

THE INVISIBLE WOMEN: THE TALIBAN'S OPPRESSION OF WOMEN IN AFGHANISTAN

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I.	INTRODUCTION	553
II.	THE TALIBAN: WHO THEY ARE AND HOW THEY CAME TO POWER	555
	A. <i>Afghanistan's History of Political Instability</i>	556
	B. <i>The Origins of the Taliban: Claims by Outside Sources</i>	563
	C. <i>The Origins of the Taliban: Claims by the Taliban</i>	564
	D. <i>The Taliban's Ascension To Power</i>	565
III.	THE LAW OF THE TALIBAN	566
	A. <i>Life for Women Before the Taliban Regime</i>	568
	B. <i>Life for Women Under the Taliban Regime</i>	569
	C. <i>The Taliban's Prohibition of Working Women</i>	570
	D. <i>The Taliban's Mandated Dress Code for Women</i>	571
	E. <i>The Taliban's Ban on Educational Facilities for Women and Girls</i>	572
	F. <i>The Taliban Requirement that Women have Male Chaperones</i>	573
	G. <i>The Taliban Refusal to Provide Women with Access to Adequate Medical Care</i>	573
	H. <i>Miscellaneous Rules of the Taliban that are Directed Towards Women</i>	574
	I. <i>Punishment for Breaking the Law of the Taliban</i>	575
IV.	THE RELIGION OF ISLAM'S VIEW OF WOMEN	576
V.	THE UNITED STATES' REACTION TO THE TALIBAN	578
VI.	THE FUTURE OF WOMEN IN AFGHANISTAN	579
VII.	CONCLUSION	581

I. INTRODUCTION

Today, we live in a world where the women's movement has given most women the opportunity to excel in professional careers, hold political offices, own their own companies, and hold many other positions of power. Yet, in this

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same world, women in Afghanistan have become powerless. Afghan women have become prisoners in a world that is ruled by the Taliban¹ regime.

Afghanistan is a small country that shares its borders with Pakistan, Iran, Turkmenistan, Uzbekistan, Tajikistan, and China.² In 1996, after over seventy-five years of government instability in the country, the Taliban, a fundamentalist Islamic group, extended its control over approximately eighty-five percent of Afghanistan.³

Under Taliban rule, women have become virtually invisible. The Taliban's harsh rules prohibit Afghan women from obtaining life's most basic necessities. For example, women are prohibited from obtaining employment outside the home, obtaining a formal education, leaving their homes without a male family member to chaperone them, obtaining medical treatment, and appearing in public without being completely covered by a burqa.⁴

Before the Taliban regime took control of Afghanistan, many women in Afghanistan's urban and metropolitan areas worked outside the home, had access to formal educational facilities, and enjoyed a more liberal lifestyle.⁵ Statistics by the Feminist Majority Foundation show that women and girls in Afghanistan's capital city of Kabul, as well as many other parts of the country, have attended co-educational schools since the 1950s.⁶ These same statistics also show the following: before the Taliban gained control of Afghanistan, seventy percent of teachers were women; forty percent of doctors were women; women comprised over one-half of the student body of Afghanistan's universities; schools were co-educational at all levels; women were employed as judges, engineers, nurses, and lawyers; and women were not required to cover themselves with a burqa.⁷

1. Taliban means "religious student." Emily MacFarquhar, *The Rise of the Taliban a New Force of Muslim Fighters Determined to Rule Afghanistan*; Pakistan, U.S. NEWS & WORLD REP., Mar. 6, 1995, at 64.

2. *U.S.-Afghanistan Policy: Hearings Before Subcomm. on Foreign Operations of the Senate Comm'n.*, 106th Cong. (1999), available at http://www.state.gov/www/policy_remarks/1999/990309_inderfurth_afgh.html (statement of Karl F. Inderfurth, Assistant Sec'y of State for S. Asian Affairs).

3. There are conflicting accounts of how much of Afghanistan is under Taliban control. Most sources state that the Taliban control between 85% to 95% of the area. *Afghanistan and The Taliban: Hearings Before the Subcomm. on Near E. and S. Asian Affairs of the Senate Comm'n. on Foreign Relations*, 106th Cong. (2000) (on file with author) [hereinafter Statement of Karl F. Inderfurth].

4. A burqa is comparable to wearing a bed sheet. It is a floor-length covering that only contains an opening across the eyes which is made of a wire-like mesh.

5. Katha Pollitt, *Underground Against the Taliban*, THE NATION, May 29, 2000, at 10 (Afghan Women's Rights Group Opposes Treatment of Women).

6. *Afghanistan and The Taliban: Hearings Before the Subcomm. on Near E. and S. Asian Affairs of the Senate Comm. on Foreign Relations*, 106th Cong. (2000) (on file with author) (testimony of Mavis Leno, Nat'l. Bd. Member, Feminist Majority Found) [hereinafter Testimony of Mavis Leno].

7. *Id.*

The oppression of women in Afghanistan is one of the most deplorable human rights violations, and it is capturing the attention of leaders and activists worldwide. The goal of this paper is to inform others about the mistreatment of women by the Taliban regime. Section II will discuss the history of political instability in Afghanistan, and how the Taliban rose to power. Section III will discuss some of the laws that have been laid down by the Taliban, and the punishment for breaking these laws. Section IV will discuss the religion of Islam's views on the rights of women, the proper treatment of women, and the Taliban's treatment of women. Section V will give a brief account of the United States' response to the Taliban's treatment of women and girls in Afghanistan. Lastly, Section VI will discuss the future of women and girls in Afghanistan.

II. THE TALIBAN: WHO THEY ARE AND HOW THEY CAME TO POWER

After more than seventy-five years of government instability in Afghanistan, the fundamentalist-Islamic group, known as the Taliban emerged sometime in the Fall of 1994.⁸ The Taliban's leader, Mullah Mohammed Omar, started a reform movement that eventually grew into what is now known as the Taliban.⁹ The Taliban claims that it was originally formed in response to the widespread civil unrest and crime in Afghanistan.¹⁰ The stated goal of the Taliban is "to bring Afghanistan [back] under Islamic rule."¹¹

Throughout its history, Afghanistan has consistently been plagued with political instability.¹² Afghanistan has been referred to as the "crossroads to Central Asia."¹³ Because of its coveted location as a trade route, there have been constant struggles for power and control of Afghanistan.¹⁴ Alexander the Great, the Turkish Empire, and the Mongol Dynasty of India are a few of the noteworthy historical figures who have struggled to control Afghanistan.¹⁵ During the Nineteenth Century, a struggle for the control of Afghanistan erupted between Britain and Russia.¹⁶ The most recent power struggle in Afghanistan

8. *The Taliban Story: God's Holy Warriors Or The Devil's Militia* available at <http://www.afghan-web.com/politics/story.html> (last visited Mar. 17, 2001) [hereinafter *The Taliban Story*]; Pam O'Toole, *Who Are The Taliban*, available at http://news2.ths.bbc.co.uk/hi/english/world/south_asia/newsid_144000/144382.stm (last modified Aug.3,1998) [hereinafter O'Toole].

9. *The Taliban Story*, *supra* note 8.

10. *Id.*

11. *Background Notes Archive - Near E. and N. Afr.*, at <http://dosfan.lib.uic.edu/ERC/bgnotes/sa/afghanistan9407.html> (last visited Mar. 17, 2001) [hereinafter *Background Notes Archive*].

12. *Id.*

13. *Id.*

14. *Id.*

15. *Id.*

16. *Background Notes Archive*, *supra* note 11.

resulted in the ten-year occupation of Afghanistan by the Soviet Union from 1979 to 1989.¹⁷

A. Afghanistan's History of Political Instability

From 1919 to 1929, Afghanistan was ruled by King Amanullah.¹⁸ King Amanullah attempted to end Afghanistan's isolation as a country by establishing diplomatic relations with most major countries and by attempting to modernize the country.¹⁹ For example, the traditional Muslim veil required as part of the dress code of women was abolished and co-educational schools were opened.²⁰ Because these changes conflicted with their conservative beliefs, many traditional religious and tribal leaders were alienated.²¹ Eventually King Amanullah lost control of Afghanistan to rebel forces in 1929.²²

In 1929, King Amanullah's cousin, Prince Nadir Khan, took control of Afghanistan from the rebel forces and became King Nadir Shah.²³ King Nadir Shah's rule was short; in 1933, he was assassinated by a Kabul student.²⁴

In 1933, Afghanistan's last king, King Nadir Shah's son, Mohammad Zahir Shah, took the throne and ruled Afghanistan from 1933 to 1973.²⁵ King Zahir Shah's cousin, Sardar Mohammed Daoud, served as the Prime Minister of Afghanistan from 1953 to 1963.²⁶ Under the rule of King Zahir Shah and Prime Minister Daoud, the country appeared to be leaning toward a more liberal government structure. Prime Minister Daoud sought military and economic assistance for Afghanistan from the United States and the Soviet Union.²⁷ Prime Minister Daoud also introduced new social policies that instantly became a source of controversy.²⁸ For example, Prime Minister Daoud appeared at the country's 1959 independence celebrations with his wife and other female members of the royal family not covered by the traditional Muslim veil worn by women.²⁹

17. *Id.*

18. *Id.*

19. *Id.*

20. *Id.*

21. *Background Notes Archive, supra* note 11.

