

# Internalization of Responsibility to Protect (R2P): Responsibility to Invoke ‘Peace from Within’ Afghanistan by the Taliban Regime (2021)

NUST Journal of International Peace & Stability  
2024, Vol. 7(1) Pages 1-19



njips.nust.edu.pk

DOI: <http://doi.org/10.37540/njips.v7i1.165>

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## Abstract

Sovereignty, concerning state authority, endows the Responsibility to Protect (R2P) the rights of citizens. This redefined and broadened scope of sovereignty is ascribed to the international norm of the R2P. The pioneering assertions of R2P were conceptualized by the UN Secretary-General Kofi Annan in ‘Two Concepts of Sovereignty’ after NATO intervened in Kosovo (1999). During a humanitarian crisis, the more serious concern lies in the unchecked systematic violations of human rights rather than the question of the legitimacy and legality of intervention by the international community. In the 2005 World Summit, Sovereignty was redefined as an R2P by the state against atrocious violations of human rights. In case of failure of the host state, the international community could intervene through the Security Council. This paper will implicitly consider the normative contours of the R2P framework while assessing the current multifaceted humanitarian crisis in Afghanistan. The post-war humanitarian crisis in Afghanistan is characterized by poverty and internal displacement. Additionally, human security concerns arise from the inter-group rivalry between the Islamic State Khorasan (ISK) and the Taliban, accompanied by human rights violations against women and ethnic minorities under the Taliban regime. Aligning with the first pillar, the responsibility to protect Afghan citizens rests with the Taliban as the sovereign authority of the state. However, internalizing the principles of the Responsibility to Protect (R2P) can pave the way for prospective peace in Afghanistan.

## Keywords

Responsibility to Protect (R2P), Humanitarian Crisis, Human Rights, Afghanistan, Taliban

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**Received** 20 September 2022; **Revised** 18 December 2023; **Accepted** 20 December 2023; **Published online** 31 January 2024

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## Introduction

When conflict impacts the population and society, peace necessitates humanitarian action, and governance prioritizes human welfare, security entails human protection, and safety and sovereignty call for human rights preservation. Since the post-evacuation phase following the withdrawal of US forces starting from August 2021, the Afghan predicament has transitioned towards a peace-centric paradigm.

While prioritizing the agenda of human welfare, a critical concern is addressing the collapse and failure of Afghanistan's social infrastructure. The focus should be on tackling the humanitarian crisis rather than engaging in debates about who is responsible for the current situation. The incumbent Taliban government, currently the de facto authority, bears the responsibility to promote peace, mitigate the ongoing humanitarian crisis, and safeguard Afghan citizens. The government has a dual responsibility, not only to protect citizens from the aftermath of war and withdrawal but also to address human rights violations, both those induced by the regime itself and those stemming from factional rivalries.

The twenty-year War on Terror (WoT) ended on August 25, 2021. While categorizing the winner and loser of the war in terms of the NATO forces or the Taliban has been widely debatable, the vulnerable victims have irrefutably remained the Afghan people. The exit of the US raised hopes for a peaceful and stable Afghanistan, yet it also sparked concerns about the potential failure to achieve lasting peace. However, the long war had a devastating impact on the socio-economic infrastructure of the Afghan society. Within weeks of the US exit, a humanitarian crisis affected 25 million Afghan people—an alarming figure double that of 2011. By 2023, nearly half of the population, around 17 million, faced food insecurity, with 6 million at an emergency level (Humanitarian needs overview, 2023). Approximately 3.5 million people were internally displaced, while millions struggled to survive amidst increasing poverty and lacking access to essential social services (Government, 2022).

Amidst this humanitarian crisis, described as of 'unprecedented scale' (United Nations Country Team in Afghanistan, 2023), the Taliban Supreme Leader's imposition of *Sharia Law* since November 2021 has led to systematic and widespread human rights violations by the regime, constituting elements of crimes against humanity. The Taliban's stringent control over freedom of expression, media, and women's rights has been accompanied by repressive measures and inhumane punishments against opponents, including arbitrary arrests, extrajudicial executions, torture, enforced disappearances, and flogging (Women's rights in Afghanistan, 2023).

The US two-decades-long war, which concluded with a peace deal with the Taliban in 2020, highlights that the military option did not prove to be a favourable solution to the Afghan dilemma. The Taliban, once considered non-state armed actors, transformed into a legitimate state authority. The armed conflict, leaving behind a wretched socio-political, economic, and security state, embroiled the Afghan population into another episode of catastrophic humanitarian crisis.

The dysfunctional governance by the Taliban and fragmented institutional infrastructure-coupled with the Taliban's version of *Sharia law* imposed, have further disrupted the state of human rights against women and ethnic minorities. The de facto Taliban regime yet awaits de jure recognition by the international community to formally build diplomatic ties with the other countries. The de jure recognition, considering various political aspects, remains partially conditional on the effective role of the Taliban in addressing violations against women and minority rights. Nevertheless, the responsibility to protect Afghan civilians fundamentally rests with

the Taliban government. Along with the administrative challenges, the emergent/persisting security threat posed by non-state actors like Islamic State Khorasan (IS-K) and the inter-group rivalry between the Taliban and the IS-K has further exacerbated the security matrix in Afghanistan. This paper, in line with the theoretical contours of the international norm of R2P and its first two pillars, assesses the critical aspects of and the role of actors in the current crisis in Afghanistan. The norm of R2P as the ‘shared expectations’ within international society stipulates that:

<i>Pillar-I:</i>	States themselves should protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity.
<i>Pillar-II:</i>	In case of failure, other states should assist one another.
<i>Pillar-III:</i>	Lastly, the international community should assertively act to protect the suffering populations.

