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THE CRISIS IN AFGHANISTAN: WHEN WILL GENDER APARTHEID END?

Lisa M. Ayoub[†]

I. INTRODUCTION

Imagine having to wear a garment from head to toe with only a mesh screen for vision, and receiving hundreds of lashes on your back and legs for not wearing the garment properly in public. Further, visualize being a prominent doctor and being told that you could not practice anymore because you are a woman. Since the Taliban took over Afghanistan in 1996, women have been banned from the work force, prohibited to go to school and denied medical assistance because of their gender.

Are the Taliban imposing these strict laws on women because it is simply a part of Islamic law? Do they feel that the international community should just stay out and respect the Muslim religion? This article focuses on how the Taliban emerged in Afghanistan; how the Qur'an actually perceives women and their rights; how the international community has responded to this gender apartheid; how the UN and NGOs play a role; and possible solutions to the crisis in Afghanistan.

In Part II, a background of Afghanistan, its economy and the Taliban will be discussed. Part III will focus on the Taliban, and the treatment of women in Afghanistan. Part IV is a comparison and contrast between Islamic law and the Taliban with an emphasis on Islamic law and equal rights of men and women. In Part V, the influence of the International Community and non-governmental organizations and their roles in gender apartheid will be discussed. Part VI discusses some appropriate methods of reform for gender apartheid.

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II. BACKGROUND ON AFGHANISTAN

A. Geography and Economy

Afghanistan is an extremely poor, landlocked country located in Southern Asia, north and west of Pakistan and east of Iran.¹ Afghanistan's area can be compared to the state of Texas.² In addition, Afghanistan has mostly rugged mountains with plains in the north and southwest.³ The country's natural resources include the following: natural gas, petroleum, barites, copper, coal, talc, iron ore, zinc, sulfur, lead, salt, semiprecious, and precious stones.⁴ Furthermore, as of July 1998, Afghanistan's population was 24,792,375, with the population growth rate of 4.21%.⁵

Afghanistan is a poor country that is very dependent on livestock raising and farming.⁶ Economic considerations have not been a top priority because of political and military upheavals for more than eighteen years, including a ten-year Soviet military occupation.⁷ During the civil war, one-third of Afghanistan's population fled, with over six million refugees staying in Pakistan and Iran.⁸ In addition, the gross domestic product has declined tremendously over the past eighteen years due to the loss of capital and labor as well as the disruption of transport and trade.⁹ Most of the people in Afghanistan are suffering from insufficient clothing, food, medical care, and housing.¹⁰ Inflation remains a major problem throughout Afghanistan, which is estimated at about 240%.¹¹

B. How the Taliban Emerged

The present day crisis in Afghanistan can be traced back to December 1979 when Afghanistan was invaded by Soviet troops.¹² Mujahideen (soldiers of Islam) groups replied by mounting armed opposition to the Soviet presence.¹³ In the early 1980s, as Afghanistan entered into civil

1. See *Afghanistan* (visited July 7, 1999) <<http://www.odci.gov/cia/publications/factbook/af.html>>.

2. See *id.*

3. See *id.*

4. See *id.*

5. See *id.*

6. See *Afghanistan*, *supra* note 1.

7. See *id.*

8. See *id.*

9. See *id.*

10. See *id.*

11. See *Afghanistan*, *supra* note 1.

12. See T. Kumar, *Crisis in Afghanistan*, available in 1999 WL 16945964 (Apr. 14, 1999) [hereinafter Kumar] (Amnesty International testimony before the Senate Foreign Relations Committee Subcommittee on Near East and South Asia, Apr. 14, 1999).

13. See *id.*

war, various governments around the world offered political and military support to the different factions.¹⁴ The actuality that some of these groups were terrorizing indefensible civilians was a smaller concern than utilizing them as cold war proxies.¹⁵ The top priority was often political expediency and not human rights.¹⁶

For over a decade, immense amounts of ammunitions and arms were brought into Afghanistan.¹⁷ The countries that were essentially accountable were the former Soviet Union (including its successor states of the Commonwealth of Independent States), Saudi Arabia, Iran, Pakistan, and the United States and its Western European allies.¹⁸ Each country either financed ammunition purchases, sold arms straight to Afghan groups, or simplified dispersal through their territory.¹⁹ Not once did any of these countries acknowledge that the ammunition and arms were being utilized to perform a mass amount of human rights abuses.²⁰

Without a doubt, Soviet and Soviet-backed forces were blameworthy of methodical and gross abuses.²¹ This is well understood and was rightly condemned.²² But it has been well known that some of the western backed Mujahideen also participated in the human rights abuses as well.²³ However, during this period, the Taliban truthfully fought the Soviets with immense eagerness and sacrifice.²⁴ They were not as corrupt and their stern devout control sustained a more focused approach to the "jihad" (holy war) at hand.²⁵

The Soviet Union's goal was to set up a pro-Soviet government.²⁶ The United States' objective was to obtain Soviet retraction.²⁷ Countries neighboring Afghanistan hoped to expand their control in the region.²⁸ The majority of the human costs for these goals were not borne by these governments.²⁹ Instead, they were borne by countless men, women, and

14. *See id.*

15. *See id.*

16. *See id.*

17. *See Kumar, supra* note 12.

18. *See id.*

19. *See id.*

20. *See id.*

21. *See id.*

22. *See Kumar, supra* note 12.

23. *See id.*

24. *See The Taliban & Northern Alliance* (visited July 7, 1999) <<http://frankenstein.worldweb.net/afghan/Politics/taliban.html>> [hereinafter *Northern Alliance*].

25. *See id.*

26. *See Kumar, supra* note 12.

27. *See id.*

28. *See id.*

29. *See id.*

children in Afghanistan.³⁰ Approximately 400,000 children were killed and numerous died of other war related reasons.³¹ Houses and villages were demolished by mortars, rockets, and bombs.³² A third of the population of Afghanistan became refugees.³³

After the Soviets retraction, the Taliban instantly withdrew from the war scene and returned to their pious schools.³⁴ Meanwhile, Afghanistan was quickly heading towards disintegration with the Mujahideen committing human rights abuses.³⁵ The succeeding case can best portray the predicament of Afghan women at the hands of the non-Taliban armed groups.³⁶

During an infrequent pause in the siege of Kabul in 1994, a woman left her house to look for food.³⁷ Two Mujahideen soldiers seized her and took her to a house, where 22 men raped her for 3 consecutive days.³⁸ When she was permitted to go home, she discovered her three children had died from hypothermia.³⁹ Such stories were the daily catastrophes of Afghan civilians for over a generation under non-Taliban armed groups.⁴⁰ Additional mistreatments consisted of intentional and arbitrary killings, torment, extrajudicial executions, unacknowledged detentions and imprisonment of conscience, and atrocities including those of prisoners of war recorded in May 1997 from Mazar-e Sharif.⁴¹