22. *Id.*

23. *Id.*

24. *Id.*

25. *Id.*

26. *Background Notes Archive, supra* note 11.

27. *Id.*

28. *Id.*

29. *Jane's Sentinel Security Assessment-South Asia - Afghanistan*, Jane's Information Group Limited, Aug. 3, 1999, available at LEXIS, Nexis Library, MLTRY/JANSEN File [hereinafter *Jane's Sentinel Security Assessment*].

In 1963, Prime Minister Daoud was dismissed after being accused of giving support for the creation of a Pashtun state at the border of Pakistan and Afghanistan.³⁰ Because of these allegations, the tensions in an already strained relationship became greater between Afghanistan and Pakistan.³¹ Upon the dismissal of Prime Minister Daoud, King Zahir Shah was left to rule Afghanistan directly.³²

In 1964, King Zahir Shah's introduced a new constitution.³³ In 1964 and 1969, elections were held by King Zahir Shah as part of an "experiment with democracy," but the ultimate power was still held by King Zahir Shah.³⁴ Despite the King's "experiment with democracy," political parties were illegal in Afghanistan until 1965.³⁵

In 1965, the People's Democratic Party of Afghanistan, a communist-supported party, was founded.³⁶ The People's Democratic Party of Afghanistan "had close ideological ties to the Soviet Union."³⁷ The 1965 elections were successful for the communist party, after two communist deputies were elected to the Afghanistan Parliament.³⁸ In 1967, the People's Democratic Party of Afghanistan split into two branches, and other political parties were formed that gained overwhelming support from the "students and young intellectuals" of the country.³⁹

In the early 1970s, there was an overwhelming number of educated young people whom outnumbered the employment opportunities in Afghanistan.⁴⁰ Also during this time, certain regions of Afghanistan were experiencing a

30. Pashtuns are the largest ethnic group in Afghanistan representing approximately thirty-eight percent of the population. Other ethnic groups present in the country include: Tajik, accounting for approximately twenty-five percent of the population; Hazara, accounting for approximately nineteen percent of the population; Aimaq, accounting for approximately six percent of the population; Uzbek, accounting for approximately six percent of the population; and Turkmen, accounting for approximately two percent of the population. There are other small ethnic groups in the country that represent small percentages of the population. *Background Notes Archive*, *supra* note 11.

31. *Id.*

32. *Jane's Sentinel Security Assessment*, *supra* note 29.

33. *Id.*

34. *Id.*

35. *Id.*

36. *Id.*

37. *Jane's Sentinel Security Assessment*, *supra* note 29; *Background Notes Archive*, *supra* note 11.

38. *Jane's Sentinel Security Assessment*, *supra* note 29.

39. One branch of the People's Democratic Party of Afghanistan was the Khalq branch, which means the "Masses." Nur Muhammad Taraki was the leader of the Khalq branch. The Khalq branch had the support of the Afghan military. The following of the Khalq branch consisted mostly of the Pashtun-speaking youth. The Parcham, which means "the Banner", was the second branch of the People's Democratic Party of Afghanistan. The Parcham branch was headed by Babrak Karmal. The following of the Parcham branch consisted mostly of the urban, Farsi-speaking population. See *id.*; *Background Notes Archive*, *supra* note 11.

40. *Jane's Sentinel Security Assessment*, *supra* note 29.

devastating famine.⁴¹ In response to the economic crisis student activism began to grow and develop.⁴² A Marxist influence was becoming more prevalent among, and developed by, many student activists.⁴³ In response to the growing "Marxist influence" among student activists, Ghulam Mohammad Niazi and Burhanuddin Rabbani, two Muslim professors at Kabul University, began an Islamic-oriented political discussion group for students.⁴⁴ From this political discussion group, the Jawanan-i-Muslimeen, which means "Muslim Youth" was formed.⁴⁵ The Jawanan-i-Muslimeen was a student organization that was headed by Habiburrahman and Gulbuddin Hekmatyar.⁴⁶

In 1973, former Prime Minister and cousin to King Zahir Shah, Sardar Daoud, returned to power in Afghanistan after seizing power from King Zahir Shah in a coup.⁴⁷ Charges of corruption against the royal family and the unfavorable economic conditions that the country was experiencing after the severe drought and famine of 1971 and 1972 were contributing factors to the success of this coup.⁴⁸

Sardar Daoud's new government was supported by the Parcham wing of the People's Democratic Party of Afghanistan.⁴⁹ In turn, the People's Democratic Party of Afghanistan was receiving support from the Soviet Union.⁵⁰ After abolishing the monarchy and revoking the 1964 constitution, Sardar Daoud declared Afghanistan a republic and named himself as the first President and Prime Minister of the newly declared republic.⁵¹

Shortly after Sardar Daoud seized power of Afghanistan, an Islamic-supported counter-coup was unsuccessful.⁵² In response, Sardar Daoud began ordering the arrests of large numbers of Islamic supporters and political groups.⁵³ This forced both Burhanuddin Rabanni, the Muslim professor that founded the Islamic oriented student political discussion groups, and Habiburrahman and Gulbuddin Hekmatyar, the founders of Jawanan-i-Muslimeen, the student organization formed around Rabanni's discussion groups, to flee from Afghanistan to Pakistan along with their followers.⁵⁴ In

41. *Id.*

42. *Id.*

43. *Id.*

44. *Id.*

45. *Jane's Sentinel Security Assessment, supra note 29.*

46. *Id.*

47. *Background Notes Archive, supra note 11.*

48. *Id.*

49. *Jane's Sentinel Security Assessment, supra note 29.*

50. *Id.*

51. *Background Notes Archive, supra note 11.*

52. *Jane's Sentinel Security Assessment, supra note 29.*

53. *Id.*

54. *Id.*

Pakistan, Rabanni and the Hekmatyars' followers received training from the Pakistani military and began making guerrilla attacks on Sardar Daoud's newly established government.⁵⁵ Meanwhile, Sardar Daoud's loyalties to the communist-supported People's Democratic Party of Afghanistan were short-lived.⁵⁶ Shortly after he rose to power in Afghanistan, Sardar Daoud formed his own political party, the Revolutionary Party.⁵⁷

During the mid-1970s, the original political parties of Afghanistan began to reorganize, reunite, and reemerge. In 1976, Burhanuddin Rabanni and the Hekmatyars began to disagree politically, and the Hekmatyars established their own political following, the Hizb-i-Islami.⁵⁸ In 1977, the People's Democratic Party of Afghanistan re-united and re-organized after its division ten years earlier in 1967.⁵⁹

In April, 1978, there was another coup, that ended with the death of Sardar Daoud.⁶⁰ After the coup, the People's Democratic Party of Afghanistan took control of the country and named Nur Mohammad Taraki, the Secretary General of the People's Democratic Party of Afghanistan, as President.⁶¹ The Soviet Union acted promptly to take advantage of the political situation in Afghanistan.⁶² In December 1978, the Soviet Union and Afghanistan signed a "bilateral treaty of friendship and cooperation."⁶³ Shortly after the execution of the treaty, the Soviet Union began to increase its military assistance to Afghanistan.⁶⁴ Ultimately, the survival and existence of the new Afghan government became increasingly dependent upon the Soviet Union's military assistance.⁶⁵

During the first eighteen months Nur Mohammad Taraki was in power, the People's Democratic Party of Afghanistan began to aggressively impose a "Marxist-style reform program" on the country.⁶⁶ The reform program conflicted with many of Afghanistan's deeply-rooted and traditional Islamic roots, beliefs, and customs.⁶⁷ For example, there were many changes in the law,

55. *Id.*

56. *Id.*

57. *Jane's Sentinel Security Assessment, supra note 29.*

58. Hizb-i-Islami means "Islamic Party." *Id.*

59. As previously discussed, the People's Democratic Party of Afghanistan split into two rival wings in 1967. *See supra note 39.*

60. *Background Notes Archive, supra note 11.*

61. *Id.*

62. *Id.*

63. *Id.*

64. *Id.*

65. *Background Notes Archive, supra note 11.*

66. *Id.*

67. *Id.*

including changes in marriage customs and land reform.⁶⁸ These changes were highly controversial in many of Afghanistan's extremely conservative villages,⁶⁹ and resulted in thousands of conservative Muslims being imprisoned, tortured, or killed, including members and leaders of the religious establishments, government officials, and affluent members of society.⁷⁰ Because of these reform efforts and the uprising that they caused among Afghanistan's conservative Islamic population, Islamic exiles were encouraged to return to Afghanistan from Pakistan.⁷¹ These returning exiles encouraged the resistance against the Afghan government's reforms, and this eventually resulted in control of Afghanistan changing hands again.⁷²

In the Fall of 1979, Hafizullah Amin had Nur Mohammad Taraki killed, and seized control of Afghanistan.⁷³ When Amin took control of Afghanistan, the majority of the Afghan countryside was under rebel control, and the support of the Afghan people for the People's Democratic Party of Afghanistan began to diminish.⁷⁴ In October 1979, the relationship between Hafizullah Amin and the Soviet Union became very tense after Hafzullah Amin refused to accept guidance from the Soviet Union on how to gain stability in Afghanistan's government.⁷⁵ Fearing a collapse of Hafzullah Amin's entire government structure, the Soviet Union invaded Afghanistan and killed Hafzullah Amin in December 1979.⁷⁶ After the invasion, the government of Afghanistan changed hands again. The Soviet Union named the Parcham leader, Barbrak Karmal, as

68. *Id.*

69. *Id.*

70. *Background Notes Archive, supra* note 11.