The study aims to trace the prospective non-military options for addressing the current Afghan crisis, especially in international and international human rights law. Due to the futility of military options by the US in Afghanistan accounting for the current crisis, the exogenously ‘enforced’ and ‘military’ version of R2P is not applicable in the case of Afghanistan. Therefore, the *Pillar-I* of R2P should be internalized and institutionalized, primarily by the Taliban government, with supplementary international assistance. This can help strengthen the political legitimacy and administrative authority of the Taliban regime, thus paving the way towards a viable solution to the structural and institutional problems and peace in Afghanistan. Moreover, the de jure recognition of the Taliban government, partially conditional on the responsibility to protect women and minority rights by the Taliban, can induce further humanitarian aid and assistance by the international community (pillar II).

Theoretically, for a dynamic crisis management approach, Pillar I of R2P would be broadened to include the humanitarian crisis aspect that has deteriorated Afghanistan's already worsened human rights situations. Unlike the third pillar of R2P that has been invoked for ‘humanitarian intervention’ in various crises like Kosovo and Syria, this paper argues that the first two pillars of R2P, at this very point of the humanitarian crisis, may be internalized on the pretext that, responsibility to protect is fundamentally a ‘state responsibility’ and later a ‘shared responsibility.’ For the theoretical part of the study, primary sources used have been books and journals, whereas, for the latest statistical data of the current humanitarian crisis in Afghanistan, reports by different UN bodies, Human Rights Watch, and Amnesty International have been consulted at large.

### **Responsibility to Protect R2P Norm: From ‘State Responsibility’ to ‘Shared Responsibility’**

The concept of sovereignty and the treatise on human rights have played a fundamental role in establishing a modern international system and have influenced the discourses in international law. A relevant but contested notion of the concept of sovereignty and concern for human rights has been ‘humanitarian intervention.’ While the state’s internal sovereignty confers the moral responsibility of citizens’ welfare and safety and protection of their rights and security on the political authority, external sovereignty sanctified the Westphalian principle of non-intervention as state responsibility towards each other.

The norm of humanitarian intervention (though morally justified if not legally defended) emerged as a balancing universal norm in the twentieth century to ban and stop state-induced atrocities. For instance, the Vietnamese invasion of Cambodia in 1978 resulted in the ouster of the genocidal Khmer Rouge regime. Over time, the concept of sovereignty has evolved to encompass the dual notion that sovereignty not only bestows privilege but also entails domestic and international responsibility. Simultaneously, there is a global responsibility to protect individuals facing the threat of mass atrocities (Thakur, 2019).

The intellectual and political origin of R2P started appearing in the 1990s within the academic discourse when the concept of ‘sovereignty as responsibility’ was developed by Francis Deng (the UN’s Special Representative on Internally Displaced Persons) and Roberta Cohen (a senior fellow at the Brookings Institution). In the pre-R2P era, however, the cases that highlighted the contested nature of the humanitarian intervention norm and helped pave the way for the introduction of R2P were:

<i>Rwanda (1994):</i>	Inadequate international response to genocide.
<i>Bosnia (1995):</i>	UN’s inability to prevent ethnic cleansing in Srebrenica.
<i>Kosovo (1999):</i>	NATO intervention without UN authorization (China and Russia voted to restrain) halted Serbian atrocities.

As noted by Evans (2004), the mentioned cases sparked academic debates and international controversy regarding the responsibility of the UN and the scope of state sovereignty concerning questions related to the right, necessity, and authority of intervention.

It was in 1999 when the UN Secretary-General Kofi Annan proposed and insisted on the role of the international community in coupling the twin principles of sovereignty as the protection of self-determination and fundamental human rights. He based his assertion on the question that “if the humanitarian intervention was to be discredited as an assault on state sovereignty, how systematic violations of human rights like those in Rwanda could be halted.”(Evans, 2004, p. 79) The Canadian government then created the International Commission on Intervention and State Sovereignty (ICISS), which formulated the theoretical foundations of R2P, the fundamental essence adopted by the UN World Summit 2005 (Bellamy, 2009).

At the UN’s 2005 World Summit, the world leaders unanimously adopted a declaration R2P to protect populations from the scourge of war crimes, crimes against humanity, and genocide. As defined by Ivan Šimonović (2016) (Special Adviser to the Secretary-General on the Responsibility to Protect), the responsibility to protect rests upon three pillars of equal standing:

<i>Pillar-I:</i>	The responsibility of each state is to protect its populations.
<i>Pillar-II:</i>	The responsibility of the international community is to assist states in protecting their populations.
<i>Pillar-III:</i>	The responsibility of the international community is to protect when a state is manifestly failing to protect its population.

Further elaborated in *para 139 of UN General Assembly Resolution A/RES/60/1*, adopted on September 20, 2005 (p.30):

The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian, and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. In this context, we are prepared to take collective action in a timely and decisive manner through the Security Council, following the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity.

