapporteur expressed a high concern with the precarious conditions under which the humanitarian workers are working, altering their outcomes.¹⁹¹

‘We call on the US Government to take into serious consideration the growing humanitarian crisis in Afghanistan and to re-assess its decision to block the Da Afghanistan Bank’s foreign assets’. (United Nations Special Rapporteurs of the Human Rights Council, 2022).¹⁹²

Even these sanctions affect more than a half of the population, the UN highlights it affects specially to women and children, as these measures exacerbate the gender-based violence to women and girls assumed by the *de facto* authorities.¹⁹³

As Atran defends on his book ‘Talking to the Enemy’, the economic and humanitarian situation affects the political situation. The inhuman situation favours radicalisation and the support of radical and anti-Western ideas. The Taliban gain support with anti-Western propaganda guaranteeing hope and the end of this situation. And in the same way, a lack of an organised political and military opposition is created as citizens greatest concern is to survive, and do not have time or strength to participate in the political life.¹⁹⁴

In conclusion, the sanctions issued on the Taliban affect more deeply to the Afghan society as a collateral consequence. The society in this country has been strongly affected by the collapse of the Central Bank and the economic, and consequently, humanitarian crisis. In the same way that in the Persian country, Afghans face a weak political, or even military opposition to the Taliban regime which perpetrates the serious violations on women rights which have been analysed before. As the developed events on the first chapter of this dissertation essay demonstrate, the extremist group faced scarce opposition to seize the power when the US withdrew its forces, establishing the Islamic Republic of Afghanistan and implementing strong patriarchal measures, as developed in the third part, on women which as it will be explained in the following section, faced the strongest consequences of sanctions.

¹⁹¹ *Ibidem*.

¹⁹² ‘Afghanistan: UN Experts Call on US Government to Unblock Foreign Assets of Central Bank to Ease Humanitarian Impact’. n.d. OHCHR. Accessed 13 May 2023. <https://www.ohchr.org/en/press-releases/2022/04/afghanistan-un-experts-call-us-government-unblock-foreign-assets-central>.

¹⁹³ Afghanistan: UN Experts Call on US Government to Unblock Foreign Assets of Central Bank to Ease Humanitarian Impact’. n.d. OHCHR. Accessed 13 May 2023. <https://www.ohchr.org/en/press-releases/2022/04/afghanistan-un-experts-call-us-government-unblock-foreign-assets-central>.

¹⁹⁴ Atran, Scott. 2011. Taking to the Enemy: Violent Extremism, Sacred Valued, and What It Means Be Human. London: Penguin Books.

2.3.3. *Unilateral Coercive Measures' Effect on Women*

Even this study is focused on how the US policies influenced the appearance of radical regimes which systematically violate of women's human rights on the Islamic Republics of Iran and Afghanistan, it is important to highlight the economic sanctions also worsen the situation in such countries and collaterally, not only do not prevent those governments on issuing those radical measures but worsen women's situation and increase such violations.

Even the unilateral restrictions have a grave impact on most segments such societies, the UN Human Rights Council claimed women, as a vulnerable group, are particularly harmed by them. Women face an increase in their unequal access to employment opportunities, a reduction in their purchasing power and access to healthcare and education, together with an entrenchment of the traditional gender roles.¹⁹⁵

The already limited purchasing power women in both countries face due to their lack of economic and social rights, is reduced due to the economic instability, high inflation and increase in prices sanctions cause. Even the economic hardships affect all citizens, the female sector, which was already marginalised with certain prohibitions as explained in chapter 3, faces additional challenges in meeting their basic needs. In addition, also affecting their purchasing capacities, their employment opportunities (already restrained by their governments) are also reduced, as sanctions reduce the labour market due to the hinder in foreign investment, trade, and economic growth.¹⁹⁶

Likewise, women's difficulties on health and education are also broadened. Sanctions impact the healthcare sector hindering the access to medicines, medical equipment, medical technology, and access to adequate healthcare services, leaving negative implications on their overall well-being. In the case of education, the extremely restricted access women have on these countries, especially in Afghanistan, is increased due to a limitation of resources, scholarships and opportunities, reducing the quality education and limiting their long-term prospects and empowerment.¹⁹⁷