71. Many Islamic supporters fled to Pakistan after the 1973 coup of Sardar Daoud, including members of the Islamic student organization Jawanan-i-Muslimeen ("Muslim Youth"), founded by Habiburrahman and Gulbuddin Hekmatyar, and Hizb-i-Islami ("Islamic Party"), the organization later formed by the Hekmatyars after splitting from the Jawanan-i-Muslimeen. *Jane's Sentinel Security Assessment, supra* note 29.

72. *Id.*

73. Hafizullah Amin was the former Prime Minister and Minister of Defense of Afghanistan. Together Hafizullah Amin and Nur Mohammad Taraki headed the Khalq, one of the two branches of the divided People's Democratic Party of Afghanistan. As previously discussed, in 1967 the People's Democratic Party of Afghanistan split into two rival wings and reunited in 1977. The newly reunited People's Democratic Party of Afghanistan launched the coup in 1978, which resulted in the Afghan leader Sardar Daoud's death. *Id.*

74. The rebels opposed the People's Democratic Party of Afghanistan due to its reform in the country, which conflicted with traditional Islamic traditions and beliefs. For example, there were changes made to the marriage laws and highly controversial land reform policies. *Background Notes Archive, supra* note 11.

75. *Id.*

76. *Jane's Sentinel Security Assessment, supra* note 29.

Prime Minister of Afghanistan.⁷⁷ This marked the beginning of a ten-year occupation of Afghanistan by the Soviet Union.

Like his predecessor, Hafzullah Amin, Prime Minister Karmal was also unsuccessful in establishing a stable and centralized government outside of Afghanistan's capital, Kabul.⁷⁸ During Prime Minister Karmal's rule, the majority of Afghanistan's countryside still remained in rebel hands.⁷⁹ The biggest factor in the inability to achieve stability in Afghanistan's government was the Mujahidin, the "Afghan freedom fighters."⁸⁰ Initially, the Mujahidin organization was poorly organized and lacked power; however, the Mujahidin's power strengthened with time because they were receiving weapons and training from outside sources, including the United States.⁸¹ The Mujahidin vigorously opposed the Soviet Union's control of Afghanistan, and made it virtually impossible for the Afghan government to establish any stable system of government outside of Afghanistan's major urban cities.⁸² The Mujahidin actively and frequently launched attacks on Kabul and assassinated high Afghan government officials.⁸³ Despite the fact that the Mujahidin was almost entirely responsible for the majority of the civil unrest in Afghanistan, the burden of the blame landed squarely on the shoulders of the Soviet Union.⁸⁴ This was one of the biggest factors contributing to the Soviet Union's failure to win the support of the Afghan people.⁸⁵

In 1986, Prime Minister Karmal was replaced by Muhammad Najibullah, the former chief of the Afghan secret police.⁸⁶ Again, like his predecessors, Najibullah was unsuccessful in bringing stability to the Afghan government, and the country continued to remain highly dependent on support from the Soviet Union.⁸⁷ During this same time period, the rebel resistance against the Soviet Union's control was aided by the United States, Saudi Arabia, and Pakistan.⁸⁸

In May 1988, the Afghanistan-Pakistan-Union of Soviet Social Republics-United States Accords on the Peaceful Resolution of the Situation in Afghanistan (the "Peaceful Accords") resolved certain disputes between

77. The Parcham was one of the two rival wings of the People's Democratic Party of Afghanistan during its split in 1967. *Background Notes Archive, supra* note 11.

78. *Id.*

79. *Id.*

80. *Id.*

81. *Id.*

82. *Background Notes Archive, supra* note 11.

83. *Id.*

84. *Id.*

85. *Id.*

86. *Id.*

87. *Background Notes Archive, supra* note 11.

88. *Id.*

Afghanistan and Pakistan.⁸⁹ In Geneva, certain agreements were executed at the Peaceful Accords between Afghanistan and Pakistan in order to resolve the conflicts in Afghanistan.⁹⁰ The Soviet Union and the United States also signed the agreements at the Peaceful Accords as guarantors.⁹¹ One of the crucial issues addressed and resolved at the Peaceful Accords provided that there would be no further interference by the United States or the Soviet Union in Afghan or Pakistani affairs.⁹² To assure that this provision would be followed, the agreements reached at the Peaceful Accords provided for the Soviet Union's full withdrawal from Afghanistan by 1989.⁹³ Interestingly, the Mujahidin neither participated in the negotiations, nor signed the agreements reached at the Peaceful Accords.⁹⁴

In accordance with the agreements reached at the Peaceful Accords, the Soviet Union withdrew from Afghanistan in 1989.⁹⁵ After the Soviet Union's withdrawal from Afghanistan, the country still continued to be plagued by civil war.⁹⁶ Ironically, Muhammad Najibullah continued to remain in power until 1992 despite his lack of support from the Afghan people, and his lack of recognition by the international community.⁹⁷

In 1992, the Mujahidin were successful in taking control of Kabul.⁹⁸ The Mujahidin immediately established a fifty-one member leadership council to assume temporary power and leadership in Kabul, and made provisions for the establishment of a new government.⁹⁹ According to the Mujahidin's plan, the fifty-one member leadership council would turn over leadership to a ten-member leadership council after three months. The ten-member leadership council was to be headed by Professor Burhanuddin Rabbani.¹⁰⁰ Burhanuddin Rabbani made a radical departure from the Mujahidin's plan and formed the ten-member leadership council prematurely in May, 1992.¹⁰¹ Burhanuddin Rabbani was then elected President by the leadership council.¹⁰²

89. Afghanistan-Pakistan-Union of Soviet Socialist Republics-United States: Accords on Peaceful Resolution of the Situation in Afghanistan, Apr. 14, 1988, Afg.-Pak.-U.S.-U.S.S.R., 27 I.L.M. 587.

90. *Id.*

91. *Id.*

92. *Id.*

93. *Id.*

94. *Background Notes Archive, supra* note 11.

95. *Id.*

96. *Id.*

97. *Id.*

98. *Id.*

99. *Background Notes Archive, supra* note 11.

100. As previously discussed, Professor Burhanuddin Rabbani was one of the professors at Kabul University in the late 1960s and early 1970s who began the Islamic student discussion groups. *Jane's Sentinel Security Assessment, supra* note 29.

101. *Background Notes Archive, supra* note 11.

102. *Id.*

The fighting in Afghanistan continued because of the ethnic and religious differences among the Afghan people.¹⁰³ There was also fighting between Burhanuddin Rabanni's supporters and his rivals.¹⁰⁴ The country remained in a state of civil war and divided into various war zones, with each war zone being governed by a different "warlord."¹⁰⁵ The warlords expanded the already flourishing criminal trades of smuggling and narcotics, and strengthened their ties with the international criminal community.¹⁰⁶ As a result, Afghanistan's economy became supported primarily by criminal activity.¹⁰⁷

In the Summer of 1994, the Taliban, a fundamentalist and radical religious student militia, emerged in South Afghanistan in reaction to the widespread civil unrest and lawlessness in Afghanistan.¹⁰⁸

B. The Origins of the Taliban: Claims by Outside Sources

Little is known about the group of religious students that make up the Taliban. The only information that seems not to be contradicted, wholly or partly, is that the Taliban is lead by Mullah Mohammed Omar. Likewise, little is known about Mullah Mohammed Omar. The Taliban are reported to be a group of "militant Sunni Muslim Afghan tribesman" from South Afghanistan.¹⁰⁹

The sources are not clear, and there are often conflicting accounts as to the exact origins of the Taliban, and their role in Afghanistan's turbulent past. One account is that the members of the Taliban are from the rural villages of Afghanistan, where they lived radically conservative lives in conformity with a strict interpretation of Islamic law.¹¹⁰ The customs, traditions, and beliefs of these rural villages are said to give women no rights. It is reported that the women residing in these rural villages are required to be completely covered by a burqa, and are often sold off to the highest bidder as child-brides, and then resold when their husbands grow bored with them.¹¹¹

There are some reports claiming that the members of the Taliban fought as a Mujahidin during the Soviet Union's occupation of Afghanistan.¹¹² Other sources claim that the Taliban were appointed by Pakistani officials to protect

103. *Id.*

104. *Id.*

105. Omar Zakhiwal, *The Afghan Economy: Past, Present & Future*, available at [http://www.afghan-politics.org/reference/economy/afghan economy](http://www.afghan-politics.org/reference/economy/afghan%20economy) (last visited July 21, 2000).

