



Atlantic Council



Global
Justice Center

Human Rights Through Rule of Law

A la atención de los distinguidos representantes de los Estados miembros de las Naciones Unidas

Llamamiento conjunto para enmendar el Proyecto de Convención sobre los Crímenes de Lesa Humanidad a fin de incluir el apartheid de género

Estimadas excelencias y representantes de los Estados miembros:

Las organizaciones firmantes nos dirigimos a ustedes para destacar respetuosamente una laguna evidente y significativa del actual Proyecto de artículos sobre la Prevención y el Castigo de los Crímenes de Lesa Humanidad: la omisión del crimen de lesa humanidad del apartheid de género.

Al reproducir la definición de “apartheid” codificado en el Estatuto de Roma de 1998 de la Corte Penal Internacional, el actual proyecto de tratado se encuentra innecesariamente limitado a una articulación del apartheid de hace 25 años basado en la discriminación racial. De esta manera, no tiene en cuenta el apartheid por motivos de género, el cual la comunidad internacional reconoce desde hace muchos años, incluyendo al Secretario General de las Naciones Unidas, António Guterres. En las últimas décadas se han realizado avances significativos en cuanto al reconocimiento de crímenes de género, y la codificación del apartheid de género debe formar parte de dicho progreso constante.

La no codificación del apartheid de género prolonga un vacío de responsabilidad que deja a muchas víctimas y supervivientes sin recursos ni medidas de reparación. El crimen de apartheid de género no tiene equivalente en su animadversión y propósito. Este delito se distingue de otros crímenes internacionales, incluida la persecución por motivos de género, porque involucra una intención distópica subyacente de mantener un régimen institucionalizado de opresión y dominación sistemáticas contra una clase marginada que está subyugada para el beneficio y la supervivencia del grupo dominante, y que está deshumanizada y privada de los recursos y acceso necesarios para superar esta opresión calculada. Un caso paradigmático de este concepto es la opresión cada vez más profunda e institucionalizada de las mujeres y niñas afganas por parte de los talibanes. La codificación del apartheid de género ayudará a las víctimas y supervivientes a pedir cuentas a los responsables por la *totalidad* de los crímenes cometidos contra ellas.

El Proyecto de convención sobre los crímenes de lesa humanidad representa una importante ocasión para que los Estados tomen medidas para que se reconozca la discriminación de género extrema e institucionalizada como lo que es: una especie de apartheid. En ese sentido, entendemos que está previsto que el proyecto de tratado se debata en la Sexta Comisión de la Asamblea General de la ONU los días 11 y 12 de octubre de 2023, y que posteriormente los Estados miembros presentarán sus comentarios y observaciones por escrito para finales del año en curso. Por los motivos expuestos en el escrito adjunto, los abajo firmantes recomendamos realizar la siguiente enmienda (indicada en **negrita**) a la definición del “crimen de apartheid” formulada en el artículo 2(2)(h) del proyecto de tratado:

por «el crimen de *apartheid*» se entenderán los actos inhumanos de carácter similar a los mencionados en el párrafo 1, cometidos en el contexto de un régimen institucionalizado de opresión y dominación sistemáticas de un grupo racial sobre uno o más grupos raciales, **o de un grupo de un género sobre uno o más grupos de otro género**, y con la intención de mantener ese régimen.

La codificación del apartheid de género en el proyecto de convención no exige la creación de un delito totalmente nuevo e independiente. Al contrario, sólo supone la introducción del género en la definición del “crimen de apartheid”. Instamos a Sus Excelencias a considerar esta propuesta de enmienda para cerrar la brecha de impunidad que permanece en el derecho internacional y garantizar un enfoque inclusivo de género que mejor refleje la realidad, tanto histórica como actual, de los regímenes institucionalizados de opresión y dominación sistemáticas.

Agradecemos de antemano a Su Excelencia y a su Gobierno la atención que puedan prestar a este asunto urgente.