Such outcomes have social and cultural consequences in both nations as the economic strains strengthen the traditional and patriarchal gender roles defended by their governments, increasing women's pressure to conform with societal expectations with limited opportunities in their participation in decision-making processes.¹⁹⁸

2.3.4. *Intermediate Conclusions*

Resuming, the sanctions the US imposed in Afghanistan and Iran are illicit and have similar patterns and consequences, though with some peculiarities. The US imposed sanctions

¹⁹⁵ United Nations, Department of Public Information, *Unilateral sanctions hurt all, especially women, children and other vulnerable groups – UN human rights expert*, 8 December 2021, <https://www.ohchr.org/en/press-releases/2021/12/unilateral-sanctions-hurt-all-especially-women-children-and-other-vulnerable>

¹⁹⁶ Drury, A. Cooper, and Dursun Peksen. 2014. 'Women and Economic Statecraft: The Negative Impact International Economic Sanctions Visit on Women'. *European Journal of International Relations* 20 (2): 463–90. <https://doi.org/10.1177/1354066112448200>.

¹⁹⁷ *Ibidem*.

¹⁹⁸ *Ibidem*.

in each country with different pretexts: on Iran they began because of the hostage crisis and intensified with the terrorist and nuclear threat, and in Afghanistan against the Taliban, also considered a terrorist threat.

Those unilateral coercive measures have significantly affected both countries' economies, raising unemployment, and raising inflation and prices, impeding the population access to basic nourishment goods and access to healthcare. In addition, the humanitarian aid faces difficulties to operate as the United States froze the assets of the Central Banks of Iran and Afghanistan and even the humanitarian assets are exempted from sanctions, the overcompliance on them has blocked the access to humanitarian assets in both countries.

These economic and humanitarian crises the population from both countries are suffering, makes the creation of an organised opposition to both regimes difficult, as people's priority is to survive and be able to get enough food for their households and cannot participate in the political area of their countries. In addition, the poverty these crises provoke, cause people to be easy targets for conservative and radical ideologies, and to support such measures taken by their governments. And, additionally, especially impact women and their rights, making them more vulnerable.

Even such consequences have a crucial impact on the entire society of these countries, women are the most affected, as these circumstances aggravate their rights and possibilities, and make them more vulnerable. And even the US implements these sanctions to coerce the radical governments from implementing such discriminatory measures against women and improve their situation, they actually worsen the situation, and make women more vulnerable and a more complex situation to end with such situations.

PART 5: OTHER FOREIGN POLICY MEASURES FAVOURING THE RAISE OF RADICAL GOVERNMENTS IMPLEMENTING POLICIES AGAINST WOMEN

Besides the economic sanctions, as it was introduced at the beginning of this project, other American foreign policies have also contributed to the rise of power and perpetuation of the current Islamic regimes on Iran and Afghanistan which have taken measures against women and girls' human rights.

I. HOW US POLICIES FACILITATED THE RADICALISATION OF IRAN

1.1. The American Coup d'état and the imposed 'White Revolution'

As mentioned at the beginning of this final dissertation project, the US organized a coup d'état on Iran of 1953 to impose a beneficial government for its economic interests on Iranian oil. This occupation violates the international principle of peace and security promotion, as it provokes civil unrest.¹⁹⁹

During these twenty-five years of imposed government, they benefited from the Iranian oil without equally distributing its benefits with the Iranian people. Even the US claimed they modernized the economy and the society, they created an unequal society, by benefiting the Islamic Clergy, who had supported the coup d'état organisation, and gravely infringing the rest of the society's human rights. These policies boosted the autocratic principles on the foundation of a state and the power of the most traditional Shia Clergy violating the main international principles of the promotion of democratic values.²⁰⁰