106. *Id.*

107. *Id.*

108. *Jane's Sentinel Security Assessment*, *supra* note 29.

109. Michael Jansen, *Tribal Acts Giving a False View of Muslims*, available at <http://www.afghan-web.com/politics/talibantribe.html> (last visited Mar. 17, 2001).

110. *Id.*

111. *Id.*

112. O'Toole, *supra* note 8.

and escort trade convoys on a developing trade route from Pakistan to Central Asia.¹¹³ These sources claim that after the Taliban provided service to the Pakistani government, they became more developed and organized, and moved on to take control of the city of Kandahar in South Afghanistan, which would be the group's first step toward taking control of the majority of the country.¹¹⁴

However, other sources speculate that there is more behind the Taliban than just a group of religious students passionate about bringing Afghanistan under pure Islamic rule. There are theories by some, that the Taliban is a military and political operation created solely to give Pakistan "indirect control over the policies made in Afghanistan."¹¹⁵ Propositions asserted under this theory are: that the high-ranking Taliban officials are former officials of the communist government, and that Pakistan and Saudi Arabia are using these high-ranking Taliban officials as "puppets" to control the internal affairs of Afghanistan.¹¹⁶ The supporters of this theory claim that it provides justification for the Taliban's questionable swift ascension to power in Afghanistan. While there are many conflicting accounts as to the exact evolution of the Taliban and the role that they played in Afghanistan's history, most sources agree that members of the Taliban did flee to Pakistan during Soviet occupation in Afghanistan, and it was there that they received training in religious schools.¹¹⁷

C. *The Origins of the Taliban: Claims by the Taliban*

The only claim that has been consistently made by the Taliban is that they are a group of students of pure Islam, Islam jurisprudence and the laws of the Sharia, and that their ultimate goal is to bring Afghanistan under Islamic rule, thereby creating a pure Islamic-Afghan government.¹¹⁸ The Taliban's claims about their origins, backgrounds, and goals are also conflicting. Because media coverage is rarely allowed by the Taliban, most of the conclusions about the Taliban must be drawn from a combination of information from a variety of sources and speculation about the facts missing from that information.

113. *Id.*

114. *Id.*

115. *The Taliban Story*, *supra* note 8.

116. *Id.*

117. *Id.*

118. The primary source for Islamic law is the Qur'an. The Qur'an contains the teachings of the Prophet Muhammad, who is held up as the greatest prophet in the Muslim faith. The Sharia is a supplement to the Qur'an that contains the rules under which a Muslim society should be organized and governed. The Sharia provides the Muslim society with guidelines for resolving conflicts between individuals and between individuals and the state. The Sharia is based upon the Qur'an. There are also other supplementary sources, the Hadith and the Sunna. The Hadith and the Sunna can both be used to help interpret the meaning of the Qur'an, but they cannot be used in a way that is inconsistent with the teachings of the Qur'an. M. Cherif Bassiouni, *Introduction to Islam*, available at <http://www.mideasti.org/library/islam/introislam.htm> (last visited Mar. 17, 2001).

The Taliban claims that they have been in existence since the Soviet occupation¹¹⁹ of Afghanistan in 1979.¹²⁰ They also claim that, during the occupation, they were affiliated with Harakat-e Inqelab-e Afghanistan (Afghanistan's Movement of Islamic Revolution) and Hizb-e Islami (The Islamic Party), two political parties which opposed Soviet occupation.¹²¹ This claim is consistent with some reports given by other outside sources.

The Taliban claim their movement began in 1994, in the city of Kandahar, in Southern Afghanistan.¹²² They claim that its calling was to "rescue" the Afghan people who have suffered through years of chaos and devastation under the rule of the warlords, who were in control of the countryside.¹²³ The Taliban also claim that their leader, Mullah Mohammad Omar, formed the movement in order to restore law and order to the area of Kandahar, which was plagued by crime and civil unrest.¹²⁴

While there are numerous conflicting accounts as to the exact origins of the Taliban and their role in the history of Afghanistan, most sources seem to agree that the Taliban are religious students that were trained in Pakistan during the Soviet Union's occupation in Afghanistan. Their goal is to establish a pure Islamic government in Afghanistan. Their ascension to power began in the city of Kandahar in Southern Afghanistan and eventually led to the capture of Afghanistan's capital of Kabul in 1996.

D. The Taliban's Ascension To Power

The Taliban ascended to power in Afghanistan's capital city of Kabul, in 1996.¹²⁵ Strategically, Kabul is considered to be an important city for the Taliban because it is considered "the gateway to the Indian subcontinent in the south and to the central Asia republics to the north."¹²⁶ Immediately after taking control of Kabul, the Taliban captured and killed Afghanistan's former President, Muhammad Najibullah, and his brother, Shahpur Ahmedzi.¹²⁷ The

119. As previously discussed, the Soviet Union occupied Afghanistan from 1979 to 1989. In 1989, the Soviet Union withdrew from Afghanistan pursuant to the Geneva Accords Agreement signed by Afghanistan and Pakistan, and guaranteed by the United States and the Soviet Union. The Geneva Accords Agreement required full withdrawal from Afghanistan by the Soviet Union.

120. *Taleban*, available at <http://www.taleban.com/taleb.htm> (last visited Mar. 17, 2001).

121. *Id.*

122. *The Taliban Story*, *supra* note 8.

123. *Taleban*, *supra* note 120.

124. *The Taliban Story*, *supra* note 8.

125. *Jane's Sentinel Security Assessment*, *supra* note 29.

126. Anita Pratap, *Who Are the Taliban of Afghanistan?*, available at <http://www.cnn.com/world/9610/05/taleban/index.html> (last visited Mar. 17, 2001).

127. Muhammad Najibullah was President from 1987 to 1992, until he was overthrown by Burhannuddin Rabbani. Burhannuddin Rabbani spared the life of Najibullah after he took power. When the Taliban ascended to power in Kabul in 1996, Najibullah was residing in a United Nations compound. The

Taliban then made a gruesome statement of their arrival and presence in Kabul by displaying the corpses of Muhammad Najibullah and Shahpur Ahmedzi hanging in the center of the city.¹²⁸

When the Taliban first ascended to power in Kabul, they were welcomed by the majority of the population of Afghanistan.¹²⁹ After years of war, instability, civil unrest, and living under the rule of the various warlords who ruled the countryside of Afghanistan, the people of Afghanistan viewed the Taliban as an organization that would provide them with the stability and security that they craved.¹³⁰ However, almost immediately after the Taliban's occupation of Kabul, they suspended the constitution and changed the name of Afghanistan to the "Islamic Emirate of Afghanistan," with their leader, Mullah Mohammad Omar, carrying the title of "Commander of the Faithful."¹³¹ Currently, there are no constitutional protections or any other basic law in place in Afghanistan.¹³² The only law is the law of the Taliban, which is erratic, illogical, and inconsistent. The Taliban's law is based upon their own strict interpretations of Islamic law.¹³³

III. THE LAW OF THE TALIBAN

The Taliban subscribe to a radical interpretation of Islam that mandates extreme conservatism. The Taliban belong to the Sunni sect of Islam.¹³⁴ While

Taliban stormed the compound and killed Najibullah. Many Afghans celebrated Najibullah's death. The Soviet-supported leader was nicknamed the "Butcher of Kabul" because of his brutal rule of Afghanistan. His brother acted as his security chief. Anthony Spaeth, *Kabul's New Islamic Rule Young and Fundamentalist, The Taliban Capture the Afghan Capital and Quickly Make a Gory Point*, TIME MAGAZINE, Oct. 7, 1996, at 48.

128. *Id.*

129. Statement of Karl F. Inderfurth, *supra* note 3.

130. *Id.*

131. *Afghanistan Statistics on Religion*, available at http://atheism.about.com/religion/atheism/library/irf99/bl_irf_afghanistan99.htm?terms=Afghanistan+Statistics (last visited Mar. 17, 2001) [hereinafter *Afghanistan Statistics on Religion*].

