

Civil Society Joint Statement

“Criminal Procedure Code for Courts” will further deepen the human rights crisis in Afghanistan

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We, the undersigned Afghan and international civil society organisations, express our deep alarm at the continued and accelerating deterioration of the human rights situation in Afghanistan. More than four and a half years after the Taliban seized power on 15 August 2021, they are doubling down on its systematic, institutionalised repression.

Despite sustained engagement by Afghan civil society, international human rights organisations, UN Special Procedures, and concerned States, the situation has markedly worsened in recent months as the de facto authorities (DFA) have issued further arbitrary decrees, laws and regulations, and continue to govern through punitive and persecutory enforcement mechanisms.

Since 2021, the Taliban have annulled previously adopted legal and policy frameworks intended to protect human rights, in violation of Afghanistan’s obligations under international human rights law, including the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture (CAT), the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC), and the Convention on the Rights of Persons with Disabilities (CRPD) among others.

Women and girls have been systematically erased from public life through sweeping bans on education, employment, freedom of movement, expression, and participation in public affairs. Human rights defenders, journalists, civil society activists, former judges, prosecutors, lawyers, artists, LGBTQI+ persons and educators face arbitrary arrest, enforced disappearance, torture, and violent reprisals, creating a climate of fear as impunity for these crimes reigns. Religious and ethnic minorities including Hazaras, Shias, Ismailis, Sikhs and Hindus face increasing marginalisation and restrictions on religious practices and cultural expression and there is evidence of [forced conversions](#) of members of the Ismaili community. All forms of dissent or criticism of Taliban policies are met with harsh punishment, reducing civic space to a level that can be described as closed and severely repressive.

Against this backdrop, on 04 January 2026 the Taliban issued a document entitled the *Criminal Procedure Code for Courts*¹, signed by the Taliban leader and circulated to courts nationwide for immediate implementation. This document represents a dangerous escalation in the formalisation and legal entrenchment of repression, with grave consequences for the protection of fundamental rights in Afghanistan.

A. Lack of Legal Validity and Legitimacy

The so-called *Criminal Procedure Code for Courts* lacks both legal and moral legitimacy. It was adopted without any form of public consultation or representative legislative process, lacks a constitutional basis, and is now being imposed in the absence of oversight from an independent judiciary. It fails to meet basic requirements of legality, foreseeability, accountability, and equality before the law, as recognised under international human rights law and general principles of law.

Rather than constraining the exercise of power, the Code consolidates the Taliban's absolute authority, transforming courts into instruments of domination and ideological enforcement rather than independent arbiters of justice. As such, it cannot be recognised as a valid legal instrument and should not be afforded legitimacy by the international community.

B. Systematic Violations of Fair Trial and Due Process

The Code eliminates or fails to recognise core fair trial guarantees protected under article 14 of the ICCPR, including:

- the presumption of innocence,
- equality before the law,
- the right to legal counsel,
- the right to remain silent,

¹ Although titled the “**Criminal Procedure Code for Courts**,” the Code goes well beyond procedural matters. While it purports to regulate judicial processes, the text also elaborates on substantive criminal provisions and explicitly defines punishments. In doing so, it effectively functions not merely as a procedural code but as a **de facto penal code**. By combining procedural rules with substantive criminal definitions and sentencing provisions, the Code consolidates expansive punitive authority within an unaccountable judicial framework. This blurring of procedural and substantive law undermines the principle of legality, weakens safeguards against arbitrary punishment, and further erodes the separation between adjudication and executive control.

- protection from arbitrary detention, and
- safeguards against torture.

The Code replaces independent investigation and evidentiary standards with confession and testimony as the primary means of proof, in direct contravention of international standards. This significantly increases the risk of torture and coerced confessions, in violation of the CAT and the absolute prohibition of torture under international law. The absence of meaningful judicial oversight further entrenches impunity for abuse by authorities.

C. Institutionalised Discrimination and Social Stratification

The Code includes provisions that explicitly codify religious, social, and gender-based discrimination, in violation of human rights treaties including Articles 2 and 26 of the ICCPR and CEDAW.

It defines Muslims exclusively according to the Hanafi school and labels other religious groups as “heretical,” exposing religious minorities to repression, exclusion, and arbitrary punishment and contains provisions that reinforce previous laws and decrees that reduce the status of women to possessions.