The fact that the US had imposed a government which worked for the US interests and not for the Iranian ones, together with the profit achieved from the exploitation of the Iranian natural resources without distributing the profit evenly with the Iranian society, created a profound anti-American sentiment among society. This sentiment developed into the radicalisation of Islam and a strong nationalist movement, which ended with the spark of the Islamic Revolution. Even the purpose of the Iranian Revolution was to depose the US influence, and there was a variety of ideologies, the fundamentalist Iranian ideology won due to the power it had acquired during the US governance and imposed a Shia regime with radical and extreme traditional ideas leading to the violation of Women's Human Rights and repressing the rest of the revolutionary movements which had formed the revolution. They declared the Islamic Republic of Iran as a constitutional monarchy lead by Supreme Leader of Iran who has the total competences for all the general policies of the state, which is still on power nowadays and is the responsible of dictating measures against women's human rights.²⁰¹

¹⁹⁹ Yusoff, Mansoureh Ebrahimi Kamaruzaman. 2011. The Aftermath of Coup d'Etat Against Mohammad Mosaddeq of Iran in 1953: Relections from British Documents. TAWARIKH: International Journal for Historical Studies.

²⁰⁰ Milani, Abbas. 2011. The Shah. St. Martin's Press.

²⁰¹ *Ibidem*.

1.2. Hostage Crisis and the illegal rescue attempt impact on Iranian society

The Hostage Crisis was the outcome of the radicalisation of Islamic ideas boosted during the American influence and exploitation of oil and provision to the Shia Clergy. Even this crisis was a tragedy and is forbidden by international law, the US neither complied with it in the appropriate form. The US defied the International Court of Justice indications and attempted a failed rescue operation and illegal sanctions. These policies affected the Iranian population and intensified the anti-US sentiment, leading to the regime to exacerbate more radical measures as a symbol to anti-westernisation. In addition, later with the Algiers Accord, the US did not comply with responsibility to totally remove all the sanctions in exchange of the hostage release, again increasing the Iranian population discontent with the US and their association to the Western world.²⁰²

II. AFGHANISTAN: FROM FINANCING THE TALIBAN ORIGINS TO AN UNORGANISED WITHDRAWAL

2.1. How the US financed the roots of the Taliban

The US rivalry with the Soviet Union led to finance the opposition group, the *mujahideen*, an armed group with Islamic ideas who fought against the Soviet troops as mentioned in the first part of this essay. Again, the US was not prioritising the international peace and security and was fighting for its own interests; causing a civil war which left a devastated territory and economy, with a fragile political situation which favoured the *Taliban* seizure of power.²⁰³

One of the main American policies which is related with the Taliban rise of power is the finance of the *mujahideen* to fight the Soviet Troops. The US influence in this war not conditioned by the prioritisation of the international peace and security as the International Law requires, but for the US rivalry with the Soviet Union and its own geopolitical and economic interests. This support to the war, did not only leave a completely devastated territory, which quite harsh economic and social conditions which favour the radicalisation of the society, but also contributed to the foundation of the Taliban as many authors argue. The terrorist group emerged within the *mujahideen* out of the most fundamentalist ideas of Islam and anti-western ideas because of the US invasion. As Manuel López Lago defends, the *Taliban* emerged from the US finances, as the radical group could not have emerged without the military support (including armament, training, material, financial and logistical assistance) Reagan provided to the *mujahideen* to obtain the Soviet Defeat. As Jeffrey Sommers claims, ‘the Taliban turned on their previous benefact’.²⁰⁴

²⁰² Kinzer, Stephen. 2011. *All the Shah's Men: An American Coup and the Roots of Middle East Terror*. John Wiley & Sons.

²⁰³ Parenti, Christian. 2017. ‘America's Jihad:: A History of Origins’. In *Beyond September 11*, 10–19. Pluto Press.

²⁰⁴ Boletín, Recibir, Electrónico Visitar, La Web, Manuel López-Lago López-Zuazo, Manuel López, and Lago López-Zuazo. n.d. ‘Opinión’. Ieee.Es. Accessed 16 May 2023. https://www.ieee.es/Galerias/fichero/docs_opinion/2021/DIEEEO94_2021_MANLOP_Afganistan.pdf.

