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**RIGHT TO EDUCATION: A COMPARATIVE STUDY OF
GIRLS' RIGHT TO EDUCATION IN AFGHANISTAN AND THE
STATE OF PALESTINE**

Bachelor's thesis

Program: HAJB08/17 Law

Specialization: International Relations

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Tallinn 2022

I declare that I have compiled the paper independently
an all works, important standpoints and data by other authors
have been properly referenced and the same paper
has not been previously presented for grading.
The document length is 12952 words from the introduction to the end of conclusion.

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The paper conforms to requirements in force

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Chairman of the Defence Committee:

Permitted to the defence

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ABSTRACT

This thesis focuses on children's right, more specifically girls' right to education in Afghanistan and State of Palestine. Its purpose is to compare girls' right to education in Afghanistan and State of Palestine by studying and comparing these countries through their history to this date. This thesis also goes through the legal obstacles of girls to exercise their right to education in these two countries or the lack of legal obstacles through international agreements and Afghanistan's and Palestine's own legislation, and assesses the challenges of securing the right to education and goes over the possible prospects for how to improve the exercise of this right.

Education is a right for every child and the importance of education is so much more important than we often imagine. When talking about basic rights, attention is often directed towards countries whose attention to the realization of children's and girls rights is weaker due to the general situation of these countries. However, regardless of the country, the exercise of the child's rights or knowledge of the child's own rights should not be abstained. Efforts to educate children have paid off result, and the vast majority of the world's primary school-age children now have access to school. However, many drop out of school early whether it was, for example, due to premature entry into employment or due to the general security situation in the country. The author wishes to evaluate the current legal obstacles or lack of them concerning the right to education and give an overview how girls' right to education differs in Afghanistan and Palestine.

This thesis will be concluded by using a qualitative research method, based on literature review to this topic. The research to study this problem is gathered using relevant academic writings, articles, interantional treaties, legal publications and other relevant legal sources to this problem rather than analysing quantitative numerical data.

Keywords: Right to education, girls' rights, children's rights, international treaties, international law, Afghanistan, State of Palestine

LIST OF ABBREVIATIONS

CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
GR 36	General Recommendation No. 36
ICCPR	International Covenant on Civil and Political Rights
ICESC	International Covenant on Economic, Social and Cultural Rights
ISAF	International Security and Assistance Force
MOE	Ministry of Education
PLO	Palestinian Liberation Organization
UN	United Nations
UDHR	Universal Declaration of Human Rights
UNAMA	United Nations Assistance Mission in Afghanistan
UNCRC	United Nations Convention on the Rights of the Child
UNWRA	United Nations Relief and Works Agency for Palestine Refugees in the Near East

INTRODUCTION

Only with the enjoyment of the right to education it's possible to enjoy certain other human rights – empowerment right. In international law, the right to education supports the realization of other rights, which also means their interrelation and interdependence. International law prohibits discrimination in access to all levels of education, including pre-primary level.¹ It has been proven that girls who are given the access to the right to education and are allowed to exercise this right for more than five years are not exposed to the same threats as girls who have been deprived of the right to education. Such threats include child marriages, early pregnancies, and deaths as well as if educated they have better opportunity to raise their children to be healthier and give them a chance to succeed and be educated. These factors support the future of the whole country and world and promotes gender equality in all aspects of life.²

Education became a human right with the adoption of the Universal Declaration of Human Rights in 1948. The conventions signed between the states marked a step towards the first global charter for the protection of children's rights, the first being the 1919 Declaration of the Rights of the Child. The declaration came under the auspices of the League of Nations in 1924 as the Geneva Declaration of the Rights of the Child and was later amended by the United Nations.³

Girls' rights are and have been an important and relevant topic for decades. Regardless of that, discrimination and violations towards girls continue. Due to the recent events, this thesis will be dealing with Afghanistan, and the State of Palestine (also referred as Palestine in this Thesis), comparing girls' right to education in these countries. Afghanistan and Palestine were chosen to be compared as the situation in both of these countries have been and still is unstable, not only in general, but human rights and girls' right to education is under a threat every day, as one country completely prevents girls access to secondary schools, and another has been in conflict for

