
The Importance of the Inclusion of Women's Rights in the US - Taliban Peace Treaty

by

*Doreen Perl and Valentina Srbuljevic**

Abstract: This article tries to demonstrate the importance of women's rights in peace treaties, such as the peace treaty between the United States of America and the Taliban in Afghanistan, which was signed on February 29, 2020. As part of a feminist rewriting workshop concerning women, peace, and security, the authors shed light onto the past and present of the situation of Afghan women and, in a second step, included new sections regarding women's rights in the aforementioned treaty and further additions to the United Nations Security Council Resolution 2513 (2020) regarding the treaty mentioned above.

Introduction

The following paper is the outcome of a "Feminist Legal Rewriting Workshop" led by Professor Sara De Vido, professor at Ca' Foscari University, Venice, Italy, and Prof. Lourdes Peroni, professor at Sheffield Hallam University, UK. The workshop focused on Women, Peace, and Security and was supposed to take place at Binghamton University, New York, on April 22, 2020. Due to the coronavirus pandemic, the workshop could not take place in person but was held online. In this way, the authors of this article had the unique opportunity to join the workshop. The workshop encouraged a creative and multi-disciplinary discussion of international, regional, and national documents concerning women, peace, and security. Redrafts of official documents were shared and discussed by participants with different areas of expertise and backgrounds. The workshop welcomed redrafts that promoted new ideas for change and development on issues regarding women, peace, and security, including, without being limited to, conflict and post-conflict settings¹. The rewriting workshop encouraged the participation of people from different backgrounds. It offered the potential to create collaboration and inspire re-

* Doreen Perl is a graduate from the 2019/2020 class of the Global Campus of Human Rights and the April 2019 class of Hamburg University Law School. Her previous research explored the unique situation of children associated with non-state armed groups such as terrorist groups and prosecuted for terrorism-related crimes. Valentina Srbuljevic is a master's student enrolled in Comparative International Relations at Ca' Foscari University of Venice. She completed her bachelor's degree in July 2020, which focused on Asian and North African languages, culture, and society.

¹ Feminist Rewriting Workshop, Women, Peace and Security, April 22, 2020, Binghamton, NY.

flection through a collective critique that can be used to design fruitful dialogues. Moreover, the project was not only limited to the legal format. The rewriting could take other formats such as poems, short stories, plays, or music. There are multiple rewriting projects, including the collaboration of scholars reassessing jurisprudence in international law from a feminist perspective and combining their work entitled “Feminist Judgements in International Law” by Loveday Hodson and Troy Lavers². The article “The Power of Feminist Judgments?” by Rosemary Hunter³ analyzes feminist judgment-writing projects such as the Women’s Court of Canada and the Feminist Judgement Project in England, two projects which encouraged more feminist rewriting projects.

For the Feminist Rewriting Workshop at Binghamton, the authors chose to re-draft relatively recent documents that had been signed in February and March of 2020, respectively. The first document is the Peace Treaty of February 29, 2020⁴ between the Islamic Emirate of Afghanistan known as the Taliban, which is not recognized by the United States as a state, and the United States of America⁵. The second document is the United Nations Security Council⁶ Resolution No. 2513 (2020) of March 10, 2020⁷, which refers to the peace treaty mentioned above. Both authors attended the class of Professor Sara De Vido about Global Governance for Peace and Security, Cooperation and Development at the Venice International University at the beginning of the year 2020, which gave the authors the opportunity to talk about recent events in connection with international law. Within this context, the signed peace treaty between the US and the Taliban and the following UNSC Resolution were recently occurring events, and the authors wanted to explore the idea of whether it was possible to also rewrite a recent peace treaty in the same way as a legal judgment from a feminist point of view. In this way, the following article is novel and different from other feminist rewriting projects since the feminist rewriting does not concern a legal judgment but rather a peace treaty and a UNSC Resolution. The rewriting of key judgments in international law explores the idea of how they might have differed if feminist judges had sat on the bench. The rewriting of this article explores the idea of what the peace treaty would have looked like if feminist representatives would have been part of the peace talks that led to the peace treaty. In addition, the article addresses an issue that is still negotiated at the peace talks in Doha, Qatar, almost a year later, after the authors composed their first draft.

² Loveday Hodson and Troy Lavers (eds.), *Feminist Judgements in International Law*, Hart Publishing, Oxford 2019.

³ Rosemary Hunter, The Power of Feminist Judgments?, in “Feminist Legal Studies”, Vol. 20, 2012, pp. 135-148.

⁴ Agreement for Bringing Peace to Afghanistan between the Islamic Emirate of Afghanistan which is not recognized by the United States as a state and is known as the Taliban and the United States of America, February 29, 2020, available at: <https://tinyurl.com/1vjcmxz2>, accessed January 10, 2021.

⁵ Hereinafter referred to as the US.

⁶ Hereinafter referred to as the UNSC.

⁷ UNSC, Resolution No. 2513 (2020), S/RES/2513, March 10, 2020, available at: <http://unscr.com/en/resolutions/doc/2513>, accessed January 10, 2021.

In both signed documents, the authors address the lack of women's rights and feminist points of view in the aforementioned documents and explore what the particular peace treaty would look like from a feminist perspective. The first part of the paper introduces the context and history of the conflict and the current state of women's rights in Afghanistan. The second part presents the peace treaty with a rewritten version as well as the UNSC Resolution with a rewritten version⁸. As an Annex, the authors add an interview with an Afghan journalist who lives in Afghanistan.

Context

The following section will briefly explore the historical background of Afghanistan. It will first present the historical context and the complete lack of basic rights for women and girls during the Taliban governance. In a second step, it will highlight today's situation in law and uprising grassroots activities. Lastly, the Human Security aspect in Afghanistan will be briefly highlighted.

Afghan History and Women's Rights

The Taliban is a predominantly Pashtun⁹ and Islamic fundamentalist group that started to gain more power in the 1990s, headed by Mullah Omar also as a spiritual guide, after the Soviet withdrawal in the late 1980s and established a government from 1996 to 2001¹⁰, when the invasion led by the US, overthrew the regime for providing refuge to the terrorist group al-Qaeda and Osama bin Laden. While Afghanistan was left in the hands of warlords in the 1990s, the Taliban group seized Kabul and imposed their vision on how a well-constructed society was made, vastly violating women's and girls' rights. The name Taliban comes from the word *Taleb*, which means "student of a religious school"¹¹, as most of them were students from foreign religious institutes¹². One of their fundamental values is implementing Sharia Law, which draws on the Koran and establishes their whole structure¹³. Sharia and *Fiqh* is the interpretation of Sharia studies¹⁴. The maintaining of

⁸ Changes are marked in bold font.

⁹ Not all Pashtun members joined the Taliban. There was resistance by some Pashtun members when the Taliban arrived in their region.

¹⁰ Lindsay Maizland and Zachary Laub, "The Taliban in Afghanistan", Council on Foreign Relations, March 11, 2020, available at: <https://www.cfr.org/backgrounder/taliban-afghanistan>, accessed January 6, 2021.

¹¹ Feroz Bashari, "Who Are the Taliban?", Presidential Office of Public and Strategic Affairs, Islamic Republic of Afghanistan, Government Media & Information Center, April 26, 2016, available at: <http://www.gmic.gov.af/english/analysis/395-who-are-the-taliban>, accessed January 6, 2021.

¹² Called Madrasah Institutes.

¹³ Michael Semple, *Rhetoric, Ideology and Organizational Structure of the Taliban Movement*, in Peaceworks, United States Institute of Peace, No. 102, 2014, p. 11, available at: <https://www.usip.org/sites/default/files/PW102-Rhetoric-Ideology-and-Organizational-Structure-of-the-Taliban-Movement.pdf>, accessed January 10, 2021.

Sharia is a set of norms, bearing in mind that it is not God but humans who legislate. Islamic practices can be re-interpreted to meet today's moral standards¹⁵.