It was at this moment that the Taliban were reintroduced into the Afghan setting.⁴² The appearance of the Taliban, distinctively during the period when rape, murder, and genocide by the different warlords was frantic, appeared to be more like the armed force arriving to liberate the trapped people of Afghanistan and at first was praised with devotion and support.⁴³ It was because of this very livelihood that the Taliban enjoyed a spectacular victory in the battles that occurred.⁴⁴

The Taliban emerged as a new political and military force in November 1994 when they seized the city of Kandahar from the Mujahideen

30. *See id.*

31. *See Kumar, supra note 12.*

32. *See id.*

33. *See id.*

34. *See Northern Alliance, supra note 24.*

35. *See id.*

36. *See Kumar, supra note 12.*

37. *See id.*

38. *See id.*

39. *See id.*

40. *See id.*

41. *See Kumar, supra note 12.*

42. *See Northern Alliance, supra note 24.*

43. *See id.*

44. *See id.*

groups.⁴⁵ In September 1996, the Taliban troops entered Kabul. The Taliban's first step was to hang the former president, Najibullah, who had sought refuge in a UN compound after the surrender of his Soviet-backed government in April 1992.⁴⁶ However, as time passed, the Taliban's Pakistani educated core took over the political process, and things began to change dramatically.⁴⁷

The Taliban was an armed force of 25,000 soldiers that were mostly of Pashtun ancestry.⁴⁸ The majority of the soldiers graduated from Islamic fundamentalist schools founded by Afghani refugees from the Soviet conflict.⁴⁹ The Saudis funded these religious ultraconservative schools.⁵⁰

The Taliban's specific cultural and social characteristics have been inspired by both Islam and tribalism.⁵¹ As part of the Pashtun tribal group, the Taliban have rigid codes of conduct that rule social relations, including divorce and marriage.⁵² The patriarchal custom of the Pashtun disregard Islamic laws of inheritance and deny women the right to agree to marriage and the right to property.⁵³

Religion has always been an integrative element and an important component of leadership in Afghanistan.⁵⁴ "Ninety-nine percent of Afghanistan is Muslim and follow the teaching of Islam. 'Mullahs,' the leading religious groups of Afghanistan, assert much of the local governing control. Mullahs advise community members on marriage, births, and other moral and legal matters."⁵⁵

Taliban leaders have transfigured into mullahs in the 1990's by rejuvenating the Shari'a as the principal origin of law for Afghanistan.⁵⁶ The Taliban and their procedures appear to embrace religious principals by returning to the fundamental teachings of Mohammed, but dissimilar to their predecessors, they also pursue supranational impartiality.⁵⁷ Arguably, the Taliban exemplify the modern paradox of the "international

45. See Kumar, *supra* note 12.

46. See *id.*

47. See *Northern Alliance*, *supra* note 24.

48. See Anastasia Telesetsky, *In the Shadows and Behind the Veil: Women in Afghanistan Under Taliban Rule*, 13 BERKELEY WOMEN'S L.J. 293 (1998). Pashtun is an ethnic group to which about half of the Afghan population belongs. See *id.*

49. See *id.* at 294.

50. See *id.*

51. See *id.*

52. See *id.*

53. See Telesetsky, *supra* note 48, at 295.

54. See *id.*

55. *Id.*

56. See *id.*

57. See *id.* at 296.

tribal.”⁵⁸

Putting their own twist on the Koran, the Taliban assert very prohibitive measures to reinstate the Islamic balance that was upset by attacks from the West.⁵⁹ “From their inception, the Taliban have passed edicts legislating the exclusion of women from public life and dividing the country into public and private spheres, both of which are subject to Islamic Law.”⁶⁰ Women are only allowed to be involved in the private sphere, away from the larger restrictive male political and economic society.⁶¹ To fulfill the dissolution of women from public life, the Taliban have prohibited women from working outside the home, receiving an education, and have mandated specific behavior and dress codes.⁶²

III. TALIBAN TREATMENT OF WOMEN

In 1996, the Taliban imposed a strict system of gender apartheid in all their controlled territories in Afghanistan which stripped women and girls of their basic human rights.⁶³

A. Taliban Rule on Women's Education

Before the Civil War and Taliban control, “[w]omen in Afghanistan were educated and employed: 50% of the students and 60% of the teachers at Kabul University were women, 70% of school teachers, 50% of civilian government workers, and 40% of doctors in Kabul were women.”⁶⁴ However, when the Taliban took control of Afghan territories in 1996, they immediately banned girls from going to school and prohibited all women from working, which included female teachers, nurses, and doctors.⁶⁵ There are 30,000 widows in Kabul alone, making the prohibition for women to work outside of the home extremely tough for the large numbers of widows left behind due to many years of battle.⁶⁶ Many women in Afghanistan had to sell all of their possessions, and they have been reduced to begging on the streets to feed their families.⁶⁷ Since 75%

58. See Telesetsky, *supra* note 48, at 296.

59. *See id.*

60. *Id.*

61. *See id.*

62. *See id.*

63. See Eleanor Smeal, *Stop Gender Apartheid in Afghanistan* (visited July 7, 1999) <<http://www.feminist.org/afghan/facts.html>>.

64. *Id.*

65. *See Afghanistan Country Report on Human Rights Practices for 1998* (visited July 7, 1999) <http://www.state.gov/www/global/human_rights/1998_hrp_report/> [hereinafter *Human Rights*].

66. *See id.*

67. *See id.*

percent of the Afghan population is female due to the male casualties during the Soviet occupation and the civil war, prohibiting women from working is an astonishing economic misfortune to Afghan women.⁶⁸

The Taliban have also eliminated girls' education in the territories under their control.⁶⁹ The Taliban restricted schools from educating girls over the age of eight, and the schools that violated this rule were closed.⁷⁰ Some Afghan families have sent their daughters abroad to study in order to escape the Taliban's restrictions on females going to schools.⁷¹ Before 1996, more than 100,000 girls were attending public school in Kabul.⁷² In addition, since 70% of Afghan teachers were women before Taliban rule was imposed, the prohibition on women holding jobs has also reduced the quality of education of boys.⁷³ According to the United Nations Children's Education Fund (UNICEF) report on Afghan schools, "[n]early nine of ten girls and two of three boys are not attending school, and the literacy rates for adult men and women is only 47% and 15% respectively."⁷⁴

B. Taliban Rule on Women's Health Care

Another consequence of gender apartheid is that women have died of minor ailments because male doctors were prohibited from treating them.⁷⁵ The Taliban denied all health care to women initially by prohibiting women from seeing male doctors and not allowing female doctors to practice medicine.⁷⁶ However, some hospitals have designated wards where women are permitted *some* medical care.⁷⁷ Although women were allowed some medical care, the Taliban banned all doctors from giving females medical treatment in the absence of the woman's "husband, father, or brother."⁷⁸ This made medical care very hard for Afghanistan's widows who have lost all male family members that could authorize medical treatment.⁷⁹ Moreover, even if a woman is permitted to seek treatment from a male doctor, "he may not see or touch her," which limits

68. See Telesetsky, *supra* note 48, at 293.

69. See *Human Rights*, *supra* note 65.

70. See *id.*

71. See *id.*

72. See *id.*

73. See *id.*

74. UNICEF *Reports on Afghan Schools* (visited July, 7 1999) <<http://www.feminist.org/news/newsbyte/january99/0104.html>>.