2.2.The Unauthorised Invasion of Afghanistan

Without playing down the 11s attacks, considered the worst act of terrorism to occur in the US, they did not justify the US invasion of Afghanistan. Even the UN authorised a ‘War on Terror’ under the Resolution 1368 based on the determination ‘to combat by all means threats to international peace and security caused by terrorist acts’, it did not legitimise invasion. According to the UN Charter, a state shall refrain from the threat or use of force against the territorial integrity or political independence of another state (*Article 2.4*), with the only exception of self- defence of its territorial integrity, approved by the Security Council (*Article 51*) ‘and shall not in any way affect the authority and responsibility of the Security Council’²⁰⁵. So even the US claims the invasion was a case of self-defence of its territorial integrity, it violated the international law, as the Security Council had not approved this measure and it defied its authority.²⁰⁶

This illegal occupation provoked severe collateral casualties, between 2006 and 2013 14,000 civilians were killed, leaving a devastated country with difficulties to create an opposition. In addition, these casualties created an anti-US sentiment among the Afghan civilians, who questioned the moral formation of the intervention, favouring the support to radical ideas who fight against this invader.²⁰⁷

Together with self-defence, interestingly, the US claimed their purposes on their intervention were to protect women’s rights and counterterrorism. However, the conflict proliferation does not improve women’s situation but worsens them, due to the destabilisation of the state. Regarding counter terrorism, even the US claimed their purpose was to kill terrorists, they killed more innocent people. In addition, the methods the US used with prisoners of war, including sexual humiliation, sleep deprivation and waterboarding, are prohibited by international humanitarian law.²⁰⁸

Therefore, as many authors like Kaldor or Szeman suggest, the purpose of the War on Terror of the US was not to protect the international security and peace, but to reaffirm the American identity.²⁰⁹

2.3.A failure in the Afghan army’s training

During the 20 years of the US presence on Afghanistan, the American troops trained the Afghan troops to prepare them to face the Taliban through the International Security Assistance

²⁰⁵ United Nations. n.d. ‘United Nations Charter (Full Text) | United Nations’. Accessed 16 May 2023. <https://www.un.org/en/about-us/un-charter/full-text>.

²⁰⁶ Filkins, Dexter. 2009. *The Forever War: Dispatches from the War on Terror*. London: Vintage.

²⁰⁷ Connah, Leoni. 2021. ‘US Intervention in Afghanistan: Justifying the Unjustifiable?’ *South Asia Research* 41 (1): 70–86. <https://doi.org/10.1177/0262728020964609>.

²⁰⁸ *Ibidem*.

²⁰⁹ Connah, Leoni. 2021. ‘US Intervention in Afghanistan: Justifying the Unjustifiable?’ *South Asia Research* 41 (1): 70–86. <https://doi.org/10.1177/0262728020964609>.

Force (ISAF). The problem was the US used its own method as a model on a country with very different circumstances.²¹⁰

The ISAF trained the Afghan forces with the American materials, guidance and logistics, so once the US troops withdrew, the Afghan military lost a vast capacity becoming asymmetric with the Taliban and making the resistance very difficult. If the US had trained the Afghan forces to be independent, maybe they would have been able to organise a stronger resistance, and the Taliban would not have found so easy to seize the power.²¹¹

2.4.The US Irresponsible Withdrawal

During the nearly twenty years of the US Afghan government, United States made several errors trying to rebuild the nation of Afghanistan. The US tried to implement a western model without bearing the peculiarities of this territory. First, it did not consider the ethnical diversity of the country and tried to implement a Pashtun-based national approach on its government, which made a great number of Afghans to do not support the government. And secondly, the US did not deal with the corruption in the Afghan administrations, which would have made easier for the Taliban to do not face any resistance. These facts made it very effective for the Taliban to form a propaganda system and gain popular support.²¹²

“The Taliban came to power to end the war and corruption” this is one of the Taliban slogans which the radical group uses in its new propaganda to gain support from citizens, and has proven to be effective, as citizens in the southern Pashtun provinces the Taliban have regained popularity.²¹³

The US was in talks with Pakistan to sign an agreement to organise the so-called ‘peace process’ by which the US would leave from Afghanistan ‘without losing face’. In this deal a coalition government was formed with Afghan government and Taliban representatives in equal terms, the US withdrew its troops, al-Qaeda was banned and the hostilities between the Taliban and the Aghan government were ceased. This peace treaty was concluded by the 29th of February of 2020, and determined the withdrawal of the American troops in several stages by the 11th of September of 2021 meanwhile the US and the Taliban negotiated the coalition government. However, the Taliban rejected to negotiate, and the US withdrew its troops without a coalition government securing the Afghans from a fundamentalist regime.²¹⁴

²¹⁰ Waldman, Matt. 2013. ‘System Failure: The Underlying Causes of US Policy-Making Errors in Afghanistan’. *International Affairs* 89 (4): 825–43. <https://doi.org/10.1111/1468-2346.12047>.