132. *Id.*

133. *Id.*

134. *Id.* The Sunni Muslims account for approximately 85% to 90% of all Muslims. The other sect of Islam is Shia. The Sunni and Shia Muslims differ over their interpretations of the Sharia. Both sects share the same belief in the Qur'an and the Sharia; however, they differ in their opinions of how the Sharia should be interpreted. For example, one difference is that Sunni Muslims believe that the Muslim society's government should be a democracy, with an elected leader called the khalifa. In contrast, the Shia Muslims believe that the Muslim society's governing power should be a descendent of the great Prophet Muhammad. While both groups honor and obey the Qur'an and Sharia, their interpretations of the Qur'an and the Sharia are different. The Sunni Muslims are more apt to closely follow the letter of the Qur'an, whereas the Shia Muslims are more apt to closely follow the spirit of the Qur'an. There are four schools of thought on jurisprudence in the Sunni sect of Islam: the Hanbali, Hanafi, Maliki and Shafei. The difference in these four

other Muslim countries that belong to both the Sunni and Shia sects of Islam have imposed rules on women that would be termed "strict" by western standards, it has been said that no other Muslim country in the world shares the Taliban's extreme and harsh interpretation of the principles of Islam.¹³⁵

Some of the first official acts of the Taliban after taking control of Kabul were: to make it mandatory for women to wear a burqa; to prohibit women from working outside their homes; to prohibit girls from attending school; and to prohibit women from going outside their homes without a male family member serving as a chaperone.¹³⁶ Under the rules of the Taliban, women are not allowed to wear white burqas, white socks, or white shoes, and are subject to being beaten if their shoe heels click when they walk.¹³⁷

The laws of the Taliban have had the greatest effect on the women in the metropolitan and urban areas of Afghanistan and have virtually made them prisoners in their own homes.¹³⁸ For example, as part of the implementation of their plan to create their "pure Islamic state," the Taliban immediately placed a ban on televisions, movies, music, and photographs.¹³⁹ The Taliban have also prohibited activities such as kite flying and chess, along with dolls and stuffed animals.¹⁴⁰ Under its religious interpretations, the Taliban have declared that dolls, stuffed animals, televisions, and photographs represent graven images, which are prohibited in the religion of Islam.¹⁴¹ The Taliban require that a man's beard must hang from his chin at a length that is longer than a fist clamped underneath his chin, that men wear head coverings, and may not have long hair.¹⁴² A man can be imprisoned for ten days for shaving his beard, or alternatively, required to attend instructions in the Islamic faith.¹⁴³ The Taliban have also established mandatory prayer schedules.¹⁴⁴ Anyone who does not observe the mandatory prayer schedules, or who is late to the mandatory prayer session, runs the risk of being punished, which could include a severe beating.¹⁴⁵

schools is there interpretation of the Sharia, yet all four of the interpretations are recognizable as valid throughout the world. Bassiouni, *supra* note 118.

135. Statement of Karl F. Inderfurth, *supra* note 3.

136. *U.S.-Afghanistan Policy: Hearings Before Subcomm. on Foreign Operations of the Senate Comm. 106th Cong.* (1999) (on file author) [hereinafter Statement of Zohra Rasekh and Holly Burkhalter] (statement of Zohra Rasekh and Holly Burkhalter, Physicians for Human Rights).

137. *Afghanistan Statistics on Religion*, *supra* note 131.

138. *Women and Girls in Afghanistan*, at http://www.state.gov/www/global/women/fs_980310_women_afghan.html (last visited Mar. 17, 2001).

139. O'Toole, *supra* note 8; See also *Afghanistan Statistics on Religion*, *supra* note 131.

140. *Afghanistan Statistics on Religion*, *supra* note 131.

141. *Id.*

142. *Id.*

143. *Id.*

144. *Id.*

145. *Afghanistan Statistics on Religion*, *supra* note 131.

The Taliban has also made it mandatory that all children be given Muslim names by their parents.¹⁴⁶

Because there is no law or constitutional provision in place, other than the law of the Taliban, the Taliban freely enter homes, without permission, notification, or consent, to search for violations of the Taliban law.¹⁴⁷ The Taliban rely on the Ministry for Promotion of Virtue and the Suppression of Vice to enforce its rules, and the Ministry is notorious for regularly checking for compliance with the Taliban's edicts on the streets of Afghanistan's cities.¹⁴⁸

A. *Life for Women Before the Taliban Regime*

The Taliban's harsh rules have had the greatest impact on Afghan women who reside in the urban areas, and less of an impact on women in rural areas. This is because enforcement of the Taliban's law is not as consistent in Afghanistan's rural areas because the Taliban's presence is not as substantial.¹⁴⁹ Additionally, because most women in Afghanistan's rural villages have always lived a conservative lifestyle, the Taliban has brought some security and stability to their lives.¹⁵⁰ During the years when the country was ruled by warlords and plagued by crime, these women lived with the constant threat of becoming the victims of rape and other criminal acts.¹⁵¹ Some reports indicate that the Taliban have stopped, or at least significantly reduced, the rapes and other crimes that were common during the rule of the former President, Muhammad Najibullah.¹⁵² While the Afghan women in rural areas may breathe a sigh of relief because some order has been restored to their world, the women in Afghanistan's urban cities are feeling the greatest impact of the Taliban rule.

The country began its attempt to modernize its treatment of women in 1919 under the rule of King Amanullah and Queen Soraya.¹⁵³ During the 1920s, there were other laws enacted that were favorable to women pertaining to marriage, dowry, and circumcision.¹⁵⁴ During this time period, the first women's organizations were established and education for women was encouraged.¹⁵⁵

146. *Id.*

147. *Id.*

148. *Id.*

149. *Id.*

150. *Afghanistan: Women Under Taleban Rule*, available at http://news2.this.bbc.co.uk/hi/english/world/south_asia/newsid_597000/597730.stm (last visited Mar. 17, 2001).

151. *Id.*

152. Carla Power, *When Women are the Enemy: Afghanistan's Taliban Fighters Have Taken the War Between the Sexes to a New Extreme*, NEWSWEEK, Aug. 3, 1998, at 37.

153. *The Crisis of Afghan Women . . . A Human Rights Issue*, available at <http://wome3rdworld.about.com/newsissues/women3rdworld/library/weekly/aa031398.htm> (last visited July 21, 2000) [hereinafter *The Crisis of Afghan Women*].

154. *Id.*

155. *Id.*

These reforms were opposed by many conservative Afghans, and it resulted in many girl's schools being closed shortly thereafter.¹⁵⁶

From 1929 to 1963, women were again forced into a period of extreme conservatism, which included the return to the customs of veiling and seclusion.¹⁵⁷ There was segregation of the sexes in all sectors of Afghan society, including movie theaters, schools, and universities.¹⁵⁸

In 1959, women were again encouraged to remove their veils and many women began appearing unveiled in public.¹⁵⁹ In 1964, the Afghanistan Constitution was enacted.¹⁶⁰ During the same year, the government of Afghanistan got its first female cabinet member as Minister of Health.¹⁶¹ During the 1970s, many women were dressing in clothing that was very similar in style to that of some Western countries.¹⁶² Again, many conservative Afghans opposed these changes in custom and there was bloodshed as a result.¹⁶³

In 1978, the communist party took power of Afghanistan.¹⁶⁴ Under communist rule, there were substantial changes to the woman's role in society.¹⁶⁵ For example, there were laws enacted forbidding forced marriages and establishing a minimum age requirement for marriage.¹⁶⁶ Under communist rule women were also given the right to work.¹⁶⁷

Statistics show that in 1992, women made up approximately fifty percent of the Afghan workforce.¹⁶⁸ Before the Taliban came into power in 1996, women worked outside the home, were not required to cover themselves with a burqa, and were not subjected to the harsh rules imposed upon them by the Taliban.

B. Life for Women Under the Taliban Regime

Under Taliban rule, women have no rights. They are unable to obtain access to things that most consider to be a right, not a privilege. For example, they do not have access to sufficient medical care, or in most cases any medical care, education, employment, or their mosques.¹⁶⁹ The Taliban claim that their

156. *Id.*

157. *Id.*

158. *The Crisis of Afghan Women, supra note 153.*

159. *Id.*

160. *Id.*

161. *Id.*

162. *Id.*

163. *The Crisis of Afghan Women, supra note 153.*

164. *Id.*

165. *Id.*

166. *Id.*

167. *Id.*

168. *The Crisis of Afghan Women, supra note 153.*

169. A mosque is an Islamic house of worship. Bassiouni, *supra note 118.*

goal is “preserving women’s honor”¹⁷⁰ and further claim that “the restrictions on women are for their own protection.”¹⁷¹ In response to the negative media coverage on the Taliban’s treatment of Afghan women, the Taliban leader Mullah Mohammad Omar expressed the following opinion about the Western world’s treatment of women: “their interpretation of women’s rights is only those ugly and filthy western cultures and customs in which women are insulted and dishonoured [sic] as a toy.”¹⁷²

Justifications give by the Taliban and their supporters for the strict restrictions on women have ranged from the need to restore civil unrest in the country, to the theory that Western women are not truly respected in their culture. The Taliban and their supporters assert that Muslim women are the queens of their homes and it is their husband’s duty to care for them; therefore, they do not need the same rights as Western women.