75. See Smeal, *supra* note 63.

76. See Eleanor Smeal, *Progress in Afghanistan?* (visited July 7, 1999) <<http://www.feminist.org/news/pr/pr051399.html>>.

77. See *id.*

78. See *Human Rights*, *supra* note 65.

79. See *id.*

the amount of treatment that she is allowed to receive from her doctor.⁸⁰

According to the 1998 Physicians for Human Rights (PHR) survey, 77% of the 160 Afghan women surveyed in Kabul reported poor access to health care in Kabul, and 20% reported that they had no health care access at all.⁸¹ In addition, 71% claimed that their physical condition had declined over the last couple of years.⁸²

C. Taliban Rule on Women's Dress Code and Male Relative Escorts

Afghan women have been forced to wear a burqa, which is a garment that covers their body from head to toe and only has a mesh screen for vision.⁸³ According to Taliban rule, women that are found outside the home without a burqa or are not properly covered by the burqa would be punished severely; the family elders would be punished as well.⁸⁴ For example, an elderly woman's ankle was showing accidentally from underneath her burqa, and, as a consequence, she was beaten severely with a metal cable, which caused her leg to be broken.⁸⁵ In December 1996 alone, over two hundred women received lashes on their legs and backs for violating Taliban restrictions on clothing.⁸⁶ In another incident, an Afghan woman wearing nail polish had the end of her thumb cut off as punishment.⁸⁷ These are only a few of the consequences for violating Taliban rules on clothing.

Taliban adherents believe the encumbrance of the burqa to be an essential extension of purdah, which is the practice of "veiling out of honor and respect for others."⁸⁸ "Not only does the burqa make physical movement cumbersome, but it imposes an economic burden. According to an April 1997 UNICEF report, the cost of a burqa amounts to at least two months of wages, which is about ten dollars."⁸⁹ Since some poor women cannot afford a burqa, they have been confined to their homes or have risked severe beatings if they leave their homes without wearing a burqa.⁹⁰ Consequently, because they cannot afford to buy a burqa to wear outside the home, they have not been able to receive medical care.⁹¹ At

80. *Id.*

81. *See id.*

82. *See id.*

83. *See U.S. Oil Company Joins in Business Partnership with World's Most Repressive Regime* (visited July 7, 1999) <<http://www.feminist.org/news/pr/pr052898.html>>.

84. *See Human Rights, supra* note 65.

85. *See Smeal, supra* note 63.

86. *See Telesetsky, supra* note 48, at 294.

87. *See id.*

88. *Id.* at 296.

89. *Id.*

90. *See Human Rights, supra* note 65.

91. *See id.*

least one woman reportedly died because she did not have a burqa to wear to leave her home for medical assistance.⁹² Women are further restricted from wearing white burqas, white shoes or white socks.⁹³ Also, women who had shoes that made noise when they walked were severely beaten by members of the Taliban.⁹⁴

The Taliban's strict dress code rules have made it difficult for women to leave their homes. Even if women are wearing the appropriate clothing, they must have a close male relative, such as a husband, father, or brother, accompany them in public.⁹⁵ For example, a woman trying to leave Afghanistan accompanied by a man that was not a close relative was put to death by stoning for adultery.⁹⁶

In addition, women cannot drive; taxi cab drivers are severely beaten if their female passengers are unescorted by a close male relative.⁹⁷ Women that ride the bus can only take one of the few buses designated for women.⁹⁸ The results of Taliban rule on women's strict dress codes, together with always having a male relative escort and limited transportation, have put a strain on women's ability to leave their homes and receive adequate health care.

IV. ISLAMIC LAW

A deeper analysis of Islamic law is needed to understand the underlying effect of the Taliban's rule on women, rather than merely a listing of their mistreatment.⁹⁹ The Taliban government has stated that Islamic law is the law of Afghanistan.¹⁰⁰ Shari'a (Islamic law) affects women in many ways.¹⁰¹ The Shari'a has many standards dealing with women's dower rights, marriage duties, and inheritance rights which have distinct economic consequences pertaining to Afghan women.¹⁰² Consequently, one needs to comprehend the economic effects of Islamic law in order to understand the Taliban government's economic effect on Afghan

92. *See id.*

93. *See id.*

94. *See id.*

95. *See Smeal, supra note 63.*

96. *See id.*

97. *See Human Rights, supra note 65.*

98. *See id.*

99. *See Kathryn Weber, Comment, The Economic Future of Afghan Women: The Interaction Between Islamic Law and Muslim Culture*, 18 U. PA. J. INT'L ECON. L. 1049, 1051 (1997).

100. *See id.*

101. *See id.* at 1052.

102. *See id.*

women.¹⁰³

However, to conclude that Islam is against women is false.¹⁰⁴ The laws based on the Qu'ran (Islamic Holy Book) actually give women many rights to economic resources compared to the jurisprudential tradition that limits the ability of women to earn wages through employment.¹⁰⁵

Social customs and norms are the real problem in the economic oppression of women.¹⁰⁶ These social norms and customs put a strain on Afghan women's economic opportunities and not the Shari'a itself.¹⁰⁷ Studies conducted among Muslim women in Israel, Egypt and the West Bank show that the customs of society are the main element that limits women's employment opportunities.¹⁰⁸ Therefore, one must be able to comprehend the difference between Islamic law and social norms to understand Afghan women's economic future.¹⁰⁹ Islamic feminists that understand the difference between social norms and Shari'a believe that rejecting the oppression of women does not mean that they must reject Islam.¹¹⁰

Blaming the Islamic religion for women's oppression is a common Western view.¹¹¹ However, rather than relying on stereotypes, analyzing these Islamic laws is crucial to know whether the blame should be placed on Islam and its laws or on the customs and norms of the society.¹¹²

The Deputy Foreign Minister of the Taliban government has stated, "Afghanistan is an Islamic state, and our rules and regulations will be according to Islamic rules, I mean to say, whatever is in Islam . . . that will be implemented. We will be strict with that."¹¹³ However, Iran is an Islamic state, and women are allowed to drive, work and hold political positions.¹¹⁴

103. See Weber, *supra* note 99, at 1052.

104. See *id.*

105. See *id.*

106. See *id.*

107. See *id.*

108. See Weber, *supra* note 99, at 1052.

109. See *id.*

110. See *id.* at 1052-53.

111. See *id.* at 1057.

112. See *id.* at 1058.

113. Weber, *supra* note 99, at 1059.

114. See Matthew Levitt, *The Taliban, Islam and Women's Rights in the Muslim World*, 22-SPG FLETCHER F. WORLD AFF. 113 (1998).