A patriarchal structure is the basis of the Taliban society at all levels. During the time of their ruling, women were excluded entirely from public life. If they had to go out, a man had to go with them. Massive threats were set up, especially to women's and children's rights. The right of a woman to be able to divorce a man is primarily discouraged and frowned upon. Sometimes, even today, lawyers try to convince women not to divorce as it also means that she will lose the right to be maintained. It is even more complicated when children are involved since the mother must provide for the children¹⁶. A wife may obtain a judicial decree of divorce on the grounds of some matrimonial offense committed by the husband, such as cruelty, desertion, or failure to provide. However, the husband alone can terminate a marriage unilaterally by the repudiation of his wife¹⁷. Musicians were killed since no music was allowed¹⁸. Men had to let their hair grow, while women had to cover themselves with a head-to-toe burqa¹⁹, their eyes should not be seen, and they could not even speak in public²⁰. Even the windows of the houses were blackened so that they could not be seen from outside²¹. Women were not allowed to have a proper education, had no access to healthcare, did not have the right to go to work, were not allowed to go to the market alone²², nor drive a car²³. Women were completely dependent on a male family member.

Horrifying treatment was used when the new law was broken. Women faced public beatings and execution, such as stoning, which often caused death²⁴. Women were risking their lives for minimum offenses. Girls could no longer attend school. Instead, they had some at-home-lessons that did not grant a proper education. At an

¹⁴ Noel James Coulson et al., "Islamic Law", Britannica, available at: <https://tinyurl.com/2q3ex529>, accessed January 10, 2021.

¹⁵ Houriya Ahmed, "The Taliban's perversion of sharia law", The Guardian, May 3, 2009, available at: <https://www.theguardian.com/commentisfree/belief/2009/may/03/taliban-sharia-pakistan>, accessed January 10, 2021.

¹⁶ Cf. fn. 15.

¹⁷ *Ibidem*.

¹⁸ Human Rights Watch, *Systematic Abuses against Women in Afghanistan*, A Human Rights Watch Short Report, Vol. 13, No. 5 (C), Appendix I, October 2001, available at: <http://www.hrw.org/reports/2001/afghan3/>, accessed January 8, 2021.

¹⁹ Al Jazeera, "The Girls of the Taliban", Featured Documentary, Al Jazeera English, December 19, 2014, available at: <https://www.youtube.com/watch?v=vHWuj0SWs84>, accessed January 10, 2021.

²⁰ Amnesty International UK, "Women's rights in Afghanistan, Women in Afghanistan: the back story", November 25, 2014, available at: <https://tinyurl.com/38d7o8nt>, accessed January 6, 2021.

²¹ *Ibidem*.

²² *Ibidem*.

²³ Human Rights Watch, "Systematic Abuses against Women in Afghanistan", A Human Rights Watch Short Report.

²⁴ Mohammed Jamjoom, "Afghanistan execution sparks outrage", CNN Video, July 9, 2012, available at: <https://www.youtube.com/watch?v=gkxMv4acSm8>, accessed January 10, 2021.

early age, girls were considered to be eligible for marriage²⁵. During that time, being born as a woman in Afghanistan meant the exclusion from social, political, and economic rights²⁶, enforced through the firm belief that the interpretation of Islamic Law granted all women's rights. Girls' and women's education was and still is a relevant issue in the country. Following the Taliban educational system, which could be reflected in social interconnection, any contact between genders is not allowed. In the Kunduz province²⁷, it is still practiced today in madrasa schools.²⁸ Madrasa is a religious institute where girls are sent to study the Taliban Sharia and is economically backed by Pakistan²⁹. The male teacher is hidden from the group, which consists of girls up to 12 years old³⁰. This specific school's headteacher says that the Taliban is also working on letting women go to university³¹. However, what is taught in those schools is not comparable to a governmental, educational institution. In most cases, only religion and a wife's good behavior following their religious rules are getting taught³².

In 2001 the US invaded Afghanistan in an operation called "Enduring Freedom," bringing down the Taliban³³, who collaborated with the terrorist group Al-Qaeda. After the Anti-Taliban Alliance forces entered Kabul and enforced the Af-

²⁵ Human Rights Watch, "I Won't Be A Doctor, and One Day You'll Be Sick" - Girls' Access to Education in Afghanistan, October 2017, p.52, available at: <https://tinyurl.com/4e558zjc>, accessed January 8, 2021.

²⁶ Human Rights Watch, "Systematic Abuses against Women in Afghanistan", A Human Rights Watch Short Report.

²⁷ Province in the North of Afghanistan where the Taliban have gained great control.

²⁸ Amnesty International UK, "Women's rights in Afghanistan, Women in Afghanistan: the back story".

²⁹ Human Rights Watch, "Systematic Abuses against Women in Afghanistan", A Human Rights Watch Short Report.

³⁰ *Ibidem*.

³¹ *Ibidem*.

³² *Ibidem*.

³³ The Taliban continue to adapt and expand their ability to maintain and generate financial revenues to support their operations. The primary sources of income for the Taliban remain in narcotics, illicit minerals and other resources of extraction, taxation, extortion, the sale of commercial and government services and property, and donations from abroad. In its Afghanistan Opium Survey from 2018, Afghan officials and the United Nations Office on Drugs and Crime (UNODC) highlighted that the area supporting poppy cultivation in Afghanistan had declined by 20 percent since record levels in 2017, but that levels of cultivation remained at the second-highest amount ever recorded [...]. In addition to the Monitoring Team's previous reports regarding narcotics export routes, Afghan officials highlighted a new route in which heroin travels from Afghanistan through Turkmenistan, Azerbaijan, Georgia, and the Balkans into Western Europe. According to estimates by the Ministry of Mines and Petroleum, the Taliban and other terrorist organizations do not currently receive significant revenues from illegal mining. This is, in part, a consequence of decreases in prices for Afghan talc, marble, lapis lazuli, and other stones. The Taliban suspended mining operations in Badakhshan Province, at least partly because of the fall in market prices. In other cases, the Taliban extract revenue from mining activities through the imposition of taxes on local extraction occurring in territories under their control, as they do with other forms of commercial activity. Individuals who maintain legitimate business interests in the Gulf States and in Balochistan also launder money for the Taliban and share profits with the Taliban (UNSC, Letter dated 10 June 2019, S/2019/481, June 13, 2019, p. 10, available at: <https://tinyurl.com/1d70nej0>, accessed January 9, 2021).

ghan Government's downfall, the Taliban regrouped beyond Pakistan's border to rise against the US-backed Government in Kabul until now. In the same year, a Conference in Bonn was held to create an interim Government in Afghanistan³⁴ where Mr. Hamid Karzai³⁵ was appointed as the leader, and in 2004 a new constitution was adopted. A year later, elections for the Parliament were held, the first after 30 years. From this moment on, Afghanistan, backed by the United Nations, signed different Covenants to promote social and economic development and ensure equal civil rights³⁶. The Taliban continued to organize and attack both Afghan and non-Afghan targets. As a result, a more forceful intervention of NATO was called to support the newly settled Government. In 2011, another conference was held in Bonn to project the support and present the Afghan Government's aims. It focused on the civil aspects to transfer responsibility to the Government of Afghanistan by 2014, the long-term engagement of the international community in Afghanistan after 2014, and the political process intended to lead to the country's long-term stabilization³⁷. The country's civil war continued to create huge losses on all sides for two decades and is still ongoing. On February 29, 2020, a Peace Agreement between the US Government and the Taliban³⁸ and a Joint Declaration between the US Government and the Islamic Republic of Afghanistan³⁹ was signed, both followed by UNSC Resolution 2513⁴⁰.

Current State of Women's Rights in Afghanistan

Nowadays, women's involvement and rights in Afghanistan have slightly improved. Women's participation in society and representation in government and non-government offices have increased. The Afghan Government introduced some articles in its Constitution⁴¹ that forbid any discrimination and the equality of men and women before the law. Furthermore, it projects the protection and improvement of human liberty and dignity, beyond the sex distinction, as well as the right for a balanced and higher education and the protection of human rights of every-

³⁴ UNSC, Letter dated 5 December 2001 from the Secretary-General addressed to the President of the Security Council, S/2001/1154, Dec. 5, 2001, available at: <https://tinyurl.com/3ogb6oaj>, accessed January 9, 2021.

³⁵ Mr. Hamid Karzai was elected president in 2004.

³⁶ List of Ratification Status of Afghanistan, United Nations Human Rights Office of the High Commissioner, UN Treaty Body Database, available at: <https://tinyurl.com/dhwfmrr>, accessed January 10, 2021.