C. *The Taliban’s Prohibition of Working Women*

When the Taliban took control of Kabul, women were immediately banned from all employment outside the home, apart from the traditional agricultural work performed by women in the rural areas of the country.¹⁷³ The ban on working outside the home has, perhaps, been one of the Taliban’s harshest rules. The Taliban claim that they are gradually making exceptions by allowing some women to return to work as doctors and nurses, but under very restricted conditions.¹⁷⁴ For the most part, the ban on working outside the home still continues in full force for the majority of Afghan women.¹⁷⁵

The ban on employment outside the home has been devastating to the thousands of widows residing in Afghanistan.¹⁷⁶ Because of Afghanistan’s long history of civil war and political instability, reports estimate that there are approximately 30,000 widows in Kabul alone.¹⁷⁷ Because of the loss of their husbands and other male family members, these widowed-women are the sole source of support and income for their families.¹⁷⁸ Because the Taliban has forbidden these women from working, many are forced to beg in the streets and

170. Hannah Bloch, *Still No Place for the Ladies Facing Global Condemnation of Their Dismal Record on Women’s Rights, The Taliban are Easing Up—But Only a Little*, TIME ASIA, May 29, 2000, available at 2000 WL 22697480.

171. *Afghanistan: Women Under Taleban Rule*, *supra* note 150.

172. Taleban ‘Flexibility’ on Women’s Rights, available at <http://news2.ths.bbc.co.uk/hi/english/world/south%5fasia/newsid%5670000/670263> (last visited July 21, 2000).

173. Statement of Karl F. Inderfurth, *supra* note 2.

174. *Id.*

175. *Id.*

176. *Id.*

177. *Id.*

178. Statement of Karl F. Inderfurth, *supra* note 2.

sell their personal belongings in order to provide food for themselves and their children.¹⁷⁹

D. *The Taliban's Mandated Dress Code for Women*

While the Islamic faith encourages women to cover their bodies, it does not prescribe the covering of their faces, and it also requires that men properly cover their bodies from their chest to their knees.¹⁸⁰ Many women comply with the obligations of their faith by covering their bodies with common clothing that sufficiently covers their limbs, and scarves that cover their heads. While the requirement that women should be covered may seem oppressive to Western women, for Muslim women it is simply an observance of their traditional religious beliefs and is done out of respect for the teachings of their religion and the Qur'an.

As it has with many of its laws, the Taliban has taken a principle of the Islam religion and distorted it into an extreme and harsh rule. The Taliban has prohibited women from appearing in public without wearing the traditional burqa.¹⁸¹ The burqa can best be described as resembling a long bed sheet. It covers the woman from head to toe, with a small opening over the eyes that is covered by mesh.¹⁸²

Prior to the Taliban's control of the country, many women in the rural areas of Afghanistan wore the burqa when appearing in public, but it was not a required dress code for women.¹⁸³ In contrast, prior to the Taliban's control of the country, many Afghan women in the cities only covered their heads with scarves.¹⁸⁴ Now, the Taliban requires that a burqa be worn by all women. Women caught without a burqa, or who have failed to completely cover themselves with a burqa, are subject to a beating on the street from the Taliban's Ministry for Promotion of Virtue and the Suppression of Vice.¹⁸⁵

Another problem created by the requirement that all women wear a burqa is that not all women can afford to purchase a burqa.¹⁸⁶ As previously discussed, because the Taliban have banned women from working outside the home, most women have no income because their husbands, brothers, fathers, and sons have been killed fighting in Afghanistan's many civil conflicts. Because they have no income, these women cannot afford to purchase the burqa. Without a burqa, these women are forced to remain in their homes, or

179. *Id.*

180. Bassiouni, *supra* note 118.

181. Statement of Karl F. Inderfurth, *supra* note 2.

182. *Id.*

183. *Id.*

184. *Id.*

185. *Id.*

186. *Afghanistan Statistics on Religion*, *supra* note 131.

risk receiving a severe beating from the Taliban, along with the possibility of the punishment of the elders of their family.¹⁸⁷

Similarly, women who are disabled and require a prosthesis or walking aid are forced to remain inside their homes because the burqa will not properly fit over these devices so as to completely cover the woman.¹⁸⁸ These women are forced into imprisonment within the confines of their homes or run the risk of being subjected to the Taliban's harsh and barbaric forms of punishment for disobedience of its law.

Sources have reported that women who cannot afford a burqa, or who cannot properly wear a burqa because of a disability, have been unable to obtain access to the limited medical care available.¹⁸⁹ It has been reported that at least one woman died because she could not access medical care because she either did not own a burqa or could not properly wear one and, thus, could not leave her home.¹⁹⁰

E. The Taliban's Ban on Educational Facilities for Women and Girls

Statistics by the Feminist Majority Foundation show that women and girls in Afghanistan's capital city of Kabul and many other parts of the country have attended co-educational schools since the 1950s.¹⁹¹ These same statistics also show that prior to the Taliban taking control of Afghanistan, over half of the student body of Afghanistan's universities were women.¹⁹² Prior to the Taliban regime, women were educated as nurses, engineers, doctors, lawyers, and teachers.¹⁹³

Most educational opportunities offered to women and girls abruptly ended when the Taliban took control of Kabul in 1996. The Taliban has prohibited most girls from attending school and closed the majority of girls schools almost immediately upon taking control of Kabul.¹⁹⁴ While the Taliban have prohibited females from attending school, most males still have the opportunity to continue to their education.¹⁹⁵ There are a few home based schools and schools in the rural areas of the country that operate secretly, offering limited educational opportunities to girls; however, they live under constant fear of severe punishment for disobedience of the Taliban's law prohibiting educational

187. *Id.*

188. *Id.*

189. *Id.*

190. *Id.*

191. Testimony of Mavis Leno, *supra* note 6.

192. *Id.*

193. *Id.*

194. Statement of Zohra Rasekh and Holly Burkhalter, *supra* note 136.

195. *Id.*

facilities for females.¹⁹⁶ It is reported that one teacher, who denounced the laws of the Taliban and insisted that she would continue to teach, was struck with a rifle butt, and then killed after being shot in the head and stomach.¹⁹⁷ Her death was witnessed by her students, her husband, and her daughter.¹⁹⁸

The Taliban claim that they do not oppose educational opportunities for females and that some of the schools for girls have been reopened.¹⁹⁹ However, despite their claims, it appears that the Taliban have made no real effort to provide females with educational opportunities.²⁰⁰ The lack of educational opportunities is a substantial factor that contributes to the despair that the Afghan women are experiencing.

F. The Taliban Requirement that Women have Male Chaperones

In addition to requiring that women be covered by a burqa, the Taliban also require women to be escorted outside their homes by a male relative.²⁰¹ This rule also presents another obstacle for women because, as previously discussed, a substantial number of Afghan families are headed by widows, because the male members of the family have been killed fighting in Afghanistan's many civil conflicts.²⁰² Enforcement of this harsh and irrational rule results in women being forced to become even more isolated.

G. The Taliban Refusal to Provide Women with Access to Adequate Medical Care

The Taliban have prohibited and/or severely limited the availability of medical care for women and girls. The Taliban have severely restricted the male doctors' ability to treat female patients, and have prohibited females from being employed as doctors and nurses.²⁰³ Reports from the Physicians for Human Rights indicate that the Taliban segregated hospitals by gender in January 1997.²⁰⁴ In September 1997, the Physicians for Human Rights claim that the Taliban suspended all medical care for women.²⁰⁵ The result was that the only medical facility available to women was a temporary structure that contained thirty-five beds with no clean water, electricity, surgical equipment,

196. *Id.*

197. *Id.*

198. Statement of Karl F. Inderfurth, *supra* note 2.

199. *Id.*

200. *Id.*

201. *Id.*

202. *Id.*

203. Statement of Zohra Rasekh and Holly Burkhalter, *supra* note 136.

204. *Id.*

205. *Id.*

or other medical supplies.²⁰⁶ Women were forced to deliver their children in a filthy, unsanitary maternity wards, which were poorly equipped and contained insufficient medical equipment.²⁰⁷ After the Taliban received international condemnation for these practices, they opened a few beds for women in several of the men's facilities. However, the medical care currently available to women is severely limited and inadequate at best.²⁰⁸

Because of the Taliban's restrictions, many women are unable to gain access to any medical care.²⁰⁹ For example, if a woman is fortunate enough to convince a male physician to treat her, he is not allowed to examine the woman or speak to her directly.²¹⁰ All communication is done by and through her male chaperone.²¹¹ Many times, the male chaperone demonstrates on his own body the area of the body that is the source of the woman's discomfort or illness.²¹²

Because of no access, or poor access, to medical care, most Afghan women have experienced an alarming decline in their health and well-being since the Taliban took control of the country.²¹³ There have been reports of women and girls who have died after being turned away from male-only facilities, or because they were unable to seek medical care because they did not own a burqa or have a male relative that can escort them on the city's streets.²¹⁴

H. Miscellaneous Rules of the Taliban that are Directed Towards Women

The rules of the Taliban outlined above are some of the harshest of the Taliban's edicts. However, there are many other rules that are directly aimed at women, and further contribute to their feelings of despair, oppression, and isolation. For example, women are not allowed to be seen in their homes from the street.²¹⁵ In order to implement this rule, the Taliban requires that every window of all houses with female occupants be painted over.²¹⁶ The Taliban have prohibited women from driving.²¹⁷ The only form of transportation for women are the buses that the Taliban have designated as "women's buses."²¹⁸ Because there are only a few of these buses, the wait for transportation can be

206. *Id.*

207. *Id.*

208. Statement of Zohra Rasekh and Holly Burkhalter, *supra* note 136.

209. *Id.*

210. *Id.*

211. *Id.*

212. *Id.*

213. Statement of Zohra Rasekh and Holly Burkhalter, *supra* note 136.

214. *Id.*

215. *Afghanistan Statistics on Religion*, *supra* note 131.

