

OPEN PEER REVIEW

# Feasibility of the Role of the International Criminal Court in Addressing Gender Apartheid Against Women in Afghanistan

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## 1. Round 1

### 1.1. Reviewer 1

Reviewer:

In the first paragraph beginning “With the rise of the Taliban to power in Afghanistan...”, the discussion remains largely descriptive and lacks precise legal framing. I recommend that the authors clearly define the temporal scope (e.g., post-August 2021 Taliban takeover) and specify whether they are analyzing de facto authorities or state responsibility under international law. This clarification is essential for establishing jurisdictional analysis later in the article.

The article states that it is “descriptive-analytical” and uses “library research methods.” This is insufficiently specific. Please clarify the methodological framework: Is this doctrinal legal analysis? Comparative treaty interpretation? Normative legal argument? Explicitly define interpretive methods (Vienna Convention Articles 31–32).

The paragraph discussing women’s political participation under the Republic period lacks empirical data. Consider including comparative statistics pre-2021 and post-2021 to substantiate the regression claim.

In the paragraph discussing substitution of “race” with “gender” in apartheid elements, the authors must analyze Article 7(2)(h) Rome Statute and the specific definition of apartheid tied to “racial group.” The current argument assumes interpretive flexibility without addressing textual constraints.

Authors revised the manuscript and uploaded the document.

## 1.2. Reviewer 2

Reviewer:

In the paragraph defining apartheid as “of Dutch origin,” the historical overview is helpful but lacks citation for several claims (e.g., Daniel Malan reference). Please add authoritative sources for definitional and historical assertions to ensure academic rigor.

The subsection outlining features (a), (b), (c) is conceptually strong but analytically underdeveloped. The authors should connect each structural element explicitly to Taliban decrees with documentary references (e.g., specific edicts, dates). Without evidentiary grounding, the argument remains abstract.

This paragraph makes a compelling structural argument about state failure. However, Afghanistan is currently governed by a de facto regime lacking widespread recognition. Please clarify whether obligations attach to the Afghan state regardless of recognition and address the doctrine of state continuity.

The paragraph beginning “Afghan women are in a situation similar to the people of South Africa...” draws a strong analogy. However, the comparison requires deeper legal analysis of Article 7(1)(j) Rome Statute and the 1973 Apartheid Convention. Please clarify whether the analogy is rhetorical or doctrinally grounded.

In the paragraph citing Maqsoodi & Ghalledar (2011), the article attributes ideological foundations to Salafism and medieval thought. This risks overgeneralization. Please provide clearer doctrinal evidence or narrow the characterization to specific Taliban statements.

The paragraph stating that the Taliban claim to protect women from immorality requires critical legal evaluation. I recommend analyzing whether such justifications could fall under Article 31 Rome Statute (grounds for excluding criminal responsibility) or whether they are legally irrelevant.

Authors revised the manuscript and uploaded the document.

## 2. Revised

Editor's decision: Accepted.

Editor in Chief's decision: Accepted.