A. Equal Rights in Islamic law

In every aspect of life, Islam has given men and women equal rights.¹¹⁵ Since the creation of human beings, Islam has given women equality.¹¹⁶ Islamic women's basic rights were granted to them over 1500 years ago.¹¹⁷

Concerning the idea of Creation the Qu'ran in Sura 4, Verse 1 states:
O mankind! Reverence your Guardian-Lord Who created you from a single Person, Created, of like nature, His mate, and from the twain Scattered (like seeds) Countless men and women-Fear Allah, through whom ye demand your mutual (rights) and (reverence) the wombs (that bore you): For Allah Ever Watches over you.¹¹⁸

Islam has given women rights that non-Muslim women have just recently received or do not have at all.¹¹⁹ For example, women in the United States were granted the right to vote in the twentieth century, while Islam granted women right over 1500 years ago.¹²⁰ There are many other rights that Muslim women enjoy, such as the right to choose their own partner for marriage, the right to divorce, the right to own property, the right to have an abortion when needed, and the right to receive an education.¹²¹

After reading about the plight of Afghan women, a person might wonder, "[i]f Islam proclaims both sexes as being equal then why is it that in many Muslim countries, women are treated so miserably?"¹²² This treatment is due to their cultural practices and not Islam.¹²³ Women are oppressed by "backward ethnic customs, which are often justified in terms of Islam."¹²⁴ For example, Islam does not promote female circumcision.¹²⁵ However, female circumcision is practiced in Egypt, Algeria and Sudan in the name of Islam.¹²⁶ What people might not know is that female circumcision is actually an African tribal custom which has noth-

115. See *Women in Islam* (visited July 7, 1999) <<http://www.afghan-web.com/woman/muslima.html>> [hereinafter *Women in Islam*].

116. See Zieba Shorish-Shamley, *Women's Position, Role, and Rights in Islam* (visited July 7, 1999) <<http://www.afghan-web.com/woman/womenrights.html>> [hereinafter *Women's Position*].

117. See *Women in Islam*, *supra* note 116.

118. *Women's Position*, *supra* note 117.

119. See *Women in Islam*, *supra* note 116.

120. See *id.*

121. See *id.*

122. *Id.*

123. See *id.*

124. *Women in Islam*, *supra* note 116.

125. See *id.*

126. See *id.*

ing to do with the Islamic religion.¹²⁷ In addition, Islam gives women the right to choose their own husbands.¹²⁸ However, Muslim women in India, Bangladesh and Pakistan are driven into forced marriages.¹²⁹ This is due to the ancestors of Indians, Bangladeshes, and Pakistanis being Hindu and mixing parts of Hinduism with Islam and practices these gruesome customs in the name of Islam.¹³⁰

1. Equal Spiritual Status

Women and men are given an identical spiritual status.¹³¹ Muslim women are given the same obligations to the Islamic principles and practices as men.¹³²

For example, the Qu'ran Sura 33, Verse 35 states: For Muslim men and women-For believing men and women. For devoted men and women, for true men and women, for men and women who are patient and constant, for men and women who humble themselves, for men and women who fast (and deny themselves), for men and women who guard against their chastity, and for men and women who engage much in Allah praise - for them has Allah prepared forgiveness and great reward.¹³³

The Taliban have gone against women's spiritual status in Islam because the Taliban do not allow women to pray in mosques or in other places of worship.¹³⁴ Women must pray at home according to Taliban rule.¹³⁵ Even though the Taliban have claimed that they are just following the words in the Qu'ran in applying strict standards for women, the Taliban have actually violated Afghan women's spiritual status by prohibiting them to pray in a mosque.¹³⁶

2. Right to Education

According to the Qu'ran, men and women are obligated to receive education and knowledge.¹³⁷ For example, the Qu'ran Sura 35, Verse 28 states, "[t]hose truly fear Allah, among His Servants, who have knowl-

127. *See id.*

128. *See id.*

129. *See Women in Islam, supra* note 116.

130. *See id.*

131. *See Women's Position, supra* note 117.

132. *See id.*

133. *Id.*

134. *See Human Rights, supra* note 65.

135. *See id.*

136. *See id.*

137. *See Women's Position, supra* note 117.

edge."¹³⁸ Furthermore, Hadiths of the Prophet also emphasize that every Muslim male and female is obligated to receive knowledge and education.¹³⁹ For example, one Hadith states, "[a] mother is a school. If she is educated, then a whole people are educated."¹⁴⁰

There were many scholarly women who had important roles in Islam in its early history.¹⁴¹ For example, the wife of the Prophet was a famous Muslim scholar; she was very intelligent and had an outstanding memory.¹⁴² Furthermore, the Prophet told Muslims to confide in his wife for teaching and guidance of religious duties.¹⁴³

In the beginning of Islam, there were no limits on women seeking education and knowledge.¹⁴⁴ There were numerous women scholars in literature, religion, education, music, and medicine.¹⁴⁵ However, the Taliban have banned all girls over the age of eight from receiving any knowledge and education and proclaimed that they are just trying to enforce strict Islamic laws,¹⁴⁶ even though nowhere in the Qu'ran does it state that women should not receive education and knowledge. In fact, women are obligated to receive education and knowledge in the name of Islam.¹⁴⁷

3. Right to Work

Islam has also given the right to work to women.¹⁴⁸ Islam emphasizes that women are allowed to seek employment and work in any field, such as professions in medicine, teaching and justice, as well as civil professions.¹⁴⁹ In terms of women's right to work, the Qu'ran Sura 4, Verse 32 states, "[a]nd in nowise covet those things in which Allah hath bestowed His gifts more freely on some of you than on others: to men is allotted what they earn, and to women what they earn: But ask Allah of his bounty. For Allah hath full knowledge of all things."¹⁵⁰

In the beginning of Islam, there were no prohibitions on women's participation in the economic, social and political aspects of society.¹⁵¹ Women had the right to be elected to political offices and contributed in

138. *Id.*

139. *See id.*

140. *Id.*

141. *See id.*

142. *See Women's Position, supra* note 117.

143. *See id.*

144. *See id.*

145. *See id.*

146. *See Human Rights, supra* note 65.

147. *See Women's Position, supra* note 117.