³⁷ Afghanistan Mission to the United Nations, "The International Afghanistan Conference Bonn 2011", December 5, 2011, available at: <https://tinyurl.com/fgeu0wrc>, accessed January 10, 2021.

³⁸ Cf. fn. 6.

³⁹ Joint Declaration between the Islamic Republic of Afghanistan and the United States of America for Bringing Peace to Afghanistan, available at: <https://tinyurl.com/q8t69iqy>, accessed January 10, 2021].

⁴⁰ Cf. fn. 8.

⁴¹ Islamic Republic of Afghanistan, Constitution of Afghanistan, Ratified on January 26, 2004, available at: <https://tinyurl.com/2n5h4bhc>, accessed January 10, 2021.

one, as it is clearly stated in art. 22, art. 24, art. 36, art. 43, art 44, and art. 58. In this context, it is essential to underline that in 2009 the Islamic Republic of Afghanistan adopted Law on Elimination of Violence against Women (EVAW)⁴², which has the aim of ensuring Sharia, legal rights and protecting the human dignity of women, maintaining family integrity, and fighting against customs, traditions, and practices which contradict Islamic Sharia and cause violence against women. It is also protecting women who are victims or at risk of violence, preventing violence against women, promoting public awareness and training on violence against women, and prosecuting perpetrators of violence against women.

In addition, in 2015, the Afghan Government signed various Covenants⁴³ and promoted Afghanistan's National Action Plan regarding UNSC Resolution 1325 on Women, Peace, and Security⁴⁴ for the inclusion and safeguarding of women's rights. The Action Plan is a tool to increase women's participation in the peace and security process and encourage women and men to participate in the development process. In this way, the Government has committed to increasing women's participation in the decision-making processes on executive levels of the Civil Service, Security, and Peace and Reintegration. Therefore, women were granted active and effective participation in security agencies' leadership positions in the peace process, including drafting strategies and policies on peace and security, participation in elections, and creating an effective, active, and accountable justice system. The state promotes health and psychosocial support for survivors of sexual and domestic violence throughout Afghanistan, which includes the protection of women from all types of violence and discrimination, all related crimes, the encouragement of boys and men to fight against violence against women, and the support of financial resources for activities related to women in emergencies. The Government also supports and provides capacity building for civil society (particularly women's organizations) regarding UNSC Resolution No. 1325 and wants to increase economic security for vulnerable women through increased employment opportunities. Moreover, the Government also created an essential organ called the United Nations Assistance Mission in Afghanistan (UNAMA). It was established by the UNSC Resolution No. 1401⁴⁵ in March 2002 and supports the process of women, peace and security through coordination with the Government of the Islamic Republic of Afghanistan⁴⁶.

⁴² Islamic Republic of Afghanistan, Ministry of Justice, Law on Elimination of Violence against Women (EVAW), August 1, 2009, available at: <https://www.refworld.org/pdfid/5486d1a34.pdf>, accessed January 10, 2021.

⁴³ Cf. fn. 37.

⁴⁴ Islamic Republic of Afghanistan, Ministry of Foreign Affairs, "Afghanistan's National Action Plan on UNSCR 1325 - Women, Peace, and Security", available at: <https://tinyurl.com/1erc7h73>, accessed November 17, 2020; UNSC, Resolution No. 1325 (2000), S/RES/1325, October 31, 2000, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N00/720/18/PDF/N0072018.pdf?OpenElement>, accessed January 10, 2021.

⁴⁵ UNSC, Resolution No. 1401 (2002), S/RES/1401, March 28, 2002, available at: <http://unscr.com/en/resolutions/doc/1401>, accessed January 10, 2021.

⁴⁶ United Nations Assistance Mission in Afghanistan, "UNAMA Mission Statement", May 3, 2017, available at: <https://tinyurl.com/y4grk34m>, accessed January 10, 2021.

Within and beyond this legal background, it is worth highlighting that the Afghan president Mr. Ghani said that “nation-building and state-building are impossible without an active role of women”⁴⁷. However, it is hard to determine if women achieved equality in the country. It is still considered a patriarchal society. Nevertheless, there are many efforts, campaigns, lawyers, organizations, and missions to establish a culture of peace and security by countrywide extended education, inclusion, and equality. The result of the US’s heavy spending, which amounts to 29 billion US dollars, can be partially seen in the enrollment numbers of Afghan girls and women in schools and universities. As of right now, 3.5 million Afghan girls are enrolled in primary and secondary schools, and 100,000 Afghan women attend universities. Furthermore, over 85,000 Afghan women are employed as teachers, lawyers, law enforcement officials, and health care. In comparison to the 1990s, this is a significant progressive change and a change that needs to be protected⁴⁸. Following this path, it is essential to highlight some examples as female civil society leaders in the Afghan High Peace Council have mobilized public support for the peace process and worked across divides to bring attention to social and humanitarian concerns. Women have used their few roles on provincial peace councils to broker local deals supporting former combatants’ reintegration, facilitate hostage releases, and counter extremist narratives⁴⁹. Increasingly important are shelters, where women seek a safe place, can stay, obtain medical care or legal aid⁵⁰.

The Afghan Women Skills Development Center (AWSDC), a non-governmental organization (NGO) in Kabul, is one of the most important, founded by Mary Akrami in 2001⁵¹. Some women create schools for girls to grant education like SOLA. SOLA is a mission to provide Afghan girls an education that promotes critical thinking, a sense of purpose, and respect for themselves and others⁵². Another example is Sakena Yacoobi⁵³, the founder of the Afghan Institute of Learning, created in 1995. AIL’s mission is to provide education, training, and health services to vulnerable Afghans to foster self-reliance, critical thinking skills, and community participation throughout Afghanistan and Pakistan⁵⁴. Some individuals

⁴⁷ Bakhtar News, “Nation-Building Incomplete Without Women Share: President Ghani”, March 11, 2017, available at: <https://tinyurl.com/gp8qroqq>, accessed January 10, 2021.

⁴⁸ Farahnaz Ispahani, “The US-Taliban Deal Ignores Human Rights and Women”, *The Diplomat*, March 6, 2020, available at: <https://tinyurl.com/1mxb7vdc>, accessed January 10, 2021.

⁴⁹ Council on Foreign Relations, “Afghanistan Case Study - Current Peace Effort”, *Women’s Participation in Peace Processes*, available at: <https://tinyurl.com/22cz5dj4>, accessed January 10, 2021.

⁵⁰ Marielle van Uitert, “Afghan shelter provides security for abused women”, *Al Jazeera*, July 27, 2015, available at: <https://tinyurl.com/28g8wgxp>, accessed January 10, 2021.

⁵¹ Afghan Women Skills Development Center, website: <http://awsdc.org.af/about-us/>, accessed January 6, 2021.

⁵² SOLA, School of Leadership Afghanistan, website: <https://www.sola-afghanistan.org/>, accessed January 10, 2021.

⁵³ Sekena Yacoobi, “How I stopped the Taliban from shutting down my school”, *TEDWomen* 2015, available at: <https://tinyurl.com/yrda9obk>, accessed January 10, 2021.

⁵⁴ Afghanistan Institute of Learning, website: <https://tinyurl.com/1v1li75w>, accessed January 10, 2021.

run a radio station⁵⁵, giving voice to Afghan women and acknowledging their rights. Sediqa Sherzai is running a radio station in Kunduz province⁵⁶. The organization “Young women for change” has the mission to support women’s welfare and empowerment. It has started a campaign called “Advocacy for dignity” against harassment⁵⁷. Kandahar’s female prosecutor Zainab FayeZ⁵⁸ works to achieve more justice for women and affirms that: “My aim is to see the next generation of Afghan women empowered. In Kandahar, it is extremely hard for a woman to work alone in an office, which is predominantly occupied by male staff members and where women as workers are taboo”⁵⁹.

Throughout the 21st century, women’s rights in Afghanistan have seen various changes. In the last two decades, a step-by-step improvement could be noticed. There is still a lot of work that needs to be done, especially in the regions where the Government is less present. Dreadful killings of women, like the cruel killing of Farkhunda Malikzada followed by a judgment of her innocence and vast manifestation claiming justice for her⁶⁰ or the case of Sahar Gul⁶¹ need to be prevented.