The Code also criminalises same-sex relations under Article 60, prescribing imprisonment and, in cases deemed “habitual,” discretionary death sentences, thereby placing LGBTQI+ persons at heightened risk of arbitrary detention, torture, and execution.

The Code further divides society into hierarchical classes -“clergy/scholars,” “elite,” “middle,” and “lower class”- assigning vastly different punishments to different classes for the same offence. This codified stratification directly violates the principle of equality before the law and entrenches a system of discriminatory justice incompatible with fundamental human rights norms.

Bishnaw’s April 2025 survey found that 48% of its female respondents reported turning to local dispute resolution mechanisms and civil society legal aid networks rather than de facto justice sector institutions.²

D. Suppression of Freedom of Expression and Criminalisation of Dissent

The Code criminalises criticism of Taliban policies and leaders, grants judges unchecked discretion to punish perceived “mockery” or dissent and obliges individuals to inform on others suspected of opposition. These provisions violate

² <https://bishnaw.com/womens-access-to-justice-challenges-and-opportunities-in-afghanistan/>

the right to freedom of expression under Article 19 of the ICCPR and undermine the right to privacy and freedom from arbitrary interference.

In practice, these measures transform the judicial system into a mechanism for silencing opposition, suppressing independent thought, and enforcing ideological conformity, further extinguishing any remaining civic space in Afghanistan.

E. Institutionalisation of Violence Against Women and Children

The Code provides for punishment (of a maximum of 15 days only) for domestic violence only in cases of “excessive beating” resulting in fractures, injury or bruising and does not refer to other forms of physical, psychological, and sexual violence against women and girls thereby effectively legitimising domestic violence. Furthermore, teachers are likewise only liable to punishment for striking a child if that strike lead to broken bones, torn skin torn or visible bruising.

Such provisions contravene Afghanistan’s obligations under CEDAW and the CRC and reinforce a system of gender-based oppression and persecution. In April, Bishnaw found that “45% of female respondents identified domestic violence and abuse as the primary reason women sought legal services.”³

By embedding discrimination and violence into procedural law, the Code increases the risk of gender-based violence, violence against children, and the denial of access to justice for women and girls. Under the PVPV Law, the *mahram* requirement and morality police has already created significant barriers for women’s access to justice. 48% of female respondents identified these two factors as the main obstacles for women to access de facto legal services.⁴ Left unaddressed, these barriers will only deepen and become further intensified.

It also further entrenches policies that may amount to crimes against humanity of persecution on gender grounds under international criminal law.

F. Lack of Proportionality Between Crimes and Punishments

The so-called *Criminal Procedure Code for Courts* demonstrates a profound lack of proportionality between offences and prescribed punishments. The principle of proportionality central to international human rights law requires that penalties correspond to the gravity of the offence and the harm caused.

Under this Code, cases of domestic violence against women are punishable by imprisonment of up to only 15 days, and only where the violence results in

³ <https://bishnaw.com/womens-access-to-justice-challenges-and-opportunities-in-afghanistan/>

⁴ Ibid.

serious injury. In stark contrast, an individual who does not adhere to *Hanafi* jurisprudence may face up to two years of imprisonment. Furthermore, a person accused of sheltering an insurgent or an opponent of the Taliban may be sentenced to up to five years of imprisonment.

G. Expansion and Normalisation of the Death Penalty

The *Criminal Procedure Code for Courts* also contains numerous provisions permitting capital punishment. In particular, Article 14 reportedly authorises the death penalty in eleven different instances. The breadth of these provisions raises serious concerns regarding compliance with international standards governing the use of capital punishment.

Under international law, including Article 6 of the ICCPR, the death penalty—where it has not been abolished—may only be imposed for the “most serious crimes” and must be subject to strict due process guarantees. The wide authorisation of capital punishment within a judicial system that lacks independence, transparency, and fair-trial safeguards creates an acute risk of arbitrary executions.

H. Enhanced Risks for Forced Returnees

The adoption of the so-called *Criminal Procedure Code for Courts* significantly heightens the risks faced by Afghans forcibly returned to Taliban-controlled Afghanistan,⁵ many of whom originally fled to escape reprisals for their association with previous government and security forces, persecution on the basis of religion or gender, or risks related to their legitimate activities including as human rights defenders or journalists.