148. *See id.*

149. *See id.*

150. *Id.*

151. *See id.*

numerous aspects of society's public sphere.¹⁵² In addition, women fought in battles and wars.¹⁵³ Even though the Qu'ran states that women have the right to work,¹⁵⁴ this right has been restricted. Therefore, the Taliban have not been applying Islamic law as accurately as they claim.

This discussion entailed the equal status of men and women in several aspects of Islam;¹⁵⁵ however, Muslim women's rights have been violated, and the position of Islamic women in society has gone through major changes for the worse since the beginning of Islam.¹⁵⁶ The quick expansion of Islam did not leave new Islamic converts enough time to receive an Islamic education.¹⁵⁷ This led to discourse between the new converts and Islamization, which is Islamic acculturation and education.¹⁵⁸ In addition, these factors together with "growing wealth, leisure, activities, sensuality combined with the corrupt morality of royals that influenced the upper class, stirred fear in all classes of urban groups for the chastity of their women."¹⁵⁹ There were many socio-historical causes, which led to the deterioration of the role of Muslim women.¹⁶⁰ Consequently, the effect of these socio-historical causes led to Muslim women's severe oppression.¹⁶¹

Many have construed the intent of Islam to give men and women equal status, but ignorant people, such as the Taliban, who do not fully understand the Islam, oppress women in terms of Islam.¹⁶²

V. INTERNATIONAL COMMUNITY

Even though the Taliban have been around since 1994, the Western political community did not become attuned to the situation in Afghanistan until 1996 when the Taliban seized Kabul.¹⁶³ Political interest in Afghanistan is due to the former Soviet Union and India, as well as its rich energy resources and valuable mining.¹⁶⁴

152. See *Women's Position*, *supra* note 117.

153. See *id.*

154. See *id.*

155. See *id.*

156. See *id.*

157. See *Women's Position*, *supra* note 117.

158. See *id.*

159. *Id.*

160. See *id.*

161. See *id.*

162. See *Women in Islam*, *supra* note 116.

163. See Telesetsky, *supra* note 48, at 298.

164. See *id.*

A. UNOCAL

In December 1997, four Afghan clerics went to see an oil rig in the Gulf of Mexico operated by UNOCAL, which is a large California-based energy company.¹⁶⁵ These men looked at the latest technology in deep-water drilling.¹⁶⁶ This partnership between a U.S. company and a militant group with social views that the Western world rejects has become entangled in U.S. "strategic policy and domestic politics."¹⁶⁷

The Taliban and UNOCAL wanted to build pipelines through Afghanistan to link Caspian Sea oil and gas reserves to Central and South Asia, costing \$4.5 billion.¹⁶⁸ The Clinton administration supported the development of oil sources from places other than the Middle East.¹⁶⁹ Furthermore, the Clinton administration believed this pipeline project would resolve problems such as bringing energy to India and Pakistan, allowing Central Asia's new nations from depending on Russia and avoiding routes through Iran.¹⁷⁰ However, allowing UNOCAL to accept the pipeline project with Afghanistan would come up against a large obstacle¹⁷¹ — the outrage of women's organizations over the Taliban's treatment of Afghan women.¹⁷² The Feminist Majority Group, the National Organization of Women, and the Working Group on Human Rights for Women put great pressure on Clinton to forbid UNOCAL from proceeding with its pipeline project with Afghanistan and prevent the U.S. from recognizing the Taliban government.¹⁷³ Without recognition of the Taliban, lending institutions would most likely not finance the project.¹⁷⁴ The efforts by these feminist organizations included "protests outside the embassies of Afghanistan and Pakistan, mobilizing women's groups across the U.S. to pass resolutions condemning the Taliban, lobbying Congress and the UN, and meeting with State Department and White House officials."¹⁷⁵

If the project were to go through, it would benefit the Taliban tremendously.¹⁷⁶ The Taliban described the pipeline as the "economic back-

165. See Dan Morgan & David B. Ottaway, *Afghan Pipeline Entangled in Issue of Women's Rights*, THE SEATTLE TIMES, Jan. 14, 1998, at A12 [hereinafter *Pipeline*].

166. See *id.*

167. *Id.*

168. See *id.*

169. See Teletsetsky, *supra* note 48, at 298.

170. See *Pipeline*, *supra* note 166.

171. See *id.*

172. See *id.*

173. See Telesetsky, *supra* note 48, at 298.

174. See *Pipeline*, *supra* note 166.

175. *Id.*

176. See *Taliban Again Seeks UN Recognition, Pipeline Project* (visited July 7, 1999) <<http://www.feminist.org/news/newsbyte/august98/0812.html>> [hereinafter *UN Recogni-*

bone of the country."¹⁷⁷ This energy pipeline would give the Taliban \$150 million in profits per year.¹⁷⁸ In addition, thousands of construction jobs would be open, which would greatly improve Afghanistan's economy.¹⁷⁹

However, in December 1998, UNOCAL withdrew from engaging with Afghanistan to build the multibillion dollar pipeline.¹⁸⁰ The elements that contributed to UNOCAL's withdrawal were the low oil prices, the Taliban's harboring of terrorist Asama bin Laden, and the constant pressure from feminist organizations.¹⁸¹ While this might be good news, it still has not stopped the Taliban from denying Afghan women their basic human rights.¹⁸²

B. Expanding Refugee Law to Help Afghan Women

Over the past few years, Afghans have formed one of the biggest refugee populations.¹⁸³ According to the United Nations High Commission for Refugees, 2.6 million Afghans registered as refugees.¹⁸⁴ These 2.6 million Afghans consists of the following: 1.2 million in Pakistan, 1.4 million in Iran, 17,000 in India, 20,000 in Russia, and 9,000 in the central Asian republics.¹⁸⁵ Seventy-five percent of these refugees are women and children.¹⁸⁶ Since 1988, over 4 million Afghan refugees have been repatriated, with 1.5 million Afghans returning to Afghanistan in 1992.¹⁸⁷ Even though the ongoing fighting discouraged many refugees, 88,000 Afghans returned to Afghanistan between January and October of 1998.¹⁸⁸

Many women have tried to escape Taliban rule by fleeing Afghanistan.¹⁸⁹ Numerous women's stories are similar to that of a woman named Chaupirac Sunic.¹⁹⁰ Sunic tried to stay in Afghanistan, although the Taliban had come into power; shortly thereafter, they closed down her beauty

tion].

177. *Id.*

178. See *Victory! UNOCAL Quits Afghanistan Pipeline Project* (visited July 7, 1999) <<http://www.feminist.org/news/newsbyte/december98/1207.html>> [hereinafter *Victory*].