Human Security

In 1994 the United Nations Development Program (UNDP) formed a specific definition for human security in its Human Development Report⁶². It highlights the importance of a multisectoral and people-centered approach while tackling global

⁵⁵ Rina Chandran, “Afghan women brave rockets for rights”, Reuters, December 2, 2019, available at: <https://tinyurl.com/ky4vduxu>, accessed January 10, 2021; UNAMA, “Kunduz Radio Provides Independent Voice for Afghan Women and Youth”, July 13, 2016, available at: <https://tinyurl.com/1w1liw69>, accessed January 10, 2021.

⁵⁶ Mike Thomson, “The woman who dares to run a feminist radio station in Afghanistan”, BBC News, September 6, 2019, available at: <https://www.bbc.com/news/stories-49584155>, accessed January 10, 2021.

⁵⁷ The Guardian – The Observer, “Young Women for Change - A movement of young Afghan women and men advocating against sexual discrimination and inequality in Afghanistan”, November 25, 2012, available at: <https://tinyurl.com/277glq7m>, accessed January 10, 2021.

⁵⁸ Cora Engelbrecht, “Afghanistan - Why Women Across the Country Do not Trust the Taliban to Protect Their Rights - Article & Film”, Women’s UN Report Network, October 2, 2019, available at: <https://tinyurl.com/59eoe3l>, accessed January 10, 2021.

⁵⁹ Haroon Janjua, “‘I want to empower Afghan women’: female prosecutor on a lonely mission”, The Guardian, February 21, 2018, available at: <https://tinyurl.com/16r32zz4>, accessed January 10, 2021.

⁶⁰ Pamela Constable, “It was a brutal killing that shocked Afghanistan. Now, the outrage has faded.”, The Washington Post, March 28, 2017, available at: <https://tinyurl.com/3orzer56>, accessed January 10, 2021.

⁶¹ Kawoon Khamosh, “Sahar Gul, new life with new pains”, BBC Persian, July 15, 2013, available at: <http://cedawsouthasia.org/wp-content/uploads/2013/07/Sahar-Gul-New-Life-with-new-pain.pdf>, accessed January 10, 2021.

⁶² United Nations Development Programme (UNDP), *Human Development Report 1994*, Oxford University Press, New York 1994, available at: <https://tinyurl.com/poxxon1u>, accessed January 10, 2021.

issues such as Economic, Food, Health, Environmental, Personal, Community, and Political issues.

In 2012 the United Nations General Assembly (UNGA) adopted resolution 66/290⁶³, which helped interpret the term human security. It states that “development, human rights, and peace and security, are the three pillars of the United Nations, and are interlinked and mutually reinforcing” and further “agrees that Human Security is an approach to assist the Member States in identifying and addressing widespread and cross-cutting challenges to the survival, livelihood, and dignity of their people.” Furthermore, the importance of human security is one of the key points in UNGA resolution 70/1 of 2015⁶⁴. The resolution’s goals are to support the insurance and fulfillment of people’s needs and rights, and further demand the consideration of all aspects of human rights, human dignity, and equality within inclusive societies free from fear and want.

Within this context, the resolutions of the UNSC regarding Afghanistan should have put a stronger emphasis on human security to tackle the situation. The follow-up to paragraph 143 on human security of the 2005 World Summit Outcome in 2012 was inspired by a previous UNDP report that introduced human security with a broader meaning and gave it importance to the previous resolution adopted. Keeping Agenda 2030 in mind, the UNSC should probably have been more precise. It would have been essential to highlight people’s rights and support Afghan leadership in this regard. Human rights and human security should have been core elements in UNSC resolutions, especially since Afghanistan’s situation changes daily. From an outside perspective, it does not look as though the peace treaty, signed on February 29, 2020, turned anything in the country towards a more peaceful situation⁶⁵. One horrific event was the cowardly attack on a maternity ward in Kabul’s city on May 12, 2020. Twenty-four women, children, and babies were killed in cold blood. Sources claim that the attack was a systematic shooting to kill the mothers⁶⁶.

There is no militant group that claimed the attack, but it is safe to say that it was an attack, especially on women, when they were at their most vulnerable. Atrocities like this example need to stop. Women and their children in Afghanistan need protection and their rights secured. In a broader context, human security has to improve.

⁶³ United Nations General Assembly, A/RES/66/290, “Follow-up to paragraph 143 on Human Security of the 2005 World Summit Outcome”, October 25, 2012, available at: <https://tinyurl.com/q5x3qj1t>, accessed January 10, 2021.

⁶⁴ United Nations General Assembly, A/RES/70/1, “Transforming our world: the 20130 Agenda for Sustainable Development”, October 21, 2015, available at: <https://tinyurl.com/9czyxco2>, accessed January 10, 2021.

⁶⁵ Pamela Constable, “Taliban shows it can launch attacks anywhere across Afghanistan, even as peace talks continue”, *The Washington Post*, October 25, 2020, available at: <https://tinyurl.com/5797jhg3>, accessed January 6, 2021.

⁶⁶ Flora Drury, “Afghan maternity ward attackers ‘came to kill the mothers’”, *BBC News*, May 15, 2020, available at: <https://www.bbc.com/news/world-asia-52673563>, accessed January 10, 2021.

The necessity of the inclusion of women's rights in the peace treaty

The following section will introduce the peace treaty between the Taliban and the US in question. It tries to explain the need to include women's rights and the reasons behind it. There is no inclusion of women's rights in the peace treaty between the Islamic Emirate of Afghanistan, which is not recognized by the United States of America as a state known as the Taliban and the US. The treaty was signed by US representative Zalmay Khalilzad and Taliban representative Abdul Ghani Baradar in Doha, Qatar, on February 29, 2020. No female civil society representative from Afghanistan was present at the recent peace talks, which led to the peace treaty⁶⁷. Given the history of the Taliban's rule in the 1990s concerning women's rights, it should not be left to intra-Afghan dialogue and negotiations to make sure history does not repeat itself.

At that point, the American Government wished to leave Afghanistan as soon as possible. However, if the American Government had been more aware of its international responsibility regarding human rights, it could have supported the Afghan Government to negotiate with the Taliban and exerted pressure regarding the enforcement of human rights nationwide. Since 2001 women's rights have slightly improved in the country, and this improvement should continue. With the ratification of the Convention on the Elimination of All Forms of Discrimination against Women in 2003, women in the country were given some hope for their future and the prospect of a nation that respects basic human rights such as women's rights. Some authors go as far as calling the Taliban "untrustworthy" and their doctrine "irreconcilable with modernity and the rights of women"⁶⁸. Allen goes further and even calls the US's decision to "leave the fate of Afghan women to the intra-Afghan dialogue [...] a massive abdication of American and international responsibility to support universal human rights"⁶⁹. He criticizes that the agreement lacks "a clear statement of our expectation for the rights of women" and that without one, the hard work regarding women's rights in Afghanistan might be lost⁷⁰.

The heads of the Taliban repeatedly show that they have no interest in including women in the peace talks between the Taliban and the Afghan delegation. After it was reported that there would be women in the Taliban delegation, senior Taliban leaders shortly released a new statement that they were misquoted. The Taliban leaders referred to their clear-cut policy, according to which women could never

⁶⁷ Amy Lieberman, "Where are the women in the Afghan peace talks?", Devex, March 11, 2020, available at: <https://www.devex.com/news/where-are-the-women-in-the-afghan-peace-talks-96740>, accessed January 10, 2021.

⁶⁸ John R. Allen, "The US-Taliban peace deal: A road to nowhere", Brookings, March 5, 2020, available at: <https://tinyurl.com/yh4qh9jw>, accessed January 10, 2021.

⁶⁹ *Ibidem*.

⁷⁰ *Ibidem*.

represent them.⁷¹ From an outside perspective, it seems that parts of the Taliban group hold on to policies that leave no room for women, their future, and their rights. On the other hand, there are statements of Taliban leaders who want to grant women at least some rights. This instance leaves room to assume that the leaders of the group might not be on the same page. It might be true that the Taliban will grant women “some rights”⁷², but it has not been discussed yet, which specific rights and freedoms they mean.