¹ Right to Education Initiative. (2022). *Understanding education as a right*. Accessible: <https://www.right-to-education.org/page/understanding-education-right>

² UNESCO. *Koulutus*. Accessible: <https://www.unicef.fi/unicef/tyomme-paakohteet/koulutus/>

³ UNICEF. (2022). *History of child rights*. Accessible: <https://www.unicef.org/child-rights-convention/history-child-rights>

decades which is one of the main reasons for violating girls' right to education. It is vital for us to continue studying girls' right to education, because although we have made progress and succeeded in protecting this right, we still fail to safeguard girls' right to education worldwide regardless of our international legal framework. Education is also a fundamental part of accomplishing other human rights, as often only educated people are able to attain the legal and economic means to fight inequality in matters related to social and economic matters and other vital human rights violations.⁴

This legal research aims to determine how girls' right to education differs in two countries, Afghanistan and Palestine. To fulfil the aim, the author will examine the basic legal framework of international treaties and what is the status of this right and how these treaties safeguard the right of girls to education. It is also seeking to examine the situation of this right, the situation in recent years and its current status in Afghanistan and Palestine. The author hypothesizes that girls right to education in Afghanistan has been prevented and their access to education decreased greatly after the Taliban rose to power in fall 2021 and the effect of the Israeli-Palestine conflict has had on girls' right to education in Palestine.

The question that is to be answered with this thesis is, to how girls' right to education differs in the territories of Afghanistan and Palestine by conducting a comparison of these two countries. This thesis will be divided and analyzed in four separate parts. Chapter one will focus on overall the children's and girls' right to education in the most significant international treaties and also the most significant treaty regarding discrimination against women which applies to girls as well. The next chapter will go through the history of Afghanistan, national legislation and status of girls' rights under the Taliban rule and if Taliban's actions violate their own and international law. The second chapter will also provide analysis of girls' right to education under the Taliban rule and whether the Taliban violates the international treaties referred to in the first chapter and international human rights law.

In the third chapter the comparison between Afghanistan and Palestine will be performed. Palestinian history and the Palestinian-Israeli conflict are first explained while comparing it to Afghanistan's history. The international recognition of Palestine, Hamas and Fatah are to be studied in the next subchapter, which will be concluded with how Hamas, Fatah and the Taliban differ and how they see the right of girls to education and what factors may affect this right. The

⁴ Pranevičienė, B., & Pūraitė, A. (2018). *RIGHT TO EDUCATION IN INTERNATIONAL LEGAL DOCUMENTS*. Accessible: <https://intranet.mruni.eu/upload/iblock/e91/8praneviciene,%20puraite.pdf>

last subchapter will explain how the equal right of girls to education is reflected in Palestinian legislation, whether there is a legitimate reason to prohibit girls' education and who or what violates this right. Last chapter of this thesis will highlight the factors that affect and impede girls' right to education in these countries. While the previous paragraphs have dealt with the situation in both countries and the status of the right to girls' education, the last chapter also sets out possible solutions or how this realization of girls' rights could be improved.

1. GENERAL LEGAL FRAMEWORK OF THE RIGHT TO EDUCATION IN INTERNATIONAL TREATIES

Today, the right to education, not only within adults, but especially within children and girls is under a significant threat. Millions of children do not have access to education around the world, which primarily violates the fundamental right to education. The still ongoing COVID-19 pandemic has hit the pre-existing crisis in children's educational right, where even before the pandemic one in five children were denied the access to education.⁵ National legislation on fundamental and human rights has not been considered sufficient to safeguard the rights of the individual, so it is considered important to strengthen the legislation on international level as well on a national levels.⁶ There are an excessive number of agreements, but the focus of this chapter will be on those agreements that are binding on Afghanistan and Palestine that define children's equal right to education also as a girls' right and/or obligation.

Although the protection of children's rights has emerged from the 1800th century, children's rights are rather new notion.⁷ The rights of the child are the rights enshrined in international human rights treaties and national laws. Safeguarding the rights of the child is both a key starting point and a goal in the development of a child and family services policies.⁸ Everything is based on a culture that respects the rights of the child. International treaties are instruments, whose provisions the parties to the agreement undertake to comply with when ratifying the agreement.⁹ States' educational responsibilities are defined in international and regional regularizing instruments. These instruments are responsible and develop everyone's right to quality education without discrimination or exclusion.¹⁰

⁵ "Years Don't Wait for Them". (2021). Accessible: <https://www.hrw.org/report/2021/05/17/years-dont-wait-them/increased-inequalities-childrens-right-education-due-covid>. 16 March 2022.