179. See *UN Recognition*, *supra* note 177.

180. See *Victory*, *supra* note 179.

181. See *id.*

182. See *id.*

183. See *Human Rights*, *supra* note 65.

184. See *id.*

185. See *id.*

186. See *id.*

187. See *id.*

188. See *Human Rights*, *supra* note 65.

189. See Telesetsky, *supra* note 48, at 303.

190. See *id.*

parlor.¹⁹¹ She had high hopes that the Taliban rule would end, and they would leave like many other political factions had done over the last twenty years of war.¹⁹² Because she thought they would leave soon, she was willing to abide by the rules and cover her face and keep her eye contact to herself.¹⁹³ However, when she viewed a woman being shot at point blank by a member of the Taliban because the woman's ankle was showing as she sat on her bike, Sunic left Afghanistan and went to Pakistan to join over 2,000 other Afghan families that had fled there.¹⁹⁴

Due to the fear of religious conservatism, many women have already left Afghanistan.¹⁹⁵ Women who left Afghanistan during the Soviet invasion have not desired to come back to Afghanistan, even though they have had the opportunity to do so.¹⁹⁶ For many refugees, Afghanistan has evolved as a symbol of fear.¹⁹⁷ One Iranian doctor has commented on how some Afghan parents try to punish their children: "[t]o scare their children and make them obey, the parents threaten them: 'If you do not behave, we will go back to Afghanistan.' . . . And the children burst into tears."¹⁹⁸

A problem may come up in U.S. immigration courts as to whether these women will have the right to political asylum if the situation becomes unbearable for Afghan women.¹⁹⁹ These women may be able to claim political refugee status because of the cultural and political persecution they face from Taliban rule.²⁰⁰ However, while waiting asylum, these Afghan women may be forced to endure detention.²⁰¹ It is likely that the U.S. will give Afghan women political asylum because of recent precedent.²⁰² For example, in September of 1996, the United States gave a Bangladeshi woman asylum, who was sexually abused and beaten by her husband who, incidentally, was a police officer in Bangladesh.²⁰³ Furthermore, the court concluded that her husband abused his position as a police officer, and if she were required to return to Bangladesh, she would probably expect to suffer further persecution.²⁰⁴ In addition, that

191. *See id.*

192. *See id.*

193. *See id.*

194. *See* Telesetsky, *supra* note 48, at 303.

195. *See id.*

196. *See id.* at 303-04.

197. *See id.* at 304.

198. *Id.*

199. *See* Telesetsky, *supra* note 48, at 304.

200. *See id.*

201. *See id.*

202. *See id.*

203. *See id.*

204. *See* Telesetsky, *supra* note 48, at 304.

same year, the Board of Immigration Appeals granted a Toguese woman asylum.²⁰⁵ This woman fled her country instead of accepting genital mutilation.²⁰⁶ In conclusion, these cases have shown that the U.S. immigration courts tend to favor women refugees from countries where they have suffered abuses from both disenfranchisement and discrimination.²⁰⁷

C. CEDAW

In all countries around the world, there are numerous violation rights of women.²⁰⁸ Women around the world suffer from oppression, abuse, and marginalization.²⁰⁹ The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was adopted in 1979.²¹⁰ CEDAW was created to advocate women's human rights.²¹¹ Issues covered by the 1979 convention consist of women's rights in the family, women's access to health care and education, and women's equality before the law.²¹²

In order to recognize human rights for women and to condemn the unbelievable consequences women suffer for violations of women's rights, the United Nations decided to adopt CEDAW.²¹³ CEDAW can best be described as the international bill of rights for women.²¹⁴ Furthermore, CEDAW has been illustrated as "the definitive international legal instrument requiring respect for and observance of the human rights of women; it is universal in reach, comprehensive in scope and legally binding in character."²¹⁵

CEDAW has already been ratified by 161 countries, including Canada, France, Italy, and Great Britain.²¹⁶ On the other hand, the United States, one of the world's leading industrialized nations, has not yet ratified CEDAW.²¹⁷ Consequently, this puts the United States in the same category as Iran, Afghanistan, and North Korea.²¹⁸ CEDAW obliges sig-

205. *See id.*

206. *See id.*

207. *See id.*

208. *See* Afra Afsharipour, *Empowering Ourselves: The Role of Women's NGOs in the Enforcement of the Women's Convention*, 99 COLUM. L. REV. 129 (1999).

209. *See id.*

210. *See id.* at 129-30.

211. *See id.* at 130.

212. *See id.*

213. *See* Afsharipour, *supra* note 209, at 133.

214. *See id.*

215. *Id.*

216. Kathryn A. Tongue, *Eliminating Discrimination Against Women: The Push for an International Treaty*, 25-SUM HUM. RTS. 14 (1998).

217. *See id.*

218. *See id.*

natory countries to take steps to end discrimination against women and to turn in reports showing the actions taken to ensure the provisions of the Convention.²¹⁹

People who support CEDAW have been using the treaty's success in other countries to exhibit that the positive and very important differences can greatly impact women's issues.²²⁰ For example, in Tanzania, the court made a customary law invalid that had prohibited women from the ability to inherit clan land from their fathers.²²¹ Furthermore, the court said this customary law violated CEDAW, as well as Tanzania's own Bill of Rights.²²² In addition, CEDAW is being used in Nepal as an important device to keep the acceptance of a law that would require stiffer penalties for rape, raise the minimum age for marriage and give women the right to inherit property.²²³ These are only a few examples in which CEDAW has made a great impact on women's rights in other countries.

Women are using CEDAW throughout the world to make changes in their government.²²⁴ These women are able to draft legislation by relying on customs that are accepted internationally; the legislation can avail the women to a body of law that may not have been previously given to them.²²⁵

Many Americans comprehend that standards, which are accepted internationally, can assist in guiding foreign countries where men and women have different rights, such as Afghanistan.²²⁶ At the same time, ratification would avail the United States of many benefits.²²⁷ For example, the treaty would help guard against any efforts to circumscribe rights that have already been established.²²⁸ In addition, ratification of CEDAW would contribute to the United States position as a worldwide leader on issues dealing with human rights and would exhibit that the United States is definitely a part of the international community.²²⁹ Therefore, if the United States ratifies CEDAW, this may convince countries like Afghanistan to ratify it also.²³⁰ Lucinda Low, an international lawyer who attended the UN Women's Conference in Beijing, has stated "[t]he Convention would not give us a great deal of additional legal protection that

219. *See id.*

220. *See id.*

221. *See Tongue, supra note 217, at 15.*

222. *See id.*

223. *See id.*

224. *See id.* at 16.

225. *See id.*

226. *See Tongue, supra note 217, at 16.*

227. *See id.*

228. *See id.*

229. *See id.*

230. *See id.*

women in the United States don't already have at the moment, but it would set out an international standard so that if there were efforts to roll things back, CEDAW would protect women."²³¹ If CEDAW had been ratified by Afghanistan before the Taliban took over, CEDAW would have protected Afghan women when the Taliban came to power.