There is also the assumption that the Taliban claim to improve women’s rights to look better for the western media but will not change their core values and beliefs, especially considering women’s rights⁷³. Until now, the intra-Afghan dialogue has not come to any progress yet. The Afghan Government presented a 21-member delegation of which five members are women. The hope is that there is the possibility “to discuss women’s representation, education, work, their participation in security and politics along with guarantees to access healthcare”⁷⁴. However, it has to be noted that just because there are women in the delegation, this does not mean that all of them will support a feminist approach⁷⁵. In a recent podcast, the German reporter Sibylle Licht shared that businesswomen of the Afghan city Bamyan do not feel represented in the current peace talks in Doha. The women’s network is concerned that their economic and political progress, independence, and future might not be considered within the peace talks⁷⁶. At the moment, it looks as though there is an initiative from the Afghan Government to “preserve the right to vote, right to candidacy, work, free speech, and all other human and women rights in the peace talks with the Taliban”⁷⁷. However, none of those promises and initiatives are legally binding. There are no explicit pledges relating to human rights and the protection of the status of women. Without them, human rights, especially women's rights, can be violated more quickly and the progress of the last years considering women’s rights to education, employment, and overall freedom is threatened.

⁷¹ Ahmed Mengli, Mushtaq Yusufzai and F. Brinley Bruton, “Taliban official says comments on women at Afghan peace talks were ‘misconstrued’”, NBC News, April 16, 2019, available at: <https://tinyurl.com/l25wbgsi>, accessed January 10, 2021.

⁷² Feroza Azizi and Abubakar Siddique, “Women Negotiators Seeking to Preserve Rights in Afghan Peace Talks”, Gandhara, March 30, 2020 <https://tinyurl.com/zqj9ca16>, accessed January 10, 2021.

⁷³ Farahnaz Ispahani, “The US-Taliban Deal Ignores Human Rights and Women”, The Diplomat.

⁷⁴ Feroza Azizi and Abubakar Siddique, “Women Negotiators Seeking to Preserve Rights in Afghan Peace Talks”, Gandhara.

⁷⁵ Hilary Charlesworth, *Prefiguring Feminist Judgment in International Law*, in *Feminist Judgments in International Law*, edited by Loveday Hodson and Troy Lavers, Hart Publishing Oxford 2019, Part V, p. 486; Christine Chinkin, Gina Heathcote, Emily Jones and Henry Jones, *Bozkurt Case, aka the Lotus Case (France v Turkey): Ships that Go Bump in the Night*, in *Feminist Judgments in International Law*, edited by Loveday Hodson and Troy Lavers, Hart Publishing Oxford 2019, Part II, p. 31.

⁷⁶ Weltspiegel Thema, “Afghanistan: Zukunft mit den Taliban?”, Interview with Sibylle Licht, November 7, 2020, available at: <https://tinyurl.com/cmax7fem>, accessed January 10, 2021.

⁷⁷ Feroza Azizi and Abubakar Siddique, “Women Negotiators Seeking to Preserve Rights in Afghan Peace Talks”, Gandhara.

To some, the peace deal between the US and the Taliban looks like a cheap exit strategy for the US to leave the country⁷⁸. The price is the negligence of human security, human rights, and especially women's rights. There were many attacks by the Taliban after the deal was signed, which signaled that negotiations with terrorists often do not lead to peace. The peace treaty itself is not very long but provides the opportunity to include aspects of human security, human rights, and especially women's rights a few times⁷⁹. If those changes had been part of the signed deal, the chances of the Taliban returning to their previous cruel ways from the 1990s could have been discouraged more. By including specifically women's rights, the negotiations between the Taliban and the Afghan Government would have held more potential to address women's rights in general.

The first addition in the authors' redrafted version of the peace treaty stresses the importance of a post-settlement that respects human rights and especially those of minorities and women. The reason for this addition is that human rights, in general, should play a significant role in the negotiations between the Taliban and the Afghan Government. Therefore, the addition was placed in the middle of the peace agreement on the first page. Instead of picturing law "as a type of superstructure, distinct from morality, politics and the real lives of people," the law should recover human life⁸⁰. Therefore, human lives, rather than States or parties, should be at the center of the law. This principle is crucial for the creation of a peace treaty since it affects human lives immediately. To guarantee a peaceful and realistic outcome, the recognition of human rights and especially women's and minority rights should have been at the center of the aforementioned peace treaty.

The second addition was considered from a human security point of view. Civilians, such as women and children, can often become soft targets; their position can easily be exploited. Sexual exploitation and crimes in particular pose a significant threat to the human security of women⁸¹. The safety of civilians and the avoidance of civilian casualties should have been a priority for both the US and the Taliban.

Part Two of the Peace Agreement protects the security of the United States and its allies. The third addition proposed in the redrafted version reinforces the necessity mentioned above to ensure human security. It also stresses the need to ensure women's and children's rights on the soil of Afghanistan. In this way, the US could have somewhat improved the protection of the groups mentioned above from being used and exploited in a conflict they may not even be a part of. The fourth and last addition underlines and emphasizes the necessity for the first addition.

Furthermore, the US missed its chance to insert the importance of a peaceful agreement between the Taliban and the Afghan Government. In this way, the US

⁷⁸ Farahnaz Ispahani, "The US-Taliban Deal Ignores Human Rights and Women", *The Diplomat*.

⁷⁹ Marked in bold font.

⁸⁰ Hilary Charlesworth, *Prefiguring Feminist Judgment in International Law*, in *Feminist Judgments in International Law*, edited by Loveday Hodson and Troy Lavers, Hart Publishing, Oxford 2019, Part V, p. 486.

⁸¹ Hilary Charlesworth, *Prefiguring Feminist Judgment in International Law*, in *Feminist Judgments in International Law*, edited by Loveday Hodson and Troy Lavers, Hart Publishing, Oxford 2019, Part V, p. 489.

could have exercised a lot more pressure on the Taliban and the outcome in Doha. By inserting those four simple changes, the US would not have only acted in its own interests such as its relationships with the Taliban, its own security, its own economic interests, and more, but rather acted in international interests to support universal human rights. The inclusion of women's rights would have been an indication that the US is living up to its own democratic values and their distribution. Moreover, the US spent more than \$2 trillion in nearly 20 years of war in Afghanistan⁸². A more stable and inclusive outcome in Doha, which respects human rights, would not only represent the US's values but would also reduce the costs for its own security spending in Afghanistan and may even spare some lives of American soldiers.

Rewritten Peace Treaty

The authors of this article decided to include the original peace treaty between the Taliban and the US. The authors' rewritten additions and changes to the peace treaty are highlighted in bold. One bullet point was added in the first part, which extends the peace agreement from originally four to five parts. An additional sentence extended the former fourth and now fifth part. There are no additions in Part One. One last sentence extends Part Two concerning Human Security. Part Three was extended by a fourth bullet point.

Agreement for Bringing Peace to Afghanistan between the Islamic Emirate of Afghanistan, which is not recognized by the United States as a state and is known as the Taliban and the United States of America

February 29, 2020

**which corresponds to Rajab 5, 1441 on the Hijri Lunar calendar and Hoot 10,
1398 on the Hijri Solar calendar**

A comprehensive peace agreement is made of **five** parts:

Guarantees and enforcement mechanisms that will prevent the use of the soil of Afghanistan by any group or individual against the security of the United States and its allies.

Guarantees, enforcement mechanisms, and announcement of a timeline for the withdrawal of all foreign forces from Afghanistan.

After the announcement of guarantees for a complete withdrawal of foreign forces and timeline in the presence of international witnesses, and guarantees and the announcement in the presence of international witnesses that Afghan soil will not be

⁸² Sarah Almukhtar and Rod Nordland, "What Did the U.S. Get for \$2 Trillion in Afghanistan?", *The New York Times*, December 9, 2019, available at: <https://tinyurl.com/1qg4e46v>, accessed January 17, 2021.

used against the security of the United States and its allies, the Islamic Emirate of Afghanistan which is not recognized by the United States as a state and is known as the Taliban will start intra-Afghan negotiations with Afghan sides on March 10, 2020, which corresponds to Rajab 15, 1441 on the Hijri Lunar calendar and Hoot 20, 1398 on the Hijri Solar calendar.

The intra-Afghan dialogue and negotiations should lead to a new post-settlement Afghan Islamic Government that respects human rights, especially those of minorities and women.