⁶ United Nations Educational, Scientific and Cultural Organization. (2021). *Guidelines to strengthen the right to education in national frameworks*. P. 3.

⁷ Cole-Albäck, A. (2021). *A brief history of children's rights*. P. 1.

⁸ *Lapsen oikeudet lähtökohtana* - THL. (2022). Accessible: <https://thl.fi/fi/web/lapset-nuoret-ja-perheet/kehittyvat-kaytannot/lapsen-oikeudet-lahtokohtana>. 16 March 2022.

⁹ *Mitä on kansainvälinen oikeus?* | Suomen YK-liitto. (2022). Accessible: <https://www.ykliitto.fi/yk-teemat/kansainvalinen-oikeus/mita-on-kansainvalinen-oikeus>. 16 March 2022.

¹⁰ Pranevičienė, B., & Pūraitė, A. (2018). pp. 138-139. *Supra nota 4*

Possibly the most comprehensive and well-known of the international agreements regarding children's and girls' rights, is the United Nations Convention on the Rights of the Child¹¹ (UNCRC), which aims to guarantee fundamental rights to all children, such as education, equality, and health. This agreement lists the human rights of all children regardless of gender under the age of 18, which States parties are obliged to implement.¹² In addition to UNCRC, this chapter deals with other important and relevant treaties concerning international agreements protecting the right of children to education for all, making all of these agreements very much relevant for safeguarding girls' right to education as well.

1.1. Universal Declaration of Human Rights

The right to education for every child, including girls, is a fundamental right of international law. Universal Declaration of Human Rights¹³ (UDHR) is the first international declaration that recognized the right to education as a human right for all, and which most provisions are considered to be customary international law, and thus are generally complied without being legally binding.¹⁴ The Declaration was adopted by the UN General Assembly at its session in France, Paris on 10 December 1948, which became the first legal document to protect universal human rights.¹⁵

Right to education for all is enshrined in Article 26 (1) of the UDHR¹⁶, which states the following: "Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit." Paragraph 2 of the Article significantly highlights that "Education shall be directed to the full development of the human personality and to strengthening of respect for human right and fundamental freedoms. It shall promote

¹¹ The United Nations. (1989) Convention on the Rights of the Child.

¹² *Lapsen oikeudet ovat kaikille samat* - Minilex. (2022). Accessible: <https://www.minilex.fi/a/lapsen-oikeudet-ovat-kaikille-samat>. 16 March 2022.

¹³ United Nations. (1948). The Universal Declaration of Human Rights, New York.

¹⁴ *What is the Universal Declaration of Human Rights?* | Australian Human Rights Commission. Accessible: <https://humanrights.gov.au/our-work/what-universal-declaration-human-rights>. 17 March 2022.

¹⁵ Gordon Brown (ed.). (2016) *The Universal Declaration of Human Rights in the 21st Century: A Living Document in a Changing World*. Cambridge, UK: Open Book Publishers. pp. 30-31.

¹⁶ *Koulutus on ihmisoikeus!*. (2020). Accessible: <https://unric.org/fi/koulutus-on-ihmisoikeus/>. 17 March 2022.

understanding, tolerance, and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.” The previous paragraphs of the Article 26 do not specifically mention the right to education as a children’s right, but the paragraph 3 of the Article does, stating “Parents have a prior right to choose the kind of education that shall be given to their children.”¹⁷ The key wording for this convention to apply to girls’ education as well, is that “everyone has the right to an education” which applies to children regardless of gender. Paragraph 2 of the article gives rather questionable requirements to what the quality of education should be, making it somewhat vague and unambiguous on who decides the standards of education, and the UDHR inferred that there may be different approaches to the standards and content of education.¹⁸

Provisions of the UDHR has been later on divided into two covenants that were adopted in 1966, the International Covenant on Civil and Political Rights¹⁹ (ICCPR), and the International Covenant on Economic, Social and Cultural Rights²⁰ (ICESCR). Together all of these three form the International Bill of Human Rights.²¹ These two covenants will be analyzed in the next subchapter, another one more specifically.