Like any other conceptual narration of international law, R2P has also been interpreted by states in various ways. The skeptics outrightly oppose R2P on the pretext of the norm of non-interference by international institutions in states' domestic affairs. As Bellamy (2006) notes, Cuba, Pakistan, Algeria, Iran, Zimbabwe, and Venezuela are examples of this category of states opposing R2P, whereas India, the Philippines, China, and Russia prioritize the purpose of R2P—the prevention and halting of genocide and mass atrocities. According to states like China, the main issue is not interference in the domestic affairs of other states by the international community but rather the politicization and potential abuse by states that might use R2P arguments to justify their unilateral and self-interested interventions. On the contrary, the EU supported the adoption. Canada, Japan, South Korea, several sub-Saharan African states, and Rwanda defended R2P with a view expounded by South Africa that in case of inability or failure of protection by governments, a collective responsibility to protect humanity rests with the international community of nations.

On the persisting controversy regarding the interpretation of R2P, Rotmanna et al. (2014, p. 356) argue that the debates around R2P help analyze the conflicts within the dynamics of changing global order “in a way that focuses on sovereignty and responsibility, universalism and exceptionalism, hypocrisy, and selectivity.” They premise their argument on the reinforced and empowered role of the non-state actors vis-à-vis states. The non-state actors have emerged as crucial security threats that must be duly recognized to (re)legitimize military intervention for humanitarian purposes. Such an approach is backed by human rights advocates and governments of ‘minor powers’ such as Canada, Rwanda, and the Netherlands. Regardless of the state interpretation, the central theme of R2P is ‘sovereignty,’ which provides order, stability, and predictability in international relations between legitimate (sovereign) states.

Thakur and Weiss (2009), while drawing the difference between internal and external sovereignty, highlight the dual responsibility of sovereignty, that is, “externally to respect the sovereignty of other states, and internally, to respect the dignity and basic rights of all the people within the state” (p.26). The threefold significance as maintained by such notion of ‘sovereignty as responsibility’ are:

- First, it holds state authorities responsible for the welfare and protection of citizens.
- Second, it suggests the internal responsibility of political authorities towards citizens and external responsibility towards the international community of states and the United Nations.

- Third, it proposes accountability of state agents for their acts of commission and omission.

Thus, “Sovereignty no longer implies the license to kill,” quotes Thakur and Weiss (2009, p.23) while writing on the evolution of R2P “From Idea to Norm—and Action?”. On the question of prioritizing either the protection of the human population or the nonintervention principle, Thakur and Weiss further argue that the contest between sovereignty and human rights can no longer be exploited due to the normative development that authorizes the use of military force to protect human beings. While the essence of the R2P is fundamentally normative and ethical, the use of military force may be politicized by various interest groups that may not necessarily acquire the desired outcomes. The methodical aspects may differ per the situational context and in light of the three pillars of R2P.

Considering the above discussion on state sovereignty, it can thus be inferred that *Pillar-I* and *Pillar-II* of R2P are liable to be implemented by the states themselves to avoid the humanitarian intervention conducted by the international community. If the state fails to protect its civilians from internally induced mass atrocities, it may lead to a humanitarian crisis that may call for assistance from the international community. The second pillar ensures joint commitment and partnership between the international community and the state. The joined partnership may be covert/overt based on activities like training, education, assistance, humanitarian aid, mediation, and dialog (Small, 2014).

### **Exploring Afghanistan’s Humanitarian Crisis: Faces and Challenges**

Afghanistan has distinctly been one of the states with a long history of foreign interventions and sectional divisions, facing the menace of political unrest and the rise and fall of regimes. Its modern history of uninterrupted political upheavals dates to the 1980s proxy war between the US-led coalition and the former USSR. The Soviet forces continued their fight against the guerilla forces of the Mujahedeen between 1978 and 1992. Amongst the Mujahideen fighters, a faction called the Afghan Taliban emerged in 1994 and established a Sharia government in 1996 that lasted till 2001. With the turn of the 9/11 incident, the US-led coalition drove the Taliban out of government. The Taliban, as non-state actors, then indulged in guerilla warfare against the US-backed Afghan government and the military forces until the evacuation of the US forces and rose to power in August 2021 as the incumbent regime.

In the backdrop of a decades-long war on terror and the withdrawal of foreign forces, Afghanistan finds itself at the epicenter of an afflictive humanitarian crisis. According to the World Food Program (2023a), by March 2023, 15.3 million Afghans faced acute food insecurity, with 2.8 million Afghans facing emergency-level conditions and 3.5 million children suffering from malnutrition. Inaccessibility is a significant factor in hindering the relief process by the UN and its partners. In 2023, Afghanistan’s economy is still vulnerable, with the decline in international aid for humanitarian and essential services and a mix of economic indicators. With limited financial transactions, the trade and other payments are mainly carried through informal channels. The economic downturn has also affected the banking system and private businesses. With the improvement in households to meet basic needs, compared to the crash of 2021, about 20 million people, who constitute half of the population, are currently poor (consumption levels below the national poverty line) (World Bank, 2023).

Amidst such economic vulnerability and social volatility, another critical aspect of the humanitarian crisis in Afghanistan has been the internal and cross-border displacement of the Afghan population and the return of those refugees that have already started in 2023. According to the UN migration agency, in the post-conflict phase in 2021, about 700,000 Afghans left their homes, adding to the 5.5 million displaced people over the past years (IOM Comprehensive Action Plan, 2021). Over 12,000 of these Afghan refugees returned to Afghanistan in the first nine months of 2023, with another 60,000 refugees and 300,000 IDPs returnees expected in 2024 (Afghanistan Situation, n.d.). The influx of returnees back to Afghanistan not only poses challenges for the humanitarian partners regarding humanitarian relief but also becomes a vital challenge for the Taliban government.