A permanent and comprehensive ceasefire will be an item on the agenda of the intra-Afghan dialogue and negotiations. The participants of intra-Afghan negotiations will discuss the date and modalities of a permanent and comprehensive ceasefire, including joint implementation mechanisms, which will be announced along with the completion and agreement over the future political roadmap of Afghanistan. **The agreement of a ceasefire should pay significant attention to vulnerable groups such as women, children, and minorities. Priority should be given to the avoidance of civilian casualties.**

The four parts above are interrelated and each will be implemented in accordance with its own agreed timeline and agreed terms. Agreement on the first two parts paves the way for the last two parts.

Following is the text of the agreement for the implementation of parts one and two of the above. Both sides agree that these two parts are interconnected. The obligations of the Islamic Emirate of Afghanistan which is not recognized by the United States as a state and is known as the Taliban in this agreement apply in areas under their control until the formation of the new post-settlement Afghan Islamic Government as determined by the intra-Afghan dialogue and negotiations.

PART ONE

The United States is committed to withdraw from Afghanistan all military forces of the United States, its allies, and Coalition partners, including all non-diplomatic civilian personnel, private security contractors, trainers, advisors, and supporting services personnel within fourteen (14) months following announcement of this agreement, and will take the following measures in this regard:

A. The United States, its allies, and the Coalition will take the following measures in the first one hundred thirty-five (135) days:

1) They will reduce the number of US forces in Afghanistan to eight thousand six hundred (8,600) and proportionally bring reduction in the number of its allies and Coalition forces.

2) The United States, its allies, and the Coalition will withdraw all their forces from five (5) military bases.

B. With the commitment and action on the obligations of the Islamic Emirate of Afghanistan which is not recognized by the United States as a state and is known as the Taliban in Part Two of this agreement, the United States, its allies, and the Coalition will execute the following:

1) The United States, its allies, and the Coalition will complete withdrawal of all remaining forces from Afghanistan within the remaining nine and a half (9.5) months.

2) The United States, its allies, and the Coalition will withdraw all their forces from remaining bases.

C. The United States is committed to start immediately to work with all relevant sides on a plan to expeditiously release combat and political prisoners as a confidence-building measure with the coordination and approval of all relevant sides. Up to five thousand (5,000) prisoners of the Islamic Emirate of Afghanistan which is not recognized by the United States as a state and is known as the Taliban and up to one thousand (1,000) prisoners of the other side will be released by March 10, 2020, the first day of intra-Afghan negotiations, which corresponds to Rajab 15, 1441 on the Hijri Lunar calendar and Hoot 20, 1398 on the Hijri Solar calendar. The relevant sides have the goal of releasing all the remaining prisoners over the course of the subsequent three months. The United States commits to completing this goal. The Islamic Emirate of Afghanistan which is not recognized by the United States as a state and is known as the Taliban commits that its released prisoners will be committed to the responsibilities mentioned in this agreement so that they will not pose a threat to the security of the United States and its allies.

D. With the start of intra-Afghan negotiations, the United States will initiate an administrative review of current US sanctions and the rewards list against members of the Islamic Emirate of Afghanistan which is not recognized by the United States as a state and is known as the Taliban with the goal of removing these sanctions by August 27, 2020, which corresponds to Muharram 8, 1442 on the Hijri Lunar calendar and Saunbola 6, 1399 on the Hijri Solar calendar.

E. With the start of intra-Afghan negotiations, the United States will start diplomatic engagement with other members of the UNSC and Afghanistan to remove members of the Islamic Emirate of Afghanistan which is not recognized by the United States as a state and is known as the Taliban from the sanctions list with the aim of achieving this objective by May 29, 2020, which corresponds to Shawwal 6, 1441 on the Hijri Lunar calendar and Jawza 9, 1399 on the Hijri Solar calendar.

F. The United States and its allies will refrain from the threat or the use of force against the territorial integrity or political independence of Afghanistan or intervening in its domestic affairs.

PART TWO

In conjunction with the announcement of this agreement, the Islamic Emirate of Afghanistan which is not recognized by the United States as a state and is known as the Taliban will take the following steps to prevent any group or individual, including al-Qa'ida, from using the soil of Afghanistan to threaten the security of the United States and its allies:

The Islamic Emirate of Afghanistan which is not recognized by the United States as a state and is known as the Taliban will not allow any of its members, other individuals or groups, including al-Qa'ida, to use the soil of Afghanistan to threaten the security of the United States and its allies.

The Islamic Emirate of Afghanistan which is not recognized by the United States as a state and is known as the Taliban will send a clear message that those who pose a threat to the security of the United States and its allies have no place in Afghanistan, and will instruct members of the Islamic Emirate of Afghanistan which

is not recognized by the United States as a state and is known as the Taliban not to cooperate with groups or individuals threatening the security of the United States and its allies.

The Islamic Emirate of Afghanistan which is not recognized by the United States as a state and is known as the Taliban will prevent any group or individual in Afghanistan from threatening the security of the United States and its allies, and will prevent them from recruiting, training, and fundraising and will not host them in accordance with the commitments in this agreement.

The Islamic Emirate of Afghanistan which is not recognized by the United States as a state and is known as the Taliban is committed to deal with those seeking asylum or residence in Afghanistan according to international migration law and the commitments of this agreement, so that such persons do not pose a threat to the security of the United States and its allies.

The Islamic Emirate of Afghanistan which is not recognized by the United States as a state and is known as the Taliban will not provide visas, passports, travel permits, or other legal documents to those who pose a threat to the security of the United States and its allies to enter Afghanistan.

In line with the previous steps concerning the United States' security, the Islamic Emirate of Afghanistan, which is not recognized by the United States as a state and is known as the Taliban, will take measures to ensure Human Security and avoid civilian casualties of any kind. Women's and children's rights, in particular, should be guaranteed.

PART THREE

1. The United States will request the recognition and endorsement of the United Nations Security Council for this agreement.

2. The United States and the Islamic Emirate of Afghanistan which is not recognized by the United States as a state and is known as the Taliban seek positive relations with each other and expect that the relations between the United States and the new post-settlement Afghan Islamic Government as determined by the intra-Afghan dialogue and negotiations will be positive.

3. The United States will seek economic cooperation for reconstruction with the new post-settlement Afghan Islamic government as determined by the intra-Afghan dialogue and negotiations, and will not intervene in its internal affairs.

4. The United States seeks to work with a new post-settlement Afghan Islamic Government that respects minorities' and especially women's rights. Peace within the country must be a priority of the new Government.

Signed in Doha, Qatar on February 29, 2020, which corresponds to Rajab 5, 1441 on the Hijri Lunar calendar and Hoot 10, 1398 on the Hijri Solar calendar, in duplicate, in Pashto, Dari, and English languages, each text being equally authentic.

The need to explicitly name women's rights in the UNSC Resolution

The following part will introduce UNSC Resolution 2513 and the reasons why the authors believe that the Security Council could have extended its resolution.

The resolution 2513 (2020) of the UNSC⁸³, which was adopted on March 10, 2020, addresses Afghanistan's current situation, the peace deal between the Taliban and the US from February 29, 2020, and the intra-Afghan negotiations. The aforementioned resolution lists previous resolutions from 2015, 2017, and two from 2019 on Afghanistan in its first sentence⁸⁴. All of them address the ongoing concern about the security situation in Afghanistan and specifically name the violent actions of the Taliban group. Furthermore, the resolutions consistently welcomed a framework for all Afghan parties "to achieve a peaceful and prosperous future for all the people of Afghanistan"⁸⁵. Resolution 2501 specifically welcomed "efforts to initiate inclusive intra-Afghan negotiations [...]"⁸⁶. Hence, the current peace talks in Doha, Qatar, are a welcomed outcome by the UNSC.

UNSC resolution 2513 "[...]; emphasizes the importance of the effective and meaningful participation of women and affirms that any political settlement must protect the rights of all Afghans, including women, [...]" in Number 3. Furthermore, the resolution "urges the Government of the Islamic Republic of Afghanistan to advance the peace process, including by participating in intra-Afghan negotiations through a diverse and inclusive negotiating team composed of Afghan political and civil society leaders, including women" in Number 4. In the context of women in times of peace and security, it is helpful and necessary that the UNSC included the protection of women's rights in their resolution. However, the resolution does not go into detail into which particular way women's rights are protected. The Government of the Islamic Republic of Afghanistan signed the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1980 and ratified it in 2003.