VI. NON-GOVERNMENTAL ORGANIZATIONS

A. NGO Efforts

There are numerous non-governmental organizations (NGOs), both international and domestic, in Afghanistan.²³² Some are based in Afghanistan, and other NGOs are located in neighboring countries, such as Pakistan.²³³ NGOs play a big role in humanitarian assistance, health, agriculture, education, and rehabilitation.²³⁴

The Taliban have harassed both domestic and international NGOs.²³⁵ In addition, they have constantly interfered with the operation of NGOs and the United Nations.²³⁶ For example, the Taliban have threatened to impound NGO vehicles that work on projects with which the Taliban do not agree or comply.²³⁷ Furthermore, the Taliban have threatened to shut down projects that do not employ a Taliban member as a supervisor.²³⁸ In the case of one domestic NGO, the Taliban detained the NGO's director and impounded all of the NGO's equipment so that the NGO would give up its equipment, hire members of the Taliban, and give half of the NGO's board seats to the Taliban.²³⁹ One move that hampered NGO and relief operations was when the Taliban decided that foreign Muslim women, including UN workers, could not perform their jobs unless they were in the company of a male relative.²⁴⁰

In June 1998, the Taliban were trying to force Kabul NGOs to completely abandon their offices and relocate to a single location in a former school that was damaged by a bomb.²⁴¹ This location had no running water or electricity.²⁴² Those NGOs that refused to abandon their offices

231. Tongue, *supra* note 217, at 14, 16.

232. See *Human Rights, supra* note 65.

233. See *id.*

234. See *id.*

235. See *id.*

236. See *id.*

237. See *Human Rights, supra* note 65.

238. See *id.*

239. See *id.*

240. See *id.*

241. See *id.*

242. See *Human Rights, supra* note 65.

were threatened with extradition from Afghanistan.²⁴³ However, the office move was not enforced by Taliban rule before foreign NGO and UN members left Afghanistan in August because of security concerns.²⁴⁴

During the summer months of 1998, many international NGO Afghan workers were held by members of the Taliban for questioning.²⁴⁵ Many were released quickly.²⁴⁶ However, on July 14, 1998, in Jalalabad, two Afghan UN workers were taken by persons that were unidentified.²⁴⁷ A few days later, both bodies were found, and one of the bodies evidenced signs of torture.²⁴⁸ Furthermore, about one month after those two bodies were found, Lieutenant Colonel Carmine Calo, an Italian working with the United Nations Special Mission, was also killed.²⁴⁹ This event triggered most foreign NGO and UN members to leave Afghanistan.²⁵⁰ A few Afghan NGO members stayed to conclude some humanitarian operations.²⁵¹ In November 1998, the UN World Food Program (UNWFP), which distributes food aid, accused the Taliban of stealing over 1,500 metric tons of food, occupying UNWFP offices in Yakaolang and Bamiyan, and stealing many trucks from the UNWFP's compound in Bamiyan.²⁵²

Ever since the Taliban took over, they have been continuously trying to prevent NGOs from giving humanitarian assistance to the people of Afghanistan.²⁵³ For example, throughout 1998, Taliban members have not allowed international organizations and NGOs to deliver humanitarian assistance from the north to Bamiyan by road.²⁵⁴ This was done even though the area was suffering a blockade imposed by the Taliban.²⁵⁵ Not only have the Taliban obstructed NGOs and international organizations in delivering humanitarian assistance, but the Taliban have also been accused of overcharging for the delivery of humanitarian supplies, blowing up a bridge used by NGOs to deliver humanitarian assistance, laying land mines on the roads, and holding up aid workers and convoys.²⁵⁶

The Cooperation Center for Afghanistan (CCA) is an Afghan NGO

243. *See id.*

244. *See id.*

245. *See id.*

246. *See id.*

247. *See Human Rights, supra* note 65.

248. *See id.*

249. *See id.*

250. *See id.*

251. *See id.*

252. *See Human Rights, supra* note 65.

253. *See id.*

254. *See id.*

255. *See id.*

256. *See id.*

that maintains offices in both Afghanistan and Pakistan.²⁵⁷ The CCA distributes a newsletter each month on the human rights situation in Afghanistan.²⁵⁸ In addition, the CCA documents and monitors the human rights situation in all Taliban controlled areas.²⁵⁹ Moreover, the National Commission on Human Rights in Afghanistan began operations by conducting seminars on human rights issues, placing articles in Dari and Pashtu newspapers, and issuing press statements that criticizes certain instances of human rights abuses.²⁶⁰ However, the lack of security in Afghanistan has made it extremely hard for human rights organizations to document and monitor the human rights situation inside Afghanistan adequately.²⁶¹

B. Role of the United Nations

UN officials are awaiting a clear international position on the issue of women's rights in Afghanistan.²⁶² Numerous UN governments and agencies have looked down upon Taliban rules, which effectively have blocked aid assistance programs that are supposed to help women and children.²⁶³ Furthermore, the UN has also condemned the Taliban's interpretation of Islamic "purdah" rules, which have kept women confined to their homes.²⁶⁴

To be able to help Afghan women, UN members must be able to speak with them.²⁶⁵ However, this cannot be done in Taliban controlled areas because the Taliban have put restrictions on hiring female interpreters.²⁶⁶ Furthermore, meeting with women in Kabul is forbidden, and many women avoided international personnel because they were scared that they would be punished severely.²⁶⁷ Even though the abusive treatment of women in Afghanistan is obvious, the Taliban still tries to downplay reports of the repression and confinement of women and deny reports that women are being prohibited from obtaining education and health care.²⁶⁸

257. See *Human Rights*, *supra* note 65.

258. See *id.*

259. See *id.*

260. See *id.*

261. See *id.*

262. See Farhan Haq, *Women-Afghanistan: UN Commission Pushes for Action on Rights*, available in 1998 WL 5986087.

263. See *id.*

264. See *id.*

265. See *id.*

266. See *id.*

267. See Haq, *supra* note 263.

268. See *id.*

The Taliban have been trying to win a seat in the United Nations.²⁶⁹ By giving the Taliban a UN seat, they would be recognized as the true government of Afghanistan.²⁷⁰ However, on October 21, 1998, the UN refused to recognize the Taliban as Afghanistan's legitimate government and kept the UN seat for President Burhanuddin Rabbani's ambassador.²⁷¹ Russia proposed the deferral, and representatives from China, Fiji, Zimbabwe, and the United States, concurred.²⁷² The seat again would be given to the Rabbani's representative throughout 1999, but the Taliban, nevertheless, still tried to gain the seat although they were unsuccessful.²⁷³ The Taliban wrote a ten page document on why the Taliban should be recognized as the one and only true government of Afghanistan.²⁷⁴ The document read "[r]ecognition of the Islamic Emirates of Afghanistan has no ill consequences to any nation and will be great and good step for the fiercely independent people of Afghanistan."²⁷⁵ Saudi Arabia, the United Arab Emirates, and Pakistan are the only countries that have agreed to recognize the Taliban militia as the legitimate government in Afghanistan.²⁷⁶ However, this support has weakened because Saudi Arabia announced that "it was expelling the Afghan charge d'affaires and recalling its representative from Kabul."²⁷⁷

