

HRD+ Legal Analysis:

A Review of the Law on Promotion of Virtue and Prevention of Vice

Introduction

One of the prominent features of the de facto administration is the enforcement of numerous laws and decrees that result in widespread violations of the fundamental human rights of Afghanistan citizens. Most recently, the Law on Promotion of Virtue and Prevention of Vice ([Official Gazette No. 1452](#)), published by this interim government, is in various ways inconsistent with principles of justice, human rights, and the cultural and social ethics of Afghan citizens. This legal note examines these inconsistencies, with an emphasis on the violation of fundamental human rights, unjustified interference in private life, and conflicts with the rule of law principles.

1. Violation of Fundamental Human Rights, Especially Gender Apartheid

One of the most significant aspects of this law is the widespread violation of women's rights. The law extensively legalizes discrimination against women and gender apartheid. For example, it imposes strict restrictions on women's dress and defines women's voices as "awrah" -a part of the body that must be covered-. These regulations not only contradict the principle of equality before the law but also conflict with fundamental human rights. Enjoyment of inherent human rights, such as freedom and social and economic rights, requires interaction and engagement with society. By restricting women's voices and their freedom of movement, this law effectively denies them their rights, as social, economic, cultural, and civil activities are impossible without interaction and movement. The spirit of this law is based on the principle that women should remain confined to the household, a clear example of gender apartheid. (<https://shorturl.at/zJc7P>)

2. Unjustified Interference in Private Life

This law allows agents of the de facto authorities (Moral Police) to interfere in individuals' private lives, including how they dress and groom themselves. In Afghan culture, individuals' privacy has always been respected, and interference in it is considered reprehensible. However, this law explicitly legalizes practices that allow the moral police to interfere in people's personal and private matters or force them to perform religious obligations such as prayer through coercion. This practice not only violates individuals' privacy but also undermines the human dignity of citizens.

3. Conflict with Rule of Law Principles

The Law on Promotion of Virtue and Prevention of Vice has been drafted in violation of recognized legal principles. One of the most important principles of the rule of law is the

protection of people's rights and freedoms and the prevention of arbitrary arrests and searches. However, this law allows moral police to intervene in people's private lives and personal freedoms without providing a clear judicial procedure to review their actions, which can lead to widespread abuse of power and conflict with the judicial process.

4. Inconsistency with Islamic Ethics and Social and Cultural Norms

This law also conflicts with the Islamic ethics and social norms of the Afghan people. Afghanistan's accepted customs, benefits, norms, and values, such as respect for human dignity and the rejection of harm and insult to people, contribute to social and human development and peaceful coexistence. This law attempts to redefine "virtue and vice" in a vague manner based on a narrow interpretation of Sharia, criminalizing violations and legalizing practices that are contrary to human dignity, such as banning women's voices, enforcing a specific type of dress, or legalizing practices that are not customary in Afghanistan culture. Therefore, the law indicates a lack of understanding of the tolerant social and Islamic ethics of the country's citizens.

5. Contradiction with Culture, Art, and the Social System

Culture, including cultural artifacts and art, is the shared heritage of communities, and the state is obligated to provide opportunities for cultural and artistic development. However, this law prohibits most cultural expressions and achievements of the Afghanistan people, including music, painting, film, photography, and sculpture. Consequently, this law poses a serious threat to cultural heritage and leads to the decline of art and the exodus of artists from Afghanistan. Moreover, culture is linked to the collective identity of citizens, and any effort to destroy it contradicts the collective will of the people.

6. Inconsistency with Legislative Progress

One of the major weaknesses of the Law on Promotion of Virtue and Prevention of Vice is its disregard for social progress and the needs of time and place. This law is based on extreme interpretations of religious teachings and is not aligned with modern social and legal developments. In most of Islamic countries, laws derived from jurisprudence and other legal sources are revised and updated according to the needs of time and place and with consideration of social and legal progress. For example, issues such as women's education and social and political rights, and the elimination of discrimination, have been institutionalized in the laws of other Islamic countries. Furthermore, all Islamic countries have accepted the Universal Declaration of Human Rights and related conventions, and they strive to incorporate these principles into their national legislation. However, the Taliban's new law, by relying on backward interpretations of religious teachings, ignores all of Afghanistan's legislative, legal, and social progress and, instead of moving towards adaptation to the needs of time and place, destroys the country's human development. This approach will also isolate

Afghanistan within the Islamic and international communities, as the country will fall behind global legal and social development.

In light of the aforementioned points, it is clear that the de facto administration Law on Promotion of Virtue and Prevention of Vice, by disregarding fundamental human rights, interfering in individuals' privacy, and conflicting with the rule of law principles, is widely inconsistent with justice, Islamic ethics, and the social and cultural fabric of the Afghanistan people. The implementation of this law not only violates human rights but also poses a serious threat to social cohesion, culture, and the collective identity of the Afghanistan people. For this reason, the Human Rights Defenders Plus (HRD+) presents the following demands:

- HRD+ believes that the Taliban's decrees, especially the recent law, have severely damaged the foundation of legal understanding and system of Afghanistan, which is the result of decades of work and governance in the country. HRD+ urges national and international legal institutions to respond seriously to this issue and provide specialized recommendations to those involved in law and international relations.
- We call on the United Nations and international human rights organizations to take more organized and tangible actions in documenting and pursuing these gross human rights violations. In this regard, two demands are particularly important: the establishment of a mechanism to hold perpetrators of human rights violations accountable and the pursuit of investigations into crimes against humanity. Since 2007, when the International Criminal Court (ICC) raised the issue of investigating crimes against humanity in Afghanistan, the Afghan people have been looking to the decisions of this court. We remind the ICC that after 17 years of investigation, it is time to take action. The court should prosecute the perpetrators of crimes against humanity in Afghanistan and put an end to their impunity.
- We call on independent media to prevent the normalization of widespread and gross human rights violations by publishing and reporting on the de facto administration policies, laws, and actions. The media must reflect these gross violations to prevent the normalization of crimes against humanity and gender apartheid.
- The violation of human rights and gender apartheid is by no means a domestic issue. Our colleagues in civil society, through research, information dissemination, and widespread civil campaigns inside and outside the country, should bring the voices of the victims of these laws and crimes to the world.
- We expect the de facto administration to repeal this law and provide the conditions for citizens to promote virtue towards the government through gatherings, protests, and other civil activities.

With the hope for a humane society