Since the UNSC is a United Nations body, it would have been helpful to mention the Convention as a guideline in the resolution itself. There are ten UNSC resolutions on Women, Peace, and Security (WPS)⁸⁷. At least in its past three WPS resolutions, the UNSC references the State Parties' obligations to the Convention on the Elimination of All Forms of Discrimination against Women⁸⁸. Therefore, the

⁸³ Cf. fn. 8.

⁸⁴ UNSC Resolution No. 2255 (2015), S/RES/2255, Dec. 22, 2015, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N15/445/02/PDF/N1544502.pdf?OpenElement>, accessed Jan. 8, 2021; UNSC Resolution No. 2344 (2017), S/RES/2344, March 17, 2017, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N17/069/96/PDF/N1706996.pdf?OpenElement>, accessed Jan. 8, 2021; UNSC Resolution No. 2489 (2019), S/RES/2489, Sept. 17, 2019, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/284/39/PDF/N1928439.pdf?OpenElement>, accessed Jan. 8, 2021; UNSC Resolution No. 2501 (2019), S/RES/2501, Dec. 16, 2019, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/413/11/PDF/N1941311.pdf?OpenElement>, accessed Jan. 8, 2021.

⁸⁵ UNSC Resolution No. 2344 (2017), S/RES/2344.

⁸⁶ UNSC Resolution No. 2501 (2019), S/RES/2501.

⁸⁷ Women's International League for Peace and Freedom, "About Women, Peace and Security in the Security Council", available at: <https://www.peacewomen.org/security-council/WPS-in-SC-Council>, accessed Jan. 8, 2021.

⁸⁸ UNSC Resolution No. 2493 (2019), S/RES/2493, Oct. 29, 2019, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/339/37/PDF/N1933937.pdf?OpenElement>, accessed Jan. 8, 2021.

authors chose to include a new bullet point in the resolution, which explicitly mentions CEDAW. Citing the Convention can also prevent the Afghan governmental delegation, especially the Taliban delegation, from “cherry-picking” which women’s rights will be respected, protected, and fulfilled and which rights will not. By ratifying the Convention in 2003, Afghanistan promised to implement the whole Convention and not only certain rights.

In addition, the resolution includes the importance of participation of women in the intra-Afghan negotiations twice (Number 3 and Number 4). Mentioning women’s inclusion in the peace talks between the Afghan governmental delegation and the Taliban delegation is progress. Nevertheless, the resolution does not include how many women should be included in the negotiations and how. Is it enough if two women are part of the negotiations? Is the total number of five women in a 21-member delegation sufficient? This idea might be a little too progressive for peace talks between the Afghan Government and the Taliban; however, the inclusion of a quota would have been more precise and helpful regarding women’s inclusion and participation in the intra-Afghan negotiations. The authors chose to extend bullet point number four with the addition that women should be equally represented. While it does not mean that identity will support a feminist approach and perspective, “it still plays a role, in particular in establishing the spaces of intersectional privilege”⁸⁹.

Lastly, the UNSC missed its chance to include additional precautions and a further reduction in violence by naming violence against women, specifically in Number 5. It is essential to mention that women should be protected from sexual exploitation, rape, and domestic abuse in times of war and a ceasefire. The UNSC could have included a call to the Afghan Government and the Taliban to create conditions in which violence against women has no place.

Rewritten UNSC Resolution

As previously done with the peace treaty, the authors decided to include the original UNSC Resolution 2513 in this article. The authors’ rewritten additions and changes to the peace treaty are highlighted in bold font. A new bullet point (3.1) was created between bullet point three and four. Furthermore, bullet points four and five were extended.

Resolution 2513 (2020), Adopted by the Security Council at its 8742nd meeting, on March 10 2020

UNSC Resolution No. 2467 (2019), S/RES/2467, April 23, 2019, available at: <https://tinyurl.com/sxnaxcll>, accessed Jan. 8, 2021; UNSC Resolution No. 2242 (2015), S/RES/ 2242, Oct. 13, 2015, available at: <http://unscr.com/en/resolutions/doc/2242>, accessed Jan. 8, 2021.

⁸⁹ Christine Chinkin, Gina Heathcote, Emily Jones and Henry Jones, *Bozkurt Case, aka the Lotus Case (France v Turkey): Ships that Go Bump in the Night*, in *Feminist Judgements in International Law*, edited by Loveday Hodson and Troy Lavers, Hart Publishing, Oxford 2019, Part II, p. 31.

The Security Council,

Recalling its previous resolutions on Afghanistan, in particular resolutions 2255 (2015), 2344 (2017), 2489 (2019), and 2501 (2019), and the statement by its President of January 19 2018 (S/PRST/2018/2),

Stressing the important role that the United Nations, together with its assistance mission, the United Nations Assistance Mission in Afghanistan (UNAMA), will continue to play in promoting peace and stability in Afghanistan,

Reaffirming its strong commitment to the sovereignty, independence, territorial integrity, and national unity of Afghanistan, and its support for a peaceful, stable, and prosperous Afghanistan,

Acknowledging the widespread and sincere demand of the Afghan people for lasting peace and an end to the war, and recognizing that a sustainable peace can be achieved only through an Afghan-led, Afghan-owned peace process that leads to an inclusive, negotiated political settlement,

Welcoming accelerated efforts to make progress toward reconciliation and welcoming and encouraging the continuation of the efforts of all regional and international partners of Afghanistan to support peace, reconciliation, and development in Afghanistan,

Welcoming the nationwide reduction in violence period that resulted from talks between the United States and the Taliban, as well as consultations with the Government of the Islamic Republic of Afghanistan, in creating an environment conducive to peace negotiations, enabling greater freedom of movement, and reducing civilian casualties, and stressing the importance of sustained efforts to continue to reduce violence,

Emphasizing the importance of supporting the Government of the Islamic Republic of Afghanistan in capacity building, in particular of the Afghan National Defence and Security Forces (ANDSF) as well as the Afghan National Police (ANP) in securing their country and in their fight against terrorism,

Welcoming efforts to initiate, without delay, inclusive, intra-Afghan negotiations aimed at securing a durable peace settlement that ends the conflict in Afghanistan and ensures that Afghanistan is never again a safe haven for international terrorism,

Welcoming the Taliban's commitment to prevent any group or individual, including Al-Qaida, from using the soil of Afghanistan to threaten the security of other countries, and its commitment to participate in intra-Afghan negotiations with all sides to discuss and agree on a political settlement and on the date and modalities of a permanent and comprehensive ceasefire, including joint implementation mechanisms,

Reaffirming the importance of ensuring that the territory of Afghanistan should not be used by Al-Qaida, ISIL or other international terrorist groups to threaten or attack any other country, and that neither the Taliban nor any other Afghan group or individual should support terrorists operating on the territory of any other country,

Bearing in mind the urgent need for all Afghan parties to counter the world drug problem with the goal of combating traffic in opiates originating from Afghanistan,

Noting that the Islamic Emirate of Afghanistan is not recognized at the United Nations, and furthermore that the UN Security Council does not support the restoration of the Islamic Emirate of Afghanistan,

1. Welcomes the significant steps towards ending the war and opening the door to intra-Afghan negotiations enabled by the Joint Declaration between the Islamic Republic of Afghanistan and the United States of America for Bringing Peace to Afghanistan (Joint Declaration) ([S/2020/185](#) and attached as Annex A to this resolution) and the Agreement for Bringing Peace to Afghanistan between the United States of America and the Taliban (Agreement) ([S/2020/184](#) and attached as Annex B to this resolution);

2. Recognizes and encourages the sustained support of the United Nations and international and regional partners and their significant and ongoing contributions to the cause of peace, including the willingness of multiple countries to facilitate or convene intra-Afghan negotiations in order to achieve a political settlement and a permanent and comprehensive ceasefire;

3. Welcomes the intention of all Afghan parties to pursue the successful negotiation of an inclusive political settlement and a permanent and comprehensive ceasefire, taking into account the Joint Declaration and Agreement; emphasises the importance of the effective and meaningful participation of women, youth, and minorities, and affirms that any political settlement must protect the rights of all Afghans, including women, youth and minorities, and respect the strong desire of Afghans to achieve durable peace and prosperity, and must respond to the strong desire of Afghans to sustain and build on the economic, social, political and development gains achieved since 2001, including adherence to the rule of law, respect for Afghanistan's international obligations, and improving inclusive and accountable governance;

3.1 Calls upon The Government of the Islamic Republic of Afghanistan to specifically protect the rights of women mentioned in the Convention on the Elimination of all Forms of Discrimination against Woman, which was ratified by the Government of the Islamic Republic of Afghanistan in 2003.