Atentamente,

Mahnaz Afkhami, Founder & President of Women's Learning Partnership & Iran's Former Minister of Women's Affairs

Fatima Ahmadi, Human Rights Defender

Shaharзад Akbar, Executive Director, Rawadari

Dr Farkhondeh Akbari, Postdoctoral Research Fellow at Monash University, Australia

Artemis Akbary, Founder & Executive Director of Afghanistan LGBTIQ+ Organization (ALO)

Prof. Rangita de Silva de Alwis, University of Pennsylvania Law School & CEDAW Committee Member

Diane Marie Amann, Professor and Faculty Co-Director of the Dean Rusk International Law Center, University of Georgia School of Law; Special Adviser to the International Criminal Court Prosecutor on Children in & affected by Armed Conflict (2012-2021)

Wahida Amiri, Afghan woman protester

Professor Penelope (Penny) Andrews, John Marshall Harlan II Professor; Director, Racial Justice Project, New York Law School

Sareta Ashraph, international criminal law expert

Judge Najla Ayoubi, women's rights defender and lawyer, Afghanistan

Manizha Bakhtari, Ambassador and permanent representative of the Islamic Republic of Afghanistan in Austria and International Organizations based in Vienna

Elizabeth Odio Benito, Former judge of the International Criminal Court and of the Inter-American Court of Human Rights and ICTY

Karima Bennoune, Lewis M. Simes Professor of Law at the University of Michigan Law School & Former UN Special Rapporteur in the field of cultural rights

H.E. Dr. Fatou Bensouda, High Commissioner of The Gambia to the UK & Ambassador to eight other countries. Former ICC Chief Prosecutor

Almudena Bernabeu, Barrister/Lawyer & Co-founder, Guernica 37 Group

Roya Boroumand, Co-founder & Executive Director, Abdorrahman Boroumand Center

Teresa Casale, Executive Director, Mina's List

Professor Christine Chinkin, LSE Centre for Women, Peace and Security

Yasmine Chubin, Legal Advocacy Director, Clooney Foundation for Justice

Hillary Rodham Clinton, former US Secretary of State

Radhika Coomaraswamy, Former Special Rapporteur on Violence Against Women & Special Representative on Children and Armed Conflict

Pashtana Durrani, Social and Political Rights Activist & Executive Director for LEARN Afghanistan

Shirin Ebadi, Nobel Peace Prize Laureate

Tsakhagiin Elbegdorj, former President of Mongolia, member of The Elders

Dr. Mark S. Ellis, Executive Director, International Bar Association

Alda Facio, Founding member of the Women's Caucus for Gender Justice at the ICC, former member and chair, UN Working Group on Discrimination Against Women

Naheed Ahmadi Farid, Human Rights Defender

Stephanie Farrow, former Legal Director of Amnesty International

Hannah R. Garry, Executive Director, Promise Institute for Human Rights, UCLA School of Law

Justice Richard J. Goldstone, former Chief Prosecutor of the ICTY and ICTR & former Justice of the Constitutional Court of South Africa

Mehrangiz Kar, Lawyer, Women's Rights Defender & Author

Baroness Helena Kennedy of the Shaws KC, Barrister, Member of the House of Lords of the United Kingdom

Nayera Kohistani, human rights defender and Afghan woman protester

Fawzia Koofi, First woman deputy speaker of Parliament in Afghanistan and former member of peace negotiation

Ajuan Mance, Professor of African American literature, Mills College at Northeastern University Author of "Living While Black"

Professor Emerita Rashida Manjoo, Faculty of Law, University of Cape Town, South Africa