There is already evidence that former security personnel, human rights defenders, journalists, and activists forcibly returned to Afghanistan have been arbitrarily detained, tortured, and, in some cases, extrajudicially executed. By eliminating basic fair trial guarantees, legitimising arbitrary detention, and institutionalising discrimination, the Code removes any remaining procedural safeguards for returnees, particularly those perceived as opponents of the Taliban.

According to UNHCR and IOM operational data, in 2025 alone nearly 1.45 million Afghans were deported to Afghanistan from Iran, Pakistan, Turkiye and Tajikistan.⁶

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Under the new *Criminal Procedure Code*, individuals returned to Afghanistan face a legal framework that permits punishment on the basis of confession, testimony, or ideological suspicion, without access to legal counsel or independent judicial review. The Code therefore transforms return into an immediate exposure to a system of repression and violence, rather than any form of lawful process.

In this context, forced returns to Afghanistan constitute clear and ongoing violations of the principle of non-refoulement under international refugee and human rights law, given the real, foreseeable, and lethal risks faced by individuals returned to Taliban rule and subjected to this repressive procedural code.

F. Impunity, and the Risks Arising from Normalisation

The formalisation of repression through instruments such as the *Criminal Procedure Code for Courts* exacerbates the already severe accountability gap in Afghanistan. Without robust international mechanisms to document violations, preserve evidence, and pursue accountability, there is a serious risk that ongoing abuses—including gender persecution, torture, and persecution of minorities—will be normalised under the guise of “legal order.”

Engagement with the Taliban that is not firmly anchored in accountability, human rights benchmarks, and the protection of victims risks entrenching impunity and undermining international legal norms.

VI. Recommendations

We therefore urge the Human Rights Council, Member States and Observer States, and UN bodies and mechanisms to:

1. Publicly condemn discriminatory laws decrees and policies issued by the Taliban including the new *Criminal Procedure Code for Courts*;
2. Refrain from normalising diplomatic relations with the Taliban in light of their sustained record of human rights violations and abuses, particularly the systematic repression of women and girls and LGBTIQ+ people. The recently enacted *Criminal Procedure Code for Courts*, which entrenches discrimination and persecution on intersecting grounds, further underscores that engagement without accountability risks legitimising ongoing crimes.

⁶ [Situation Afghanistan situation](#)

3. Ensure survivor-centred accountability for international crimes and serious violations and abuses of human rights and humanitarian law by fully operationalising, resourcing, and providing political support for the International Investigative Mechanism for Afghanistan (IIMA), including by contributing to the Voluntary Trust Fund, integrating a gender perspective and children's rights perspective, and ensuring inclusive engagement with civil society organisations and victims' associations;
4. Support civil society and human rights groups inside and outside Afghanistan, including documentation initiatives, women's rights defenders, and survivor-centred justice efforts with financial and political support to enable them to continue their vital work;
5. Ensure that the UN Special Rapporteur on the situation of human rights in Afghanistan is provided with the resources required to carry out his mandate effectively and follow up on recommendations;
6. Pursue targeted sanctions and accountability measures against individuals responsible for serious human rights violations and abuses;
7. Engage with complementary accountability pathways, including to continue and expand the International Criminal Court investigations, support universal jurisdiction cases;
8. Take timely and transparent steps to advance CEDAW proceedings before the International Court of Justice by the applicant states Australia, Canada, Germany, and the Netherlands;
9. Utilise the historic judgement of the [People's Tribunal for Women of Afghanistan](#) in shaping policy and action on Afghanistan. Support similar Afghan-led and survivor-centred initiatives for justice and accountability;
10. Halt all forced returns of Afghans and uphold non-refoulement obligations, as well as expand protection and resettlement pathways for people in vulnerable situations.

Endorsed by: National Organisations⁷

1. Afghanistan Democracy and Development Organisation (ADDO)
2. Civil Society and Human Rights Network (CSHRN)

⁷ We have also received endorsements from dozens of national human rights and humanitarian organisations operating within Afghanistan. However, due to security considerations, we are not in a position to disclose their names.