4. Urges the Government of the Islamic Republic of Afghanistan to advance the peace process, including by participating in intra-Afghan negotiations through a diverse and inclusive negotiating team composed of Afghan political and civil society leaders, including women **who should be equally represented**;

5. Calls on the Government of the Islamic Republic of Afghanistan and the Taliban to pursue in good faith additional confidence building measures to create conditions conducive to a swift beginning and the success of intra-Afghan negotiations and a durable peace, including additional reductions in violence to significantly reduce civilian casualties, especially children, **additional reductions in violence against women** and allow for increased international support for Afghanistan prior to agreement on a permanent and comprehensive ceasefire, as well as release of prisoners;

6. Calls upon all States to provide their full support to promoting the successful negotiation of a comprehensive and sustainable peace agreement which ends the war for the benefit of all Afghans and that contributes to regional stability and global security;

7. Expresses its readiness upon the commencement of the intra-Afghan negotiations to consider the start of the review of the status of designations of individuals, groups, undertakings and entities on the List established and maintained pursuant to resolution 1988 (2011), in accordance with relevant Security Council resolutions, in order to support the peace process, and urges all States to conduct without any delay national reviews, mindful that Taliban action, or the lack thereof, to further reduce violence, make sustained efforts to advance intra-Afghan negotiations, and otherwise cease to engage in or support activities that threaten the peace, stability and security of Afghanistan, will affect the review;
8. Welcomes work underway by the international community to prepare for the delivery of humanitarian assistance and development assistance throughout Afghanistan with the aim of addressing humanitarian needs, promoting reconciliation, and extending the benefits of peace, further welcomes the efforts of regional cooperation for regional development, and stresses the importance of international and regional economic cooperation for the reconstruction of Afghanistan;
9. Requests the Secretary General to include in his reports on Afghanistan, as requested in paragraph 9 of resolution 2489 (2019), developments related to the efforts set out in this resolution;
10. Decides to remain actively seized of the matter.

Conclusions

Afghanistan is seemingly at a crossroads once again. Since the negotiations started in 2018, more and more women began to advocate for their own rights. One campaign launched in March 2019, called #MyRedLine, is supported by UN women and focuses on telling “Afghan decision-makers that peace cannot be achieved at the expense of the rights and freedoms of Afghan women”⁹⁰. There is a significant demand that women are not portrayed as victims because that assumption undermines their efforts⁹¹. Especially Muslim women are often portrayed as being “victims of Muslim men and patriarchal religion”⁹². It seems crucial to protect the progress that has been made in Afghanistan over the past two decades. There is fear that the positive changes for women, their rights, and their slightly changed status in society might dissolve if Afghan women cannot be part of creating the future of their own country. If the US had included a demand for the Taliban to respect women’s rights, it would have put a lot more pressure on the terrorist group to make some changes and not just hand out empty promises. Instead, the US Government made it very easy for the Taliban to come back to power and possibly implement their old rules once more. The overall goal should be the reduction or even

⁹⁰ Samea Shanori and Fiona Shukri, “Afghan Women on the US-Taliban Peace Deal: We Refuse to Shut Up”, PassBlue - Independent Coverage of the UN, March 25, 2020, available at: <https://tinyurl.com/16r8n2mu>, accessed January 10, 2021.

⁹¹ Ratna Kapur, *The Tragedy of Victimization Rhetoric: Resurrecting the Native Subject in International/Postcolonial Feminist Legal Politics*, in “Harvard Human Rights Journal”, Vol. 15, 2002, p. 1-38.

⁹² Amina Jamal, *Just between us: identity and representation among Muslim women*, in “Inter-Asia Cultural Studies”, Vol. 12, 2011, pp. 202-212.

elimination of the Armed Forces in Afghanistan. However, at the current time, this event seems very far away. The actions of a relatively new non-state actor, the Islamic State in Afghanistan (ISIS), negatively influences the state of peace and security in the country with recent attacks, e.g., killing 24 individuals at a funeral in Nangarhar, eastern Afghanistan, on May 12, 2020⁹³.

It is vital that the UNSC should emphasize the participation of women in the negotiations and affirm that any political settlement must protect all Afghans' rights, including those of women, [...]. However, since Afghanistan ratified the Convention on the Elimination of All Forms of Discrimination against Women in 2003, the UNSC could have implemented the Convention in their resolution to clarify the importance of specific women's rights. From a feminist point of view, the UNSC did not do enough to ensure women's participation in the intra-Afghan negotiations, to ensure that women's rights are fully protected, and to ensure that there will be durable peace with a reduction in violence, especially against women. Lastly, Mrs. Hillary Clinton found the perfect words for the female situation in Afghanistan when she spoke at the meeting of the Group of Friends of Women in Afghanistan on March 10, 2020:

If women are sidelined, the prospects for sustainable peace are slim. If society is torn apart and women pushed to the margins, it is more likely that terrorists will find a haven. There can be no sustainable peace without women's participation and rights⁹⁴.

Annex

While the authors gathered information on the situation in Afghanistan, the authors (A) found it interesting to directly talk to person (B) who is currently living in Kabul and who kindly answered all of our questions. The conversation was about the political history of the last 20 years and continued with his opinion about the recently signed agreement.

B: "Considering that Afghanistan is going through almost 20 years of war, it should be a good starting point for the stabilization of the state, but it is hard to trust the Taliban, especially as the recent fact. One of the primary things that the Taliban required for starting intra-Afghan talks was some prisoners' release. In particular, they required the freedom of a right-hand men group. After three days, they made an attack. Besides, in the treaty, they have not considered women's rights as far as I know. This upsets many people, and many women fear the return of the 90s. It is hard to say whether the Taliban and the Government will be able to find common ground."

⁹³ Al Jazeera, "Afghanistan: Deadly suicide attack targets funeral in Nangarhar", May 12, 2020, available at: <https://tinyurl.com/3u5gtgvz>, accessed January 10, 2021.

⁹⁴ United Nations News, "Afghanistan peace prospects 'slim' without women's participation: Hillary Clinton", March 10, 2020, available at: <https://news.un.org/en/story/2020/03/1059091>, accessed January 10, 2021.

A: "In the past, it already happened that a country that has invaded the country, withdrew from the conflict, and left the governance establishment to the intra-Afghan talks. This brought a huge civil war and the rise of the Taliban governance. Do you think that this could happen again?"

B: "I think that this could not be possible. Times are different; the Government is different. In the cities, there are many youngsters seeing things differently. Many youngsters go to school and graduate every year; they are around 22 thousand, which is important to say as they continue their schooling besides the war or poverty. By the way, the internet is a useful tool in this sense; we can see what occurs outside and confront it. I think that the Government has made some changes, and still, we have the freedom to speak, so I really do not think it is possible to go back to those years."

A: "The Government has slightly improved women's rights. Which kind of idea do you have about it and the NGO work?"

B: "It has, but unfortunately, there are some areas that are not under the state's control, and there are many difficulties. However, many organizations are also working together to improve rights and help women. However, it is still hard to help women far from the city as sometimes there is suspect, and for someone who comes from outside, it is difficult to understand the situation. Living there often reflects an old-style view on how women should behave and their harsh situation. While in the city, it is different because women go to work, go to school, hang out. In the teacher's body, there is 26% of women. It is still a poor country that is developing, and aid comes from humanitarian organizations."

A: "What do you think about the national plan to improve equal rights?"

B: "It should also be important to consider the first agreement in Bonn where we can see more rights in political inclusion, both for women and ethnics. Everyone at that time saw things changing quickly, and everyone had many expectations. It was a florid period when I was very young. I think that things are still changing and need to change."

A: "Have you got your own opinion on what could happen?"

B: "Of course, as I said, there is a lot of work to do. Looking at the Taliban's history and what they did, it is tough for the Government and young people to imagine not living peacefully together because we cannot accept their strict views. Even if they said they have changed and have signed agreements, they are the same as before."