²¹¹ Boletín, Recibir, Electrónico Visitar, La Web, Manuel López-Lago López-Zuazo, Manuel López, and Lago López-Zuazo. n.d. ‘Opinión’. *Ieee.Es*. Accessed 16 May 2023. https://www.ieee.es/Galerias/fichero/docs_opinion/2021/DIEEEO94_2021_MANLOP_Afganistan.pdf

²¹² Hoshmand, Naweed Ahmad. 2022. *American Foreign Military Policy: The Afghanistan Withdrawal in Retrospect*. ResearchGate.

²¹³ Муллоджанов, П. (2021, agosto 25). The Taliban’s rise to power: Key reasons and success factors. CABAR.Asia. <https://cabar.asia/en/the-taliban-s-rise-to-power-key-reasons-and-success-factors>

²¹⁴ *Ibidem*.

Overall, the US was irresponsible by leaving the country without the security of a prepared nation and mechanism which would avoid the Taliban seize from power. Its withdrawal could be considered as rushed, poorly planned and chaotic withdrawal.²¹⁵

III. CONCLUSIONS

As this section demonstrates, the US sanctions have not been the only factor affecting the Afghan and Iranian situation. The US interventionist and imperialist interest and attitude has facilitated the rise of power to the radical groups in both countries, such measures increased the power and influence such groups (the Shia clergy in Iran and Muhaideen from which the Taliban emerged in Afghanistan), also boosted anti-western sentiment which favoured the radicalisation of both societies, and left antidemocratic and autocratic political values together with weak and devastated countries with civil unrest caused by their policies. In addition, in the case of Afghanistan, the US intervention increased the humanitarian crisis, and its unorganised withdrawal also facilitated the seizure of power by the Taliban, as the US tried to solve the problem by applying its methodology in a completely different country with different cultural and political background, and without making Afghanistan independent from the US.

²¹⁵ James Dobbins, Jason H. Campbell, Sean Mann, Laurel E. Miller. 2019. Consequences of a Precipitous U.S. Withdrawal from Afghanistan. RAND cooperation. <https://www.rand.org/pubs/perspectives/PE326.html>.

FINAL CONCLUSIONS

This Final Dissertation Project introduced the following research question: *Has US foreign policy determined the current political situation in Islamic Republic of Iran and Afghanistan where the human rights of women are systematically violated?*) Having completed the analysis, we may identify the following conclusions.

In the first chapter of this paper, regarding the history of the bilateral relations with both countries, a hint was already given on the implication of the US in the shape of the national politics of Iran and Afghanistan due to their strong presence since mid/late 20th century. In the case of Iran, the US presence began earlier, on 1953, but lasted till 1979, when the Iranian Revolution deposed its puppet government, and since that date the US foreign policy on Iran has been based on economic sanctions. In the case of Afghanistan, the US presence was subsequent, in 1978 under the Soviet Invasion when it supported the mujahedeen and intensified in 2004 with the administrative government which lasted till 2021, when they retired their troops and gave an end to their presence but continued with sanctions to the *Taliban regime*.

Chapter two has demonstrated how women and girls' human rights are systematically violated by the Afghan and Iranian governments, and which international legislation has been breached. Hence, the situation in both countries does not only imply that women's human rights are not respected by non-governmental actors and the government does not take the appropriate measures to protect them, something by which stated are abided under international law, but also, the state by itself is imposing measures which seriously discriminate women in terms of rights, duties, and economic, political, and cultural opportunities.