Also, while the war-torn country has already been struggling with the devastations of post-war poverty and humanitarian crisis, it has been exposed to the sufferings caused by natural calamities like drought and earthquake. The June 2022 earthquake of magnitude 5.9 struck southeastern Afghanistan, leaving over 770 deaths and approx. 1,500 were injured, and 362,000 needed humanitarian assistance (US Agency for International Development [USAID], 2022). In October 2023, another earthquake of 6.3 magnitude that struck western Afghanistan left 2,000 dead, over 4,000 people injured, and 1,400 displaced (World Food Program, 2023b).

Along with the post-war humanitarian crises, there are many other governance, human rights, and security challenges equally faced by the Afghans and the Taliban regime that entreat responsibility and effective response mechanisms primarily by the regime. These are discussed in the following sections.

### ***The Intractable Islamic State Khorasan (IS-K) within and Beyond Afghanistan***

The Global Terrorism Index Report 2023, issued by the Institute for Economics and Peace (2023), recorded 633 deaths (lower than 1426 deaths in 2022). The overall number of deaths from terrorist incidents was 58% less compared to 2022. Globally, 9% of terrorism-related deaths occurred in Afghanistan, making it the most terrorism-affected country for the fourth consecutive year. Most of the victims are reported to be civilians. The widespread terrorism affected 26 of 34 provinces in the year 2023. After the take-over of the Taliban, IS-K remains the most potent terrorist group, as, in 2022, it accounted for 67% of total terrorism-related deaths.

The fundamental security concern for Afghanistan in the post-US withdrawal has persisted in the terrorist threat and its evolving nature and scope. Despite the contesting camps on the question of whether terrorist militants will want or resurge with more vigor, the fact remains that there will be some traces, the sustainability of which depends on the effective countermeasures that are not yet determined. The threat from al Qaeda and Islamic State Khorasan IS-K chapter remains at large; the Taliban, however, may not pose a direct threat as an insurgent or terrorist organization. Taliban leadership may be limited to either assist or at least be indifferent to the plots charted by Al-Qaeda and the Islamic State in Afghanistan.

Whereas the US Secretary of State Mike Pompeo disregarded any meaningful threat posed by Al-Qaeda (Musto, 2020), David Petraeus (the former CIA chief and commander of US troops in Afghanistan) had been apprehensive of Taliban's gesture regarding intra-Afghan peace talks that it may assist Al-Qaeda and the Islamic State to resurge (Seligman et al., 2021). Furthermore, since 2015, Al-Qaeda's resilience and the Taliban's political cohesion remain to be intact. On the contrary, the Islamic State in Afghanistan is weakened and fragmented, yet some factions already defected towards

the Taliban are engaged in intermittent activities in urban centers. Al-Qaeda has been persistently resilient in gaining relevance through the establishment of its franchise Al-Qaeda in the Indian Subcontinent (AQIS) in 2014 and by cementing its alliance with Afghan Taliban and by helping the Tehreek-e-Taliban Pakistan (TTP) to regroup (Mir, 2020).

As per the development assessed by the UN Security Council report: Fourteenth report of the Secretary-General on the threat posed by ISIL (Da'esh) to international peace and security (2022, p.7):

The group (IS-K) is taking advantage of the turmoil in the country, including by recruiting fighters from the Eastern Turkistan Islamic Movement and the Turkistan Islamic Party, among other foreign terrorist groups. It aims to position itself as the chief rejectionist force in Afghanistan and to expand into neighboring Central and South Asian countries and is viewed by the Taliban as its primary armed threat. Member States are concerned that, if Afghanistan descends into further chaos, some Afghan and foreign violent extremists may shift allegiances to Da'esh.

While historicizing the emergence of the ISK, Rana and Sial (2022) comprehensively recount the strength and working of the ISK. The ISK in Afghanistan emerged in 2014, and Hafiz Saeed (TTP's former leader) was appointed as the first head. As much as it witnessed a rapid rise in Afghanistan between 2014-2016, enticing membership in thousands, a steady decline has been evident since 2018 due to the counter-terrorism operations by the US and Afghan military. Their losses have been further aggravated due to the Taliban's military campaigns. The group is already on the verge of decline due to defections or killing of leaders, territorial loss, and fragmentation of battlefield allies.

Since the Taliban took hold of the government in August 2021, 32 attacks have been conducted by the IS-K against the Taliban, causing 54 deaths. Following the Taliban's takeover of power after the fall of Kabul in August 2021, ISK emerged as the most active terrorist group in Afghanistan. The Kabul attack at the International Airport during US troops evacuation in August 2021-the deadliest (since 2007) was claimed by the IS-K that killed about 170 people while leaving 200 injured, including civilians. Throughout 2022, IS-K was responsible for 115 incidents and 422 deaths, accounting for almost 67 percent of total terrorism-related deaths in the country. It also carried the country's deadliest attacks of the year in 2022, each resulting in the deaths of 50 civilians. The future pattern and intensity of terrorist activities by the IS-K will depend on its mobilization and the effectiveness of response by the Taliban government. The persisting strategic and ideological rivalry between the Taliban and the IS-K is expected to increase the attacks and causality rates in the future. Being in government makes the Taliban more liable for the counter-terrorism measures against the IS-K (Institute for Economics and Peace, 2023).