1.2. International Covenant on Economic, Social and Cultural Rights and International Covenant on Civil and Political Rights

The ICESCR which was adopted in 1966, contains undoubtedly the first legally constructive confirmation of the right to education. The ICESCR contains two articles – Article 13 and 14 – on the right to education. The right to education is a universal right enshrined in Article 13 which is granted to everyone, regardless of age, ethnic or social origin, language or other relevant status.²² For the first time, the ICESCR established the main standards for the content of the right to education, constituting subjective measures and indicating the obligations of States in this

¹⁷ United Nations. (1948). *Supra nota 13*

¹⁸ Pranevičienė, B., & Pūraitė, A. (2018). pp. 137. *Supra nota 4*

¹⁹ United Nations (General Assembly), (1966) International Covenant on Civil and Political Rights, United Nations, Treaty Series, vol. 999.

²⁰ United Nations (General Assembly). (1966). International Covenant on Economic, Social, and Cultural Rights. Treaty Series, 999, 171.

²¹ Roberts, N. J., (2015). *The Contentious History of the International Bill of Human Rights*. Cambridge. Pp. 2-3.

²² Kilkelly, U. (2010). *Religion and Education: A Children’s Rights Perspective*. p. 2. Accessible: https://www.ihrec.ie/app/uploads/download/pdf/kilkelly_religion_and_education_a_childrens_rights_perspective.pdf. 18 March 2022.

regard.²³ The Article 2 paragraph 2 of the ICESCR states that the entirety of the Covenant should be carried out without any discrimination based on for example sex, political or other opinion.²⁴

Article 13 of the Covenant is considered the most comprehensive article on the right to education in international human rights law. Paragraph 1 of the Article states: “The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.”²⁵ It also recognizes the right to basic, secondary, and higher education.²⁶ Paragraph 3 and 4 of the Article state the fundamentals of freedom of education, which are the freedom of choice and freedom of establishment. This aspect of freedom is typical for a democratic society which derives from the ideas of respect for individual freedom.²⁷

The ICESCR together with the ICCPR are considered to be the most substantial legally binding international human rights treaties, as they are the first conventions to bring together the human rights enshrined in the UDHR in a form that is legally binding on States parties. The ICCPR deals in more detail with the civil and political rights mentioned in the UDHR, but only the ICESCR precisely recognizes the right to education. There are not many international or national precedent available on the numerous scopes of human rights in education. Reasons for this are partially because economic, social and cultural rights, in which right to education is recognized, have not been considered as significant rights compared to civil and political rights. The somewhat imprecise wording and deficiency of impunity is what has led to this. Because of these issues, there is no consensus among states on the content of rights and the nature of states

²³ Pranevičienė, B., & Pūraitė, A. (2018). pp. 138-139. *Supra nota 4*

²⁴ United Nations (General Assembly). (1966). *Supra nota 20*

²⁵ *Ibid.*

²⁶ Pranevičienė, B., & Pūraitė, A. (2018). pp. 139. *Supra nota 4*

²⁷ Coomans, F. (2004). *EXPLORING THE NORMATIVE CONTENT OF THE RIGHT TO EDUCATION AS A HUMAN RIGHT: RECENT APPROACHES**. P. 65.

'responsibilities.²⁸ These conventions entered into force for Afghanistan on 24 January 1983²⁹ and for Palestine on 2 April 2014.³⁰

1.3. The United Nations Convention on the Rights of the Child

The idea that a child should have rights was not born until the 20th century, when childhood began to be seen as a separate stage of life from adulthood. One of the biggest changes in the recognition of childhood were the general compulsory education. In the late 1970s, the importance of international regulation of the human and special rights of the child was emphasized. At that time, the UN began preparing a convention on the rights of the child.³¹