The matter on how the US has influenced this situation has been examined in chapters three and four. On the first-place sanctions have been examined, proving their illegal status under international law and how they have affected Iran and Afghanistan. The research has concluded the US economic sanctions have not accomplished their goals and have caused worsening collateral damages. Such sanctions have provoked third states to implement similar ones and have seriously affected Iranian and Afghan economies, causing an important economic crisis which has caused a massive loss of employment, inflation, and lack of basic goods supplies. Such economic catastrophe has originated a strong humanitarian crisis on its societies, which began with the first sanctions and persist till nowadays. This situation has complicated the creation of an organised and effective political opposition to the radical regimes which are taking such measures against women and girls, as the population's priority is to get their basic needs satisfied and cannot think on political issues; and at the same time, the fact that the US sanctions has led to that economic crisis has created a strong anti-American, and anti-western sentiment which in many cases support the regime's governance as they claim to be against western values. In addition, humanitarian crisis always affects more deeply to the most vulnerable groups, including women, so such sanctions have not only caused the perpetuation of such regimes taking discriminating measures towards women, but also have worsened their situation making them more vulnerable, who find difficulties as sanctions prevent the humanitarian aid provisions due to their overcompliance. Resuming, the US sanctions have provoked a significant economic and humanitarian crisis which eases the radical regimes' perpetuation of power.

However, sanctions have not been the only foreign policy which has shaped the situation of Iranian and Afghan women. As it was introduced in the first chapter, the US has implemented

numerous interventionist policies which have seriously weakened the political situation on both countries. To begin with, all the interventionist US policies have shaped a strong anti-western sentiment which neglect western institutions and values, including the United Nations and human rights, and which have helped the radicalisation. Moreover, for its own interests, the US has financed the groups from which the radical actors have emerged. In the case of Afghanistan, the US financed the mujahedeen during the Afghan war against the Soviet, a group which already showed some radical Islamic signs, and from which the Taliban emerged, encouraged by the US financing with the aim to combat its main enemy, the Soviet Union, without bearing in mind the collateral consequences. In the case of Iran, during the imposed government, which will be commented later, it supported the Iranian Shia Clergy giving them the strong influence and economic capacity which helped them to later depose the Iranian Revolution and impose the Islamic Republic of Iran. More particularly, in the case of Iran it organised a coup d'état for the imposition of a puppet government and the exploitation of the Iranian natural resources, leaving undemocratic and autocratic values and promoting civil unrest. In Afghanistan, the US illegal invasion, as it was not authorised by the United Nations, also caused civil unrest and the total disintegration and division of the country, causing a serious humanitarian crisis and political instability. And later, the US withdrawal was unorganised, leaving a completely devastated country which facilitated the rapid Taliban seizure of power.

After all the research and analysis made in this project, the hypothesis has turned to be true. Women's human rights are seriously violated in Iran and Afghanistan, with some differences and particularities, and the US policies have triggered that situation.

After this examination, it is demonstrated the US foreign policy is strongly correlated on the Iranian and Afghan systematic violation of women's human rights. Considering the US interventionist foreign policies are strongly related to the establishment of such regimes, and the economic sanctions help the perpetuation of such regimes. In addition, it has been demonstrated, the US has implemented those foreign policies, which are not permitted by the international community, for its own interests, including geostrategic and economic interests, and not for the promotion of international peace and security, and the accomplishment of human rights. Adding that, in the case their intention was such, the outcomes have just worsened the human rights situation on both countries.

Other considerations this investigation has provided us include the deliberation of the effectiveness of the International System in the control of promotion of international peace and security. As it has been delivered in this project, in this specific case there have been a numerous series of violations of International Law. In the case of the US, it has perpetuated several illicit invasions (Iran coup d'état on 1953 and 2004 US invasion of Afghanistan), together with other prohibited coercive foreign policies such as the unilateral sanctions, among others, which have left serious collateral outcomes. And, in the case of Iran and Afghanistan, they seriously violate Human Rights. However, even there are conventions regulating such violations, and instruments for the control of human rights, these three states have not been persecuted by international law by all the illicit acts they have taken, as the instruments and conventions are just of advisory opinion, and the International Law is not supra-national, and therefore the state actors hold their total sovereignty. Therefore, this dissertation poses the following questions for possible future research: *How can the International System prosecute such states with the current international legal provisions? Is it possible the creation of a Supranational Authority? How should the United States have withdrew its troops to avoid the Taliban seizure?*

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