Regarding the future of the Islamic State in post-US Afghanistan, there are varied speculative assertions. These include potential resurgence, further decline, absorption into defecting Taliban factions, increased support from the Haqqani Network, or utilization of spoiler violence by regional countries to disrupt the peace process. Despite its current weakness, the primary source of strength for the Islamic



State in Khorasan (ISK) might stem from recruiting individuals in Afghanistan and beyond, mainly through affiliations with regional jihadist networks (Mir, 2020).

Amid the current humanitarian crisis, the ISK may gain potency and strength as well as increase its recruits by exploiting tensions between the Afghans and the Taliban. Such developments may not only exacerbate the ongoing humanitarian crisis and security situation but also pose a challenge to the Taliban as they endeavor to manage relief efforts for the population and enhance economic conditions.

With more than 90% of the population suffering from some form of food insecurity and the international and Western suspension of aid, the health and food sectors may suffer regressively. Additionally, in the context of security and counterterrorism, the Taliban may attempt to counter the IS-K by supporting other groups like al-Qaeda. This apprehension is premised on the intelligence reports regarding the hideout of the al-Qaeda leader Ayman al-Zawahiri, who was killed in July 2022 because of a US drone strike in Kabul and was suspected to have been given refuge by a Taliban aide. Nevertheless, the stronger IS-K, the more stringent rivalry between the IS-K may garner eventual Taliban's (state) support of terrorism. This could further aggravate the current crisis due to restraining Afghanistan's access to international markets or the delivery of humanitarian aid (Lindsay, 2023).

### ***The State of Human Rights Under the Taliban Regime in Afghanistan***

As soon the Taliban took hold of the government in August 2021, there were speculations and contested views on whether the new Taliban regime would be different from the previous one (1996-2001) in the conduct of its rules and policies, particularly with regard to the women and minority rights. After two years, however, due to the massive violation of fundamental women and girls' rights and other civil rights, the UN human rights experts denounce the "reformed" image of the Taliban (Afghanistan: UN human rights, 2023). With the pronouncement of Sharia law in November 2021, the Taliban not only started a series of public executions and floggings but also indulged in revenge politics.

Despite announcing "general amnesty" for the former officials of the government and former members of the Afghan National Defense and Security Forces (ANDSF), the Taliban-as the de facto authority- carried extrajudicial killings, arbitrary arrests, detentions, torture, and ill-treatment on suspicion of victims being rebel (A Barrier to Securing Peace, 2023). Over 300 extrajudicial executions were carried out by the Taliban between August 2021 and December 2022, 100 publicly flogging (Amnesty International Report, 2023), and over 424 arbitrary arrests and detentions and 144 instances of torture and ill-treatment of former government officials and ANDSF have been reported (A Barrier to Securing Peace, 2023).

The Taliban also targeted various civil and political rights of the Afghan population, including freedom of expression, association, demonstration, and assembly. Numerous media outlets were shuttered, and journalists and protesters critical of the regime faced repression through arbitrary arrests, forced disappearances, unlawful detentions, and torture, prompting many to flee the country. National human rights institutions like the Afghanistan Independent Human Rights Commission (AIHRC) and civil society organizations were also closed. The fear of persecution by the Taliban compelled a significant number of Afghans to seek refuge outside the country. Those attempting to flee were met with violence, including shootings, and denied appeals for asylum, leaving many with limited access to resources and

fundamental human rights. This dire situation has resulted in an estimated 3.8 million internally displaced Afghans (Amnesty International Report, 2023).

### ***Women's Rights under the Taliban Regime***

Women in Afghanistan have historically been segregated due to deeply ingrained tribal, religious, and patriarchal norms, shaping much of the cultural and political history of the country. The quest for women's rights commenced in the nineteenth century, with different regimes employing diverse approaches to implementing social reforms. Amanullah initiated the first social reforms to improve women's status, followed by Zahir Shah and the communist regime.

Women's rights in Afghanistan experienced steady progress until the 1970s. The journey began with the right to vote granted in 1919 (just a year after the UK and a year before the US granted voting rights to women). The abolition of purdah and gendered separation occurred in the 1950s, and constitutional reforms for equal rights, including political participation, were introduced in the 1960s. However, these reforms were later overturned during the 1980s and 1990s by Habibullah, the Mujahideen, and the Taliban.

During the first Taliban rule, an interpretation of Islamic Sharia law imposed by the Taliban resulted in a ban on female education, confining women to their homes. Violating these discriminatory laws led to harsh penalties and brutal punishments such as flogging and stoning to death for adultery. Rape and violence against women and girls became commonplace during this period (Women's Rights in Afghanistan, 2022). After the US intervention in Afghanistan, social injustice, totalitarian suppression, and apartheid against women and minorities remained considerably low, whereas equality, liberty, and democratic norms opened new opportunities for Afghan women (Nehan, 2022).

In post-US Afghanistan, well before the complete evacuation of the US forces, the Taliban's hold of Ghazni city on August 12, 2021, brought along new draconian laws and policies impinging on women's rights. Women's access to health, the right to education, and earned income were restricted, whereas freedom of movement, expression, and association was banned. Despite verbal assurances from the Taliban after assuming control of the government, instances of rights abuses have escalated. Furthermore, the worsening humanitarian crisis, characterized by lost income, price hikes, aid cutoffs, and cash shortages, has exacerbated the challenges faced by women. Women and girls are now denied their rights to education, work, movement, and assembly. Notably, women in sectors such as sports, media, and journalism are experiencing job losses. The operations of women's civil society organizations (CSOs) and female humanitarian staff, previously vocal advocates for women's rights, have been hindered.