The first major documents on the rights of the child were the 1924 Geneva Declaration of the Rights of the Child³² and the 1959 UN document of the same name. On the basis of these documents, the UN Convention on the Rights of the Child³³ (UNCRC) was established in 1989, which differs from the above-mentioned declarations it being legally binding and broader in terms of content.³⁴ The UNCRC is the most important document protecting the rights of the child together with other human rights treaties. Children's rights can be viewed from two perspectives. On one hand, the child can be seen as a protected being whose safety and basic needs are guaranteed by adults and society, and on the other hand, the child is seen as an active and independent actor with the right to participate and be involved in making decisions.³⁵

The Convention is considered complementary to other UN human rights treaties and instruments. The agreement contains 54 articles and is broad, comprehensive and detailed. The rights enshrined in it are divided in civil and political rights, social, economic and cultural rights, and basic rights.³⁶ Thus, the agreement covers the same rights as other UN human rights treaties,

²⁸ Coomans, F. (2004). pp. 62-65. *Supra nota 27*

²⁹ United Nations Human Rights Treaty Bodies. Ratification Status for Afghanistan. Accessible: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=1&Lang=EN 18 March 2022.

³⁰ United Nations Human Rights Treaty Bodies. Ratification Status for State of Palestine. Accessible: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=1&Lang=EN 18 March 2022.

³¹ Rauhanummi, U. (2012). *LASTEN OIKEUKSIEN KEHITTÄMINEN: Näkökulmana lastensuojelu*. pp. 28–30.

³² Geneva Declaration of the Rights of the Child. (1924).

³³ Convention on the Rights of the Child. (1989)

³⁴ Lindström, H. Kukkamaa, P. (2013). *Lapsen oikeudet toiminnallisesti, Opas varhaiskasvattajalle lapsen oikeuksien käsittelyyn toiminnallisten menetelmien keinoin*. pp. 10–12.

³⁵ *Ibid.*

³⁶ Parkes, A. (2013). *Children and International Human Rights Law: The Right of the Child to be Heard*. Routledge.

but also raises new rights, such as the child's right to identity, the right to special protection, the right to be heard, and the right to play and leisure. It aims to effectively safeguard the rights of the child from the child's point of view and in the best interests of the child. The main theme of the agreement is the dignity of children, and its main principles include children's right to education. The aim is therefore not only to meet the needs of children but also to realize and guarantee their rights and interests, as children are independent individuals and legal entities.³⁷

The paragraph 2 of Article 2 of the Convention secures the children from discrimination based on sex and the Parties of the Convention accept the responsibility to ensure and protect all children.³⁸ Children's right to education is divided into two provision, Article 28 and 29. Article 28 describes education as a specific right of every child rather than remaining dependent on a states or any other organization's assistance, goodness, or discretion. This clarifies that the right to education must be legally enshrined in the law of the Convention's parties in order to protect and ensure the realization of this right.³⁹ The UNCRC was ratified by Afghanistan in 1994⁴⁰ and by the Palestine in 2014.⁴¹

1.4. UNESCO Convention against Discrimination in Education

The provisions of the UDHR have also been specified in the 1960 UNESCO Convention against Discrimination, that is solely devoted to education.⁴² The agreement was approved by the UNESCO General Assembly on 14 December 1960 and entered into force a couple of years later, in 1962.⁴³ As its main idea, it is stated in the convention its intention to promote universal respect for human rights and equal access to education not only by prohibiting all forms of discrimination based on gender but also by promoting equality in access to education and equal treatment in education.⁴⁴

³⁷ Rauhanummi, U. (2012). pp. 28–29. *Supra nota 31*

³⁸ Convention on the Rights of the Child. (1989).

³⁹ Kilkelly, U. (2010). p 3. *Supra nota 22*

⁴⁰ United Nations Human Rights Treaty Bodies. Ratification Status for Afghanistan. Accessible: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=1&Lang=EN 18 March 2022.

⁴¹ United Nations Human Rights Treaty Bodies. Ratification Status for State of Palestine. Accessible: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=1&Lang=EN 18 March 2022

⁴² Pranevičienė, B., & Pūraitė, A. (2018). p.137. *Supra nota 4*

⁴³ Rantakoski, M. (2009). OPPIOIKEUDEN MÄÄRÄYTYMINEN ULKOMAALAISSRYHMIEN OSALTA. Vaasan Yliopisto, Hallintotieteiden Tiedekunta. P. 25

⁴⁴ Convention against Discrimination in Education. (1960).