In March 1999, the United Nations Special Mission to Afghanistan reported that the Taliban brokered an agreement with its northern opponents to cease fire in efforts to form a joint government.²⁷⁸ If both the Taliban regime and its northern opponents fulfill this brokered agreement,²⁷⁹ Afghan women's rights would improve. Furthermore, Afghanistan will be free from the civil war that has claimed over 50,000 lives and destroyed most of Afghanistan over the past 20 years.²⁸⁰ In addition, under the agreement, the Taliban and the Islamic groups would share power and hold elections in all branches of government.²⁸¹ However, just under

269. See generally, Nicole Winfield, *Taliban Loses Chance for UN Seat*, available in 1998 WL 21174132.

270. See *id.*

271. See *id.*

272. See *id.*

273. See *id.*

274. See Winfield, *supra* note 270.

275. *Id.*

276. See *id.*

277. *Id.*

278. See *Taliban, Northern Opposition Agree to Form Coalition Government* (visited July 7, 1999) <<http://www.feminist.org/newa/newsbyte/march99/0315.html>>.

279. See *id.*

280. See *id.*

281. See *Taliban, Rules Out Further Peace Talks* (visited July 7, 1999) <<http://www.feminist.org/news/newsbyte/april99/0412.html>>.

two weeks into the UN-brokered agreement, fighting resumed.²⁸² Neither the Taliban regime nor its northern opponents have given any sign that Afghan women's rights will improve under the agreement.²⁸³ Furthermore, neither side has raised the issue on Afghan women's representation in elections.²⁸⁴

VII. METHODS OF REFORM

To improve women's rights in Afghanistan, advocates must go beyond blaming the Islamic religion.²⁸⁵ The Taliban regime's main philosophy is embedded in Islamic law.²⁸⁶ Consequently, for any reform to be successful, the change must come from within Islam.²⁸⁷ Furthermore, the best possibility for change comes from the fact that Islam does consist of a methodology for reform that can improve women's rights in Afghanistan.²⁸⁸

A. *Ijtihad*

The beginning of Islamic jurisprudence allowed for plenty of growth and change.²⁸⁹ In fact, through approximately the tenth century, individual reasoning, also called the doctrine of *ijtihad*, was accredited.²⁹⁰ *Ijtihad* permitted each individual to interpret Islamic law in his/her own way and, if the interpretation is accepted by other jurists, it can automatically become law.²⁹¹ However, by the twelfth century, the *ijtihad* came to an end because of two factors.²⁹² First, practices of Arabia became synonymous with the practices of the Prophet.²⁹³ Furthermore, the doctrine of *taqlid* (imitation of early Muslim communities) evolved, and it was decided that Islam was completely developed, and there was no need for further interpretations.²⁹⁴

Today, Muslim feminists are in favor of reviving the doctrine of *ijti-*

282. See *Taliban, Opposition Ignore Women's Rights Issues in Peace Agreement* (visited July 7, 1999) <<http://www.feminist.org/news/newsbyte/march99/0322.html>>.

283. See *id.*

284. See *id.*

285. See Weber, *supra* note 99, at 1080.

286. See *id.*

287. See *id.*

288. See *id.*

289. See *id.*

290. See Weber, *supra* note 99, at 1080.

291. See *id.*

292. See *id.* at 1081.

293. See *id.*

294. See *id.*

had.²⁹⁵ They argue that Mohammed left room for future change.²⁹⁶ Two Muslim feminists have stated:

[w]omen have fundamental freedoms within Islam, and all the goals of equality, espoused by the West can be achieved by applying the notion of gradualism inherent in the religion. Thus, the best way to solve this problem may not lie in dictating from the outside what standards must be met by the culture, but rather in encouraging a liberalization of the interpretation of the religion by Islamic scholars themselves.²⁹⁷

In addition, Pakistan, an influential neighboring country, has accepted the methodology for women's reform.²⁹⁸ For example, courts in Pakistan have brought back the *ijtihad*.²⁹⁹ The courts do not limit themselves to the doctrine of *taqlid*, which does not allow a change in women's status.³⁰⁰ Pakistan uses the *ijtihad* to compromise with social needs.³⁰¹ Therefore, the best ideology of reform by the Taliban evolves from further revival of the doctrine of *ijtihad* in Islam and from Pakistan's strong influence.³⁰²

B. Help from International Community

The international community, including six neighboring countries of Afghanistan plus the United States and Russia, is trying to help bring peace to the Afghanistan crisis.³⁰³ The United States has a very close relationship with Afghanistan and has been trying to bring peace to Afghanistan.³⁰⁴ There have been several recommendations to help bring peace.³⁰⁵ One recommendation is that "President Clinton should appoint a Special Envoy to Afghanistan."³⁰⁶ In addition, the United States government should announce to the Taliban and the government of Pakistan that the United States would not accept the harassment and the killing of Afghan mediators that are working to bring peace.³⁰⁷ Furthermore, President Clinton should announce a public statement when he visits South Asia about

295. See Weber, *supra* note 99, at 1081.

296. See *id.* at 1082.

297. *Id.*

298. See *id.* at 1083.

299. See *id.*

300. See Weber, *supra* note 99, at 1083.

301. See *id.*

302. See *id.*

303. See Kumar, *supra* note 12.

304. See *id.*

305. See *id.*

306. *Id.*

307. See *id.*

the abusive treatment of women by the Taliban.³⁰⁸ He should also meet and discuss with Afghans that are looking to find a peaceful solution in Afghanistan.³⁰⁹ Lastly, the United States government must ensure that every oil company vying for contracts in Afghanistan pay close attention to the human rights issues in Afghanistan.³¹⁰ The United States government must make these companies give their position on the treatment of women in Afghanistan.³¹¹ By implementing all of these recommendations, hopefully the international community can help stop gender apartheid in Afghanistan and other countries.

VIII. CONCLUSION

The women of Afghanistan have not been forgotten. Both Islamic and non-Islamic believers are anxiously waiting to see how long the Taliban can survive without economic and vocal female contributions. It is only a matter of time. However, a deeper analysis is needed to understand the underlying effect of the Taliban rule on women besides their mistreatment. It requires a comprehension of Islamic law. With an understanding of Islamic law and help from the international community, this gender apartheid will hopefully come to an end in the future.

308. *See* Kumar, *supra* note 12.

309. *See id.*

310. *See id.*

311. *See id.*