The restriction of women's political participation was evident with the formation of an all-male cabinet in September 2021 (Barr, 2021). Similarly, the Ministry of Women's Affairs, tasked with securing women's legal rights, was replaced with the Ministry of Vice and Virtue, reminiscent of the previous Taliban government from 1996 to 2001. The new ministry has enforced arbitrary and severe restrictions and punishments for women and men, employing public beatings and imprisonment. On December 3, 2021, the Taliban government issued a special decree on women's rights based on Sharia, addressing aspects like consent in marriage, the rights of widows and their property share, and divorce rights (Ministry of Information and Culture,

Afghanistan, 2021). However, there is no mention of social rights, including education and employment.

The Taliban's Ministry of Virtue and Vice issued a decree on May 7, 2022, restricting women's freedom of movement. Women's freedom of association and the right to peaceful protests have also been curtailed. According to local and international sources, approximately 188 women were detained for political reasons between August 2021 and June 2022. These arrests were conducted unlawfully, with the Taliban using force by entering houses without arrest warrants. Torture has been employed as a terror tactic to suppress women advocating for their rights. For instance, detained women were subjected to stress positions, beatings with water hoses, electrocution, and constant threats against them and their families (International Commission of Jurists, 2023).

In an attempt to censor news related to women's ill-treatment, the Taliban has sought to restrict media reporting on women and ban local organizations advocating for women's rights. For example, on May 17, 2022, the Afghanistan Independent Human Rights Commission was dissolved, a body that had been an outspoken supporter of human rights violations and gender-based violence (Human Rights Watch, 2022a). Due to the persistent and egregious repressive measures by the Taliban against women continuing in 2023, Human Rights Watch (2023) has categorized the 'gender apartheid' and abuses against women and girls as 'crimes against humanity of persecution based on gender' that manifested as the restrictions on freedom of movement, expression, and association, employment, clothing choice, and education. In pertinence with the international response and concern towards the Taliban's severe and unlawful restrictions on women and girls' rights, Amnesty International, in its 2023 report: "The Taliban's War On Women The Crime Against Humanity Of Gender Persecution" has endorsed that Taliban's crackdown against women should be investigated by the Office of the Prosecutor of the ICC and the UN Human Rights Council as the possible crimes under international law, including crime against humanity of gender persecution (International Commission of Jurists, 2023, p.2). According to the International Commission of Jurists (2023), ill-treatment based on imprisonment, enforced disappearance, and torture could be categorized as a crime against humanity of gender persecution under *Article 7(1)(h)* of the Rome Statute of the International Criminal Court (ICC).

### ***Rights of Ethnic and Religious Minorities***

The ethnically diverse social composure of the Afghan society has made ethnic conflict an inevitable part of Afghanistan's political and socio-cultural history. Out of the 14 major ethnic groups recognized by the Afghan Constitution, Pashtuns form the largest ethnic group that has also been in control of the government for significant political history since the establishment of the Afghan state in the mid-eighteenth century. Along with the Pashtuns (38%), the Tajiks (25%), Hazaras (19%), and Uzbeks (6%) constitute almost 90% of the population (Riphenburg, 2005). Amongst the non-Pashtuns, Hazaras, due to their religious identity of Shi'ism, have faced lethal discrimination and genocidal persecution in the past. The 1998 Hazarajat war waged by the Taliban against the Hazaras caused human lives more than 6000. After capturing Kabul in 1996, the Taliban established a centralized and authoritarian regime based on a strict Sharia Law embedded in Wahhabi principles Filkins (2014).

With the resurgence of the Taliban, the number of attacks has been increased not only by the Taliban but also by the IS-K. In the first half of 2021, the United Nations

Assistance Mission in Afghanistan (UNAMA) documented 20 attacks targeting Hazaras, which left a total of 143 dead and 357 injured. Gannon (2022) tracks the record of the series of attacks on the minority group that started by the end of 2021 when the Taliban took hold of the government. In September-October 2021, Hazaras in Daykundi province were evicted from their homes by the Taliban fighters, thus causing 1,200 Hazaras to flee and displaced, while 13 were killed. On May 8, 2021, a suicide bombing of a high school killed 85 Hazara civilians, primarily schoolgirls, and wounded more than 240. In October 2021, at least 46 people were killed as a result of an ISIS-K attack on Shi'a Mosque in Kunduz province. After months of calm since the Taliban takeover of the government, in April 2022, the IS-K conducted the deadliest of three bombings in Mazar-e-Sharif, Kabul, and Kunduz, with about 40 killed and injured. Between August 2021 and early September 2022, Human Rights Watch reported at least the death of 700 Hazaras in 13 incidents that were carried out by the IS-K (Human Rights Watch, 2022b).