216. *Id.*

217. *Id.*

218. *Id.*

long.²¹⁹ The Taliban requires that the windows of the women's buses be covered by curtains and that the driver's area also be separated by a curtain.²²⁰ The Taliban requires bus drivers to employ boys under the age of fifteen to collect the bus fares on women's buses.²²¹ As mentioned above, women are not allowed to wear white burqas, white socks, or white shoes, and are subject to a beating if the heels of their shoes make any noise while they walk or if they are found to be in violation of any of the Taliban's laws.²²²

I. Punishment for Breaking the Law of the Taliban

The Taliban maintains order in the areas that it controls by issuing extreme, and sometimes barbaric, penalties for violations of its self-declared law. The Ministry for the Promotion of Virtue and the Suppression of Vice and Islamic courts, both established by the Taliban, enforce the harsh rules of the Taliban.²²³ In the Taliban's courts, judges render swift decisions in summary criminal trials, according to the Taliban's extreme interpretation of Islamic law, and punishment quickly follows these decisions.²²⁴

For example, Taliban justice prescribes that the punishment for murder is public execution in front of a stadium audience of thousands, and punishment for thieves is the amputation of one or both hands and feet.²²⁵ It is reported that some executions have taken place before crowds of up to 30,000 people.²²⁶ Executions are sometimes carried out in such barbaric methods as throat slitting, stoning, beheadings, collapsing walls, and hangings.²²⁷ While rape and murder are serious crimes and certainly worthy of some form of serious punishment, Afghan citizens are called to the country's stadiums to witness executions for alleged crimes that would not even merit a citation in most other countries in the world. For example, adulterers are stoned to death or publicly whipped, and homosexuals are crushed to death by having walls toppled on them.²²⁸

In addition to the severe punishment that is rendered after a decision is handed down by the Taliban's courts, the Ministry for the Promotion of Virtue and the Suppression of Vice patrols the streets of Afghanistan, and will often issue beatings on the spot if they deem one's behavior not to be in compliance

219. *Id.*

220. *Afghanistan Statistics on Religion, supra* note 131.

221. *Id.*

222. *Id.*

223. *Id.*

224. *Id.*

225. *Afghanistan Statistics on Religion, supra* note 131.

226. *Id.*

227. Statement of Zohra Rasekh and Holly Burkhalter, *supra* note 136.

228. *Afghanistan Statistics on Religion, supra* note 131.

with their strict interpretations of Islamic law.²²⁹ For example, a woman reportedly received a severe beating because she purchased ice cream from a street vendor and was eating it in public.²³⁰ The ice cream vendor was also beaten and jailed for selling the ice cream to an unchaperoned woman.²³¹ A woman will also run the risk of receiving a beating if any part of her limbs is exposed underneath her burqa,²³² for making noise, for being found on the streets without a male family member escorting her, or for simply being found on the street with an excuse that is unacceptable to the Taliban.²³³ The elders of the women who allegedly break the rules are also subject to punishment by the Taliban.²³⁴

A 1998 survey conducted by the Physicians for Human Rights indicates that sixty-eight percent of women that took the survey reported that they or a family member had been stopped or detained by the Taliban in Kabul.²³⁵ Fifty-four percent of the women detained by the Taliban were beaten and twenty-one percent of the women detained were tortured.²³⁶ The international community recently got a first-hand look at the Taliban's harsh theories of punishment when the Taliban shaved the heads of the visiting Pakistani soccer team for wearing shorts while playing a soccer match.²³⁷

Because of the Taliban's irrational rules there are extraordinary high levels of mental stress and depression among women.²³⁸ Most women feel there is no hope, no future, and experience constant anxiety that they or a family member will receive harsh punishments if the Taliban thinks that they are not complying with their interpretation of Islamic law.²³⁹

IV. THE RELIGION OF ISLAM'S VIEW OF WOMEN

The Taliban's treatment of women has been condemned by some members of the international community and the Muslim faith. For example, the Muslim Women's League has said that the Taliban's seclusion of women is not derived from Islam, but is a "political maneuver disguised as Islamic law."²⁴⁰ The

229. *Id.*

230. Statement of Zohra Rasekh and Holly Burkhalter, *supra* note 136.

231. *Id.*

232. One report claims that the Taliban instructs young boys to lie on the ground and report whether or not the woman's limbs are visible under the garment. *Id.*

233. *Women and Girls in Afghanistan*, *supra* note 138.

234. Statement of Zohra Rasekh and Holly Burkhalter, *supra* note 136.

235. *Id.*

236. *Id.*

237. Statement of Karl F. Inderfurth, *supra* note 3.

238. Statement of Zohra Rasekh and Holly Burkhalter, *supra* note 136.

239. *Id.*

240. *Muslim Women's League*, available at http://www.mwlusa.org/news_afghan.shtml (last visited Mar. 17, 2001).

Muslim Women's League points out that the Qur'an gave women rights almost 1400 years ago, such as the right to sell property.²⁴¹ The Muslim Women's League claims that the religion of Islam promotes equality among men and women to facilitate the economic growth of society, and that it mandates education for all Muslims, including women.²⁴² The Muslim Women's League has publicly denounced the Taliban's treatment of women, and emphatically stated that the Taliban's treatment of women is not derived from the religion of Islam.²⁴³

Women played a vital role in early Muslim society and were among some of the strongest and earliest supporters of Islam.²⁴⁴ The religion of Islam teaches that the Prophet Muhammad, who is the cornerstone of the religion of Islam, indicated through his actions that he respected and honored women.²⁴⁵ For example, he was a dedicated and devoted husband to his first wife, Khadijah, for twenty-six years until her death, despite the traditional practice of polygamy.²⁴⁶ After his first wife died, another wife of the Prophet Muhammad, Aishah bint abu Bakr, was notorious for her education, specifically her ability to read and write, and was often consulted by the early Muslim community about the teachings of Muhammad after his death.²⁴⁷

The Islamic religion claims to recognize the woman's right to own property as being identical to that of a man's, and provides that male family members cannot handle a woman's finances without her permission.²⁴⁸ Islam also claims to provide that a woman must consent to marriage, and that it grants women exclusive custody of the children up to the child's early adolescent years in the event of a divorce.²⁴⁹ Islam claims that men and women share the same rights to obtain an education, and that the teachings of the Qur'an lend support for, and encourage, women to obtain their life goals.²⁵⁰ While there are some cases in which women and men are treated differently, Islam claims to provide a logical explanation for the differential treatment. For example, a man will inherit twice as much as a woman because he is responsible for providing for his wife, children, and his own family.²⁵¹

Other teachings in Islam support the claim that the Taliban's harsh treatment of women is in no way supported by the true religion of Islam. For

241. *Id.*

242. *Id.*

243. *Id.*

244. Bassiouni, *supra* note 118.

245. *Id.*

246. *Id.*

247. *Id.*

248. *Id.*

249. Bassiouni, *supra* note 118.

250. *Id.*

251. *Id.*

example, a quote from the Prophet's Hadith states: "The most perfect of the believers in faith is the best of them in moral excellence, and the best of you are the kindest of you to their wives."²⁵² All accounts indicate that the Taliban have taken an otherwise beautiful and dedicated religion and distorted it to further their goals of oppression and power.