In accordance with Article 1, no one shall be discriminated against on the grounds of race, sex, color, language, religion, political or other opinion, national or social origin, economic status or descent. In addition to the foregoing, no action shall be taken to the detriment of equality in the field of education, and in particular not to deprive, or similarly restrict, any person or group of persons of access to education.⁴⁵ The Convention's main goals are to secure free and compulsory primary education; secondary education in its different forms, generally available and accessible to all; higher education equally accessible to all on the basis of individual capacity; equivalent standards of education in all public educational institutions of the same level and conditions in relation to quality; opportunities for those who missed all or part of their primary education and their continuation of education; and training opportunities for the teaching profession without discrimination.⁴⁶ Together with the Article 1, Article 3 can also be considered particularly important. Article 3 states that the Contracting Parties shall take all appropriate measures to eliminate and prevent discrimination within the meaning of the Convention.⁴⁷ Importance and weight of the Convention is reflected in the content of Article 9, which states that reservations to the Convention are not permitted.⁴⁸ The nature of the Convention in its entirety reflects rather significant points in preventing discrimination in the field of education although this subchapter only raises the points considered to be particularly important.

Palestine has ratified the Convention on 24 April 2014⁴⁹, but Afghanistan has not signed the Convention but has had the status of 'acceptance' since 25 April 2010⁵⁰, meaning that the convention has the same legal effect than ratification, expressing the consent of the state to be bound by it.⁵¹

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

⁴⁷ Rantakoski, M. (2009). *Supra nota 43*

⁴⁸ Convention against Discrimination in Education. (1960).

⁴⁹ UNESCO. (2021). Conventions – Palestine. Accessible: <https://en.unesco.org/countries/palestine/conventions>. 20 March 2022.

⁵⁰ UNESCO. (2021). Conventions – Afghanistan. Accessible: <https://en.unesco.org/countries/afghanistan/conventions>. 20 March 2022.

⁵¹ Article 2 (1)(b) and 14 (2). (1969). Vienna convention on the law of treaties.

1.5. Convention on the Elimination of All Forms of Discrimination against Women

By the adoption of the Convention on the Elimination of All Forms of Discrimination against Women⁵² (CEDAW) in 1979, equality earned its own international mandate. As its name implies, it focuses on girls' and women's rights and issues concerning them worldwide, and it contains important provisions guaranteeing rights in and through education.⁵³ It is both an international women's rights instrument and an action plan that has been ratified by both, Afghanistan on 5 March 2003, and by the Palestine on 2 April 2014. Countries that have ratified CEDAW, agree to take concrete steps to end the discrimination and violence against girls and women. According to the CRC a child is anyone under the age of 18, which makes it applicable not only to young girls but also to numerous young women of marrying age. Special provisions are defined in each area. In the UN's view, CEDAW is an action plan that requires ratifying states to achieve full compliance.⁵⁴

Article 2 of CEDAW requires that states have the obligation to establish equal protection for girls and women changing or removing prevailing legislation and practices that may constitute discrimination against women and girls and obliges states to promote gender equality through national constitutions or legislation. In addition to defining equality, CEDAW addresses issues such as the right to education and health care, sexual and reproductive rights, health care, and access to other rights.⁵⁵ Article 10 of the CEDAW concerns the stipulation that States must guarantee equal rights in education regardless of gender.⁵⁶

⁵² UN General Assembly. Convention on the Elimination of All Forms of Discrimination Against Women. (1979). United Nations, Treaty Series, vol. 1249

⁵³ Campbell, M. (2016). *The challenges of girls' right to education: let's talk about human rights-based sex education*. ResearchGate. Pp. 1-2.

⁵⁴ UN Women. (2016). *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) for Youth*. Accessible: <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2016/CEDAW-for-Youth.pdf>. 21 March 2022.

⁵⁵ Farhoumand-Sims, C. (2009). *CEDAW and Afghanistan*. Journal of International Women's Studies, 11(1). p. 138.