While the IS-K has been directly involved in the genocidal persecution against Hazaras, the Taliban, as the de facto authority, has instituted measures and policies that contribute to the marginalization and subjugation of the ethnic and religious minority groups. Along with pushing the Hazaras out of government and the security institutions, the Taliban has also been involved in extrajudicial killings, torture, and eviction of the group (along with *Kuchis*) from their lands and property. On the gravity of the ethnic killing of Hazaras, the U.S. Holocaust Memorial Museum issued a press release in August 2021, warning that Hazaras face “a risk of crimes against humanity or even genocide.” (para.1) The United Nations special rapporteur on human rights in Afghanistan, Richard Bennett, on May 26, 2022, remarked that the systematic attacks against the Hazaras and minorities “reflect elements of an organizational policy, thus bearing hallmarks of crimes against humanity” (Human Rights Watch, 2022b, para 10).

### **Relevance of R2P: The Case of Afghanistan**

While the general conception of R2P includes action by the sovereign state authority against the humanitarian crisis featuring mass atrocities, in the case of Afghanistan, the current humanitarian crisis is of a complex and multifaceted nature, including the post-war crisis, poverty, human security issues, human rights violations by the de facto Taliban regime which is by definition the incumbent sovereign government. When R2P was emerging as an international norm in the political and academic debates during the 2000s, Afghanistan was already undergoing a humanitarian crisis due to war. The crisis was a result of the Soviet occupation (1979), civil wars during various regimes, the 2001 US invasion, and the rise of the Taliban as an insurgent group and non-state actor.

The human security conditions during the US war in Afghanistan claimed more than 150,000 Afghan lives in 2019 (Watson Institute 2021). Though R2P was not invoked in the case of Afghanistan then, the atrocities by the state and non-state actors led to the protracted armed conflict. Balkan-Sahin (2022) has comprehensively assessed the role and responsibility of different Afghan governments within the theoretical assertions of *Pillar-I* and *Pillar-II* of R2P before the takeover of the Taliban regime in 2021. The key theme of this paper has been to study the renewed emergency of R2P in the very essence of its *Pillar-I* (state responsibility to protect populations from the scourge of war crimes, crimes against humanity, and genocide) and *Pillar-II* in the post-US withdrawal.

In line with *Pillar-II* (the responsibility of the international community to assist States in protecting their populations) of R2P aimed at addressing the post-withdrawal humanitarian crisis, the international community- including states and international organizations and the UN organs-have been engaged in relief missions and assistance. The United Nations in Afghanistan, under its interim ‘Transitional Engagement Framework’ for 2022 and 2023, committed to collective action with partners in order to meet the needs of the Afghan population. With equal emphasis on the reinforcement of intervention along with the humanitarian efforts, the UN is more focused on sustainable solutions for Afghans (particularly the vulnerable groups, including women and girls) that include building resilience, supporting livelihoods, protecting human rights and freedoms, building social cohesion and social capital (United Nations Country Team in Afghanistan, 2023).

In terms of humanitarian assistance, the first initiative was taken by the World Food Program-led Humanitarian Air Service (UNHAS). Soon, the air link to Kabul reopened on 12 September 2021, providing medical supplies on behalf of the World Health Organization. Pakistan became the first neighboring country connected via UNHAS with the major Afghan towns of Mazar-i-Sharif, Kandahar, and Herat on 29 August 2021 (First humanitarian flight, 2021). In March 2022, the UN High Commissioner for Refugees, Filippo Grandi, remarked that the country was experiencing ‘a very grave crisis’ and asked the international community to support Afghans. Between January and December 2022, humanitarian response reached 26.1 million Afghan people, whereas in 2023 (January-September), the humanitarian partners expanded relief assistance to 24.7 million people (Afghanistan: Humanitarian Response Plan, 2023). The aid included food and livelihood support, healthcare, water, sanitation, hygiene, nutrition assistance, protection assistance for children and women, education, and emergency shelter and household items.

On a collective level, the Organization of Islamic Cooperation (OIC) convened a meeting initiated by Pakistan in December 2021. During this meeting, a Humanitarian Trust Fund and Food Security Programme were approved to address the humanitarian crisis in Afghanistan. Additionally, OIC foreign ministers urged the United States to unfreeze Afghanistan’s financial resources to aid in the country’s economic revival. Saudi Arabia also committed \$265 million in aid as part of a crisis relief program (Syed, 2021).

In tandem with humanitarian assistance, the UN, under Chapter Six of its Charter—Peaceful Settlement of Disputes, has the potential to play a role in establishing peace by facilitating negotiations among Afghan groups. Furthermore, the UN can engage regional states inclusively for regional security. Following the fall of Kabul, Security Council members called for an immediate cessation of violence in Afghanistan, the restoration of security and civil and constitutional order, and urgent talks to resolve the current crisis of authority in the country through an Afghan-led, Afghan-owned process of national reconciliation (Ponzio & Barakat, 2021).

Despite international relief efforts, 24.4 million people in Afghanistan still require humanitarian assistance. The country, already in a fragile state with a high poverty rate (over 9 in 10 people living in poverty), saw 12,795 Afghan refugees (97% from Pakistan) returning in 2023—more than three times the 3,717 individuals in 2022 (UNHCR RBAP Afghanistan Situation, 2023). In this precarious situation, the primary responsibility for delivering needs and protecting the rights of the Afghan people rests with the Taliban as the de facto authorities.