V. THE UNITED STATES' REACTION TO THE TALIBAN

It appeared that the United States initially welcomed the Taliban's control of Afghanistan because it hoped that the Taliban would restore order to a country that was, by all standards, out of control.²⁵³ However, both former First Lady Hillary Rodham Clinton and President Clinton have acknowledged that they are aware of the crisis of Afghan women, and the issue is also frequently addressed by the State Department.²⁵⁴ On a recent visit to the refugee camps in Pakistan, former Secretary of State Albright is quoted as saying that the Taliban's treatment of women and girls is "despicable."²⁵⁵ Former Secretary of State Albright is also quoted as saying that the United States is "opposed to [the Taliban's] approach to human rights, to their despicable treatment of women and children and their lack of respect for human dignity"²⁵⁶

The United States alleges that the Taliban is harboring the terrorist organization of Osama bin Laden in exchange for warriors willing to join the Taliban's cause.²⁵⁷ The United States has labeled Osama bin Laden as a "threat to the national security interests of the United States."²⁵⁸ On July 4, 1999, former President Clinton signed an Executive Order²⁵⁹ that imposed financial and commercial sanctions against the Taliban for its alleged support of Osama bin Laden.²⁶⁰ On July 5, 2000, former President Clinton extended the financial and commercial sanctions on the Taliban, originally imposed on them pursuant

252. *Id.*

253. Statement of Zohra Rasekh and Holly Burkhalter, *supra* note 136.

254. *Id.*

255. *Women and Girls in Afghanistan*, *supra* note 138.

256. *Id.*

257. The United States claims that Osama bin Laden and his organization (the "al Qaeda") were responsible for the bombings of the United States embassies in Nairobi, Kenya and Dar Es Salaam, Tanzania in 1998. These bombings killed twelve Americans, nearly three hundred Kenyans and Tanzanians, and wounded almost five thousand others. The United States claims that Osama bin Laden "continue[s] to plan new attacks against Americans without regard to [the] innocence of [his] intended victims or for those non-Americans who might get in the way of [the] attack." James Foley, State Dep't Spokesman, *State Department Briefing on Presidential Executive Order Imposing Sanctions on Assets of the Taliban* (July 6, 1999) (on file with author).

258. *Id.*

259. Exec. Order No. 13129, 28 C.F.R. 25.701 (2000), available at 1999 WL 460790.

260. *State Department Briefing on Presidential Executive Order Imposing Sanctions on Assets of the Taliban*, *supra* note 257.

to his 1999 Executive Order.²⁶¹ The United States has made it clear that there is no possibility of United States trade or investment in Afghanistan unless Osama bin Laden is turned over to the proper authorities.²⁶²

While the United States has denounced the Taliban's treatment of women and its alleged support of Osama bin Laden, allegations have been made by some that suggest the United States is partially responsible for the conditions in Afghanistan. Pakistan and Saudi Arabia are international allies of the United States, and among a few that recognize the Taliban as the official government of Afghanistan.²⁶³ Saudi Arabia continues to receive military equipment and assistance from the United States, as it has for many years. Pakistan also receives assistance from the United States.²⁶⁴ Pakistan and Saudi Arabia have been among the major sources of financial support and arms for the Taliban.²⁶⁵ However, Saudi Arabia has recently reduced its support of the Taliban after encouragement from the United States.²⁶⁶ Unfortunately, the Taliban continues to receive recognition as the official government structure of Afghanistan from Pakistan and Oman.²⁶⁷

The Taliban craves and seeks international recognition. However, the United Nations seat for Afghanistan continues to be occupied by the Rabanni faction,²⁶⁸ and the United States has refused to grant official recognition to the Taliban as the government of Afghanistan, and has vowed to only recognize a "broad based government . . . which restores the human rights of women and girls."²⁶⁹

VI. THE FUTURE OF WOMEN IN AFGHANISTAN

The Taliban has exhibited hostility toward many humanitarian aid agencies. For example, in July 1998, the Taliban issued an order requiring all foreign aid workers to be housed at a college campus outside Kabul, which had been partially destroyed by bombs and had no electricity or running water.²⁷⁰ The Taliban have made it clear that if the aid workers do not follow their

261. Continuation of Emergency With Respect to the Taliban, 65 Fed. Reg. 129 (2000), 50 U.S.C. § 1622(d) (1994).

262. *State Department Briefing on Presidential Executive Order Imposing Sanctions on Assets of the Taliban*, *supra* note 257.

263. Testimony of Mavis Leno, *supra* note 6.

264. *Id.*

265. *Id.*

266. *State Department Briefing on Presidential Executive Order Imposing Sanctions on Assets of the Taliban*, *supra* note 257.

267. *Id.*

268. As discussed earlier, Burhanuddin Rabanni became President after the Mujahidin took control of the country in 1992. The Taliban later ousted Rabanni in 1994. See *infra* Part II.A.

269. Testimony of Mavis Leno, *supra* note 6.

270. Statement of Zohra Rasekh and Holly Burkhalter, *supra* note 136.

instructions, they will be expelled from the country.²⁷¹ Consequently, the United Nations and most foreign aid workers evacuated the country after the bombing of Osama bin Laden's terrorist camps by the United States in August, 1998.²⁷² As a result, the maternal and child healthcare clinics that were run by these workers have now been closed.²⁷³ These were some of the only facilities available to some Afghan women.²⁷⁴

Humanitarian assistance for these women has been provided by a number of foreign aid agencies. However, a 1998 survey done by the Physicians for Human Rights indicates that only six percent of the women participating in the survey have received some type of foreign aid.²⁷⁵ The failure of Afghan women to receive any aid can be partially attributed to the Taliban preventing women from entering the humanitarian aid group's offices and other distribution centers.²⁷⁶

Pakistan is home to the largest Afghanistan refugee population.²⁷⁷ Some of the newly arrived refugees are provided with basic necessities, such as health care, education, and water.²⁷⁸ However, the aid is limited and many of the newly-arrived Afghan refugees report that they are not receiving foreign aid or services.²⁷⁹ There are reports that the Pakistani police are requiring bribes from the refugees in order to gain access to the aid.²⁸⁰ It has also been reported that the refugees in the camps are subject to abusive conduct by the Pakistani police, which can range from rapes, thefts, assaults, to mere threats.²⁸¹ The Physicians for Human Rights has also received reports that the Taliban move freely back and forth between the borders of Afghanistan and Pakistan, and they also threaten the refugees with abuse.²⁸²

The United States has categorized the future of the Taliban as "bleak" as it faces "increasing international isolation."²⁸³ The Taliban's primary enemy is the Northern Alliance in Northern Afghanistan, which is under the leadership of Burhannudin Rabanni and his Defense Minister, Ahmad Shah Masood.²⁸⁴

271. *Id.*

272. *Id.*

273. *Id.*

274. *Id.*

275. Statement of Zohra Rasekh and Holly Burkhalter, *supra* note 136.

276. *Id.*

277. *Id.*

278. *Id.*

279. *Id.*

280. Statement of Zohra Rasekh and Holly Burkhalter, *supra* note 136.

281. *Id.*

282. *Id.*

283. *State Department Briefing on Presidential Executive Order Imposing Sanctions on Assets of the Taliban*, *supra* note 257.

284. *Afghanistan Statistics on Religion*, *supra* note 131.

The Feminist Majority Foundation reports that the quotas for refugees accepted by the United States is only 4,000 for the entire region of the Near East and South Asia, which includes Afghanistan.²⁸⁵ The Feminist Majority Foundation also reports that the refugees accepted from Afghanistan into the United States since the Taliban took control of the country have been very low.²⁸⁶ The Feminist Majority Foundation's findings indicate that no Afghan refugees were accepted in 1996 or 1997 and only eight-eight refugees were accepted in 1998.²⁸⁷ However, the United States claims it has now launched a resettlement program for Afghan women and their families.²⁸⁸ The United States claims it expects to admit about 1,500 individuals in the year 2000 alone.²⁸⁹ This will be a substantial increase from the admissions in past years.²⁹⁰

In March 2000, there were reports that the Taliban brought 700 women to health care facilities in Kabul for treatment.²⁹¹ It has also been reported that the Taliban claim that it is reopening some of the educational facilities for girls that have been closed. The Taliban have also claimed that they are allowing women teachers to educate girls at home and allowing women to work in limited sectors of the workforce, such as the health care field. There is widespread speculation that the Taliban are taking these steps because of their desire to end the international isolation of Afghanistan.²⁹² However, any changes in the Taliban's treatment of women seem to be a slow process, and these alleged changes cannot be accurately verified.

VII. CONCLUSION

While there is continuous speculation about the Taliban's less than promising future, it is a fact that the future of Afghan women is uncertain at best. Even if there is a complete collapse of the Taliban regime, it will take years for Afghan women to recover, psychologically, physically, and emotionally, from the deplorable treatment and abuse they have endured. Using the exact words of the Taliban, one should note that "the [Taliban's] restrictions on women are for their own protection."²⁹³ It seems that the proper question to be addressed is, "what do Afghan women need protection from?" The totality of the facts and circumstances can lead a reasonable person to only one answer. These women need protection from the Taliban.

285. Testimony of Mavis Leno, *supra* note 6.

286. *Id.*

287. *Id.*

288. Statement of Karl F. Inderfurth, *supra* note 3.

289. *Id.*

290. *Id.*

291. *Taliban 'Flexibility' on Women's Rights*, *supra* note 172.

292. *Id.*

293. *Afghanistan: Women Under Taleban Rule*, *supra* note 150.