3. Human Rights Defenders Plus (HRD+)
4. Dialogue Hub for Common Ground
5. Afghanistan Women Justice Movement
6. EU-HOPE – European Humanitarian Organization for Progress & Equality e.V
7. Progressive Forces of Afghanistan Movement
8. Spontaneous Movement of Afghan Women Protesters
9. Afghans for Progressive Thinking (APT)
10. Afghan Youth Representative to the United Nations
11. Afghanistan Media Support Organisation (AMSO)
12. Afghanistan Women's Solidarity Movement
13. Tabesam Cultural and Social Services Institute
14. Afghanistan Women's Political Participation Network
15. Afghanistan Women's Organization for Equality
16. Herat Citizens' Social Association
17. Civic Movement of social justice
18. Feminine Solidarity for Justice Org (FSJO)
19. Maihan Civic Organization
20. Panjshir Civil Society Network
21. Independent Cooperation for Changes Organization (ICCO)
22. Women Media Advocacy Group
23. Network Of Afghan Women in Urban Governance
24. Generation of Peace Society
25. Afghan Women News Agency (AWNA)
26. Free Watch Afghanistan Organization(FWA)

27. Mawoud Academy
28. Afghanistan Women's New Future Movement
29. Afghanistan Sociological Association (CIC)
30. Fekresabz organization (FSO)
31. Afghanistan Canada culture(ACC)
32. Peace & Sport Organization
33. Afghanistan Service, Cultural and Rehabilitation Organization (ASCRO)
34. Par literary Center
35. Tolo Social and Civic Organization TSCO
36. No to Rigor Organization (NRO)
37. Fatema Foundation
38. Borderless Amu Movement (BAM)
39. Nationals Movement Against Discrimination
40. Afghan Women Education and Vocational Services Organization
41. Wahaj Welfare Organization for Afghanistan
42. Incident Prevention & Assist the People Organization (IPAPO)
43. G+ Generation Positive Organization
44. Afghan Human Rights Defenders in Exile (AHRDE)
45. Shahrvand Social and Legal Research Organization (SSLO)
46. FARKHUNDA MOVEMENT
47. Sunrise of Freedom
48. Afghanistan's Powerful Women's Movement
49. Independent Coalition of Afghanistan Women's Protest Movement
50. Balkh Women's Movement
51. Afghanistan Freedom Struggle Network

52. Global Campaign Against Gender Apartheid
53. Movement's Yell Movement
54. Free People Movement in Exile
55. AWA Legal and Social Foundation
56. Development and Support of Afghan Women and Children Organization (DSAWCO)
57. Equality Social and Cultural Organization (ESCO)
58. Afghan Youth in New Era Organization (AYNEO)
59. Alternative Links for Training and Development
60. The Rahyab Initiative
61. Rawadari
62. Afghanistan Human Rights and Democracy Organization (AHRDO)
63. Learn Afghan
64. Transitional Justice Coordination Group (TJCG)
65. Together for Equality Organization (TEO)
66. Afghan Canadian Civil Society Forum (ACSFO)
67. Rawzana Omid Social organization
68. Stichting voor Afghanistan (SVA)
69. Association of Women in Radio and Television (AWRT-K)
70. Civil Society and Human Rights Activists Network
71. Nawid Naw weekly newspaper
72. Gita Forschungs- und Aktionsinstitut e.V.
73. Window for Hope
74. Alefbe.App
75. Afghanistan Studies & Cooperation Center e.V (ASCC)

76. Organization for Policy Research and Development Studies (DROPS);
77. Solidarity Group Afghanistan
78. Afghanistan LGBTIQ+ Organisation (ALO)
79. Afghanistan Youth Leaders Assembly (AYLA)
80. Yaar. e. V
81. Hamrah Initiative
82. Association of Afghan Organizations in Germany (VAFO)
83. Afghanistan community Foundation (ACF)
84. Youth and Children Development Program(YCDP)
85. Paikan TV Network
86. Radio Nehad Network

International Organisations

1. Human Rights Activists Union (HRAU)
2. World Organisation against Torture (OMCT)
3. International Bar Association's Human Rights Institute (IBAHRI)
4. The South Asia Collective
5. Education Defenders Network (EDN) - Canada
6. Madre
7. Center for Dialogue and Progress - Geneva (CDP-G)
8. Women's International League for Peace and Freedom (WILPF)
9. Forum Asia
10. Center for Human Rights Advocacy (CHRA)
11. International Service for Human Rights (ISHR)
12. Asia Democracy Network (ADN)

13. South Asians for Human Rights (SAHR)