As emphasized by the United Nations Country Team (UNCT, 2023), addressing the grievances of the Afghan populace requires a change in policies and practices by the Taliban. The success of international humanitarian interventions depends on the regime ensuring the equitable delivery of services and creating a conducive environment by improving the rights and economic opportunities for women and girls. Constraints on these rights impede the economic and social recovery processes in Afghanistan. Consequently, this highlights the need for *Pillar-I* of the R2P. Regarding *Pillar-I*, Bellamy (2022) argues that it has tended to prove a stronger norm than the much popular *Pillar-III* (timely response to the atrocities by the international community).

The subjectivity of ‘responsibility’ and the nature of violations in *Pillar-I* are clearly defined compared to *Pillar-III*, where the responsibility and situational context are ambiguous and contested due to a lack of unanimity between the states. In the case of Afghanistan, the nature of violations and situational context (as discussed in the previous sections) are distinctly defined and fall under the definition of R2P’s *Pillar-I*. The currently catastrophic humanitarian crisis of Afghanistan and the widespread violation of human rights, thus, suffices the physical elements of the crimes against humanity, liable to *Pillar-I* applicability.

On the question of the ‘subjectivity’ of ‘who is responsible for preventing the population from genocide, war crimes, ethnic cleansing, and crimes against humanity,’ *Pillar-I* simply uses the term ‘state’ as the responsible actor for the protection of its population. Though in practice, the governments are taken as the state and the sovereign authority to make policies and work for the well-being of the people, in the case of the Taliban (which is the incumbent de facto authority yet awaiting de jure recognition), calling it the sovereign authority may stir some controversy. This is on the pretext of how the Taliban has assumed power and that the government of the Taliban has not been ‘expressly’ recognized or yet gained de jure recognition by the international community since its formation in 2021.

While international law lacks any explicit provision on the recognition of the government that replaces the other through revolutionary means (in the form of civil wars) or because of contestation of power between the rival authorities, outside states are then to decide whether to recognize or not- the government in question (Lauterpacht, 1945). The choice of governmental recognition is often both political (backed by the national interest of the recognizing state) and based on the internal legitimacy of the government (to be recognized). Internal legitimacy is measured regarding effective control, service delivery, and stability (Nijat et al., 2023). Regarding the ‘effective control’ criterion, the Taliban swiftly expanded its influence, taking control of 26 out of Afghanistan’s 34 provincial capitals and quashing all resistance soon after seizing power (Haddad & Chughtai, 2021). Their authority remained unchallenged as then-President Ashraf Ghani and Vice President/Caretaker Leader Amrullah Saleh left the country.

Following the announcement and appointment of the new caretaker government in September 2021, the question of its recognition emerged. Recognition of the Taliban government has since been conditional on the protection of fundamental rights, particularly those of women and girls. The UN and other humanitarian organizations officially refer to the current Taliban regime as ‘De Facto Authorities (DFA).’

Given that the recognition of the Taliban hinges on the safeguarding of fundamental human rights, it underscores the relevance of R2P *Pillar-I* to the ongoing

humanitarian crisis in Afghanistan. This recognition highlights the potential applicability of the R2P in theory and practice by the Taliban regime.

Therefore, as the de facto sovereign authority, the Taliban government has a responsibility to protect the Afghan population, especially women and religious minorities, not only against self-perpetrated crimes against humanity such as rape, torture, beating, and killing but also against inhumane terrorist attacks by IS-K. Addressing current human rights violations by the Taliban government could eventually lead to de jure recognition, enhancing its political legitimacy and strength. Embedding normative human rights laws in Afghanistan's institutional infrastructure might enable the Taliban to seek international assistance for the country's economic revival, aligning with *Pillar-II* of the R2P.

Furthermore, preventing atrocities aligns with the primary responsibility to protect, serving as a means to reinforce state sovereignty against intrusive international intervention. As underscored by United Nations Secretary-General BAN Ki-moon, "the principle of the Responsibility to Protect is designed to be an ally of sovereignty, rather than to undermine it." (United Nations, 2014, p.2). Preventing atrocity crimes within state borders allows states to fulfill their sovereign responsibilities and resist unwarranted intervention by international actors (United Nations, 2014).

## Conclusion

The ever-changing dynamics of global politics lead to a transformation in the norms, customs, and laws of the community of nations. Consequently, studying these aspects in academic discourse requires an eclectic approach rather than a restrictive one.

The concept of R2P originated as an idea and subsequently evolved into an international norm governing states' interaction. At its core, R2P emphasizes the concept of 'peace from within.' This means that state authorities should either embrace peace as sovereign entities or be realized by the international community through diplomatic and peaceful means of state conduct. The military option of humanitarian intervention itself is a contested notion that may be politicized and misused by the powerful states. R2P, with the coercive tools of diplomacy, may work in crises against the obstinate authorities within the states to maintain peace and preserve human rights. The current humanitarian crisis in Afghanistan needs an all-inclusive, internalized, and institutionalized approach toward the goal of stability, peace, and prosperity, for which the first two pillars of R2P can significantly play their part in crisis mitigation. Unlike *Pillar-III*, which implores applicability in response to the humanitarian crisis, the first two pillars of R2P may necessitate the need to prevent the further spoils of a persisting humanitarian crisis and the future violation of fundamental human rights. In the case of Afghanistan, the *Pillar-I* and *Pillar-II* of R2P as a crisis management tool, if effectively invoked, can potentially help the de facto Taliban government address many issues relating to political governance, economic stability, and human security by incentivizing the sovereign legitimacy and recognition of the regime in future.

**Conflict of Interest:** The authors declare no conflict of interest.

**Funding:** This research received no external funding.

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