Maxine Marcus, Co-Director and Co-Founder, Partners in Justice International

Roshan Mashal, Women's Human Rights activist

Metra Mehran, Human Rights Activist

Narges Mohammadi, Iranian human rights defender

Azadah Raz Mohammad, International Human Rights Lawyer

Kobra Moradi, Legal Analyst, Afghanistan Human Rights and Democracy Organization

Horia Mosadiq, Women Rights Defender from Afghanistan

Nadia Murad, President, Nadia's Initiative & Nobel Peace Prize Laureate

Nancy Newman, IANGEL Founder and President

Gissou Nia, Founder & Director, Strategic Litigation Project

Tamana Zaryab Paryani, Founder, Libertarian Women Movement

Pragna Patel, Founding Director, Southall Black Sisters

Justice Navi Pillay, South African Jurist

Akila Radhakrishnan, President, Global Justice Center

Hon. Stephen J. Rapp, Former Chief of Prosecutions of the ICTR, Former Prosecutor of the SCSL & Former US Ambassador-at-Large for Global Criminal Justice

Humaira Rasuli, Afghan Women Rights Activist

Maryam Rayed, Founding Director, Afghanistan Women's Think Tank

Javaid Rehman, UN Special Rapporteur on the situation of human rights in the Islamic Republic of Iran and Professor of Muslim Constitutionalism and Human Rights Law, Brunel University, London

Kathleen Roberts, Co-Director and Co-Founder, Partners in Justice International

Mary Robinson, Chair of The Elders

Kenneth Roth, former Executive Director of Human Rights Watch, Visiting Professor at Princeton School of Public and International Affairs

Yalda Royan, Founder, Sisterhood and Solidarity Inc & Women's Rights Activist

Leila Sadat, Professor & Director of Crimes Against Humanity Initiative Washington University School of Law, former Special Adviser on Crimes Against Humanity

Shadi Sadr, Co-founder, Justice for Iran

Sima Samar, Former Chairperson of Afghanistan Independent Human Rights Commission and currently Visiting Scholar at Fletcher School at Tufts University

Habiba Sarabi, Former negotiator with Taliban, Deputy of High Peace Council, Bamyán governor, Minister of Women's Affairs

Nushin Sarkarati, Deputy Director, Strategic Litigation Project

Ahmed Shaheed, Professor of Law, University of Essex, Former Special Rapporteur of the Human Rights Council on the situation of human rights in the Islamic Republic of Iran

Kathryn Sikkink, Ryan Family Professor of Human Rights Policy, Harvard Kennedy School

Fatou Sow, Professor of sociology, University of Paris Diderot & University of Dakar & Former Director, Network of Women Living under Muslim Laws

Gloria Steinem, Writer & Feminist Organizer

Antonia Urrejola, Former President of the Inter-American Commission on Human Rights (2021), former Minister of Foreign Affairs of Chile (2022-2023)

Amb. Melanne Vermeer, Former U.S. Ambassador for Global Women's Issues & Executive Director, Georgetown Institute for Women, Peace and Security

Attaullah Wesa, Executive director, Penpath, and brother of detained activist Matiullah Wesa

Elisabeth Wickeri, Executive Director, Leitner Center for International Law and Justice, Fordham Law School

Zarqa Yaftali, Founder, Women and Children Research and Advocacy Network

Malala Yousafzai, Executive Chair and Co-Founder, Malala Fund

Ziauddin Yousafzai, Co-Founder, Malala Fund

Lorenzo Zenteno, Chilean former judge

Atlantic Council Strategic Litigation Project

Australian Centre for International Justice

Center for Human Rights Advocacy

Freedom Now

Georgetown Institute for Women, Peace & Security

Global Justice Center

International Action Network for Gender Equality (IANGEL)

International Bar Association's Human Rights Institute (IBAHRI)

International Service for Human Rights (ISHR)

Leitner Center for International Law and Justice at Fordham Law School

Mukwege Foundation

Partners in Justice International

Promise Institute for Human Rights | UCLA School of Law

Rawadari

Women Advocacy Committee

Women Living Under Muslim Laws (WLUML)

Women's Initiative for Gender Justice