⁵⁶ UN General Assembly. Convention on the Elimination of All Forms of Discrimination Against Women. (1979). United Nations, Treaty Series, vol. 1249

Although the CEDAW is one of the most signed conventions, its effectiveness is overshadowed by its reservations. In most cases, states claim that reservations are an expression of a conflict between the Convention and national laws. These reservations have been made by states that believe parts of the Convention are in conflict with cultural practices and religious laws.⁵⁷ The status of women and girls in the country is not automatically related to reservations. In Afghanistan, where there is more than one law, those laws have not been able to achieve gender equality, although they have not made any reservations to the Convention.⁵⁸ In addition, a General Recommendation No. 36⁵⁹ (GR 36) on the right of girls and women to education was given in 2020. The Recommendation describes how education plays a key role when it comes to women's and girls' right to decent work.⁶⁰

⁵⁷ Farhoumand-Sims, C. (2009). Pp. 138-139. *Supra nota 55*

⁵⁸ Parikh, S. (2017). CEDAW RESERVATIONS WITH REFERENCE TO SHARIA. In Conference Proceedings of the International Conference on Inter-disciplinary Social Science Studies. pp. 61-63.

⁵⁹ UN Committee on the Elimination of Discrimination Against Women (CEDAW), CEDAW General Recommendation No. 36. (2017) on the right of girls and women to education.

⁶⁰ Locklear, A. L., (2019). *Shadow Report Guidelines on Women's Right to Work and Women's Rights at Work*. International Women's Rights Action Watch Asia Pacific. p. 14

2. RIGHT TO EDUCATION IN AFGHANISTAN

The question of education and the exercise of this right is not so simple. Regardless of that, the right to education is a right conferred to every human being under international and domestic law as stated in the previous chapter. The realization of women's and girls' rights has been a major concern in Afghanistan since a government backed by the United States and other Western countries collapsed in 2021, and the Taliban rose to power.⁶¹ Even before the re-emergence of the Taliban, the educational system was in a crisis due to decades of conflict. Approximately 3.7 million children were out of school, 60 percent of whom were girls. Now the school system is once again facing insecurity.⁶²

The Taliban banned the education of girls for many years in Afghanistan during the 1990s, which has for an example affected how girls and women end up as teachers. This has led to a 'shortage' of teachers, and especially female teachers in the country. Poverty and the continuing humanitarian crisis have also affected education and the safeguarding of the educational right. The country's literacy rate is one of the weakest in the world, and in 2021, only about 43 percent of adults were literate, of which less than 30 percent of women were literate.⁶³

On paper, girls have significant, and equal rights in Afghanistan. Since the Taliban was overthrown in 2001, immense progress was made in regards of girls right to education with international assistance.⁶⁴ While girls' rights have been violated during the conflicts over the years, such violations are, however against Islamic law and the Constitution of Afghanistan.⁶⁵ Equality before the law, is supported by Islamic law whose one purpose is to achieve justice and

⁶¹ UNESCO. (2021). *The right to education: What's at stake in Afghanistan? A 20-year review*. P. 20.

⁶² UNICEF Afghanistan. (2022). *Education*. Accessible: <https://www.unicef.org/afghanistan/education>. 24 March 2022

⁶³ Batha, E. (2022). *Taliban U-turn leaves Afghan girls shut out of school*. Accessible: <https://news.trust.org/item/20210831110425-cvykj/>. 24 March 2022.

⁶⁴ UNESCO. (2021). *The right to education: What's at stake in Afghanistan?* p. 8 Accessible: https://en.unesco.org/sites/default/files/afghanistan_v11.pdf. 24 March 2022.

⁶⁵ Human Rights Watch. (2001). *AFGHANISTAN HUMANITY DENIED: Systematic Violations of Women's Rights in Afghanistan*. Pp. 10-11.

dignity for all people.⁶⁶ The Article 22 of the 2004 Constitution⁶⁷ extended equality to both men and women. The Article 43 of the Constitution stated: “Education is the right of all citizens of Afghanistan, which shall be offered up to the B.A. level in the state educational institutes free of charge by the state. To expand balanced education as well as to provide mandatory intermediate education throughout Afghanistan, the state shall design and implement effective programs and prepare the ground for teaching mother tongues in areas where they are spoken.”⁶⁸ This article also clarifies the scope of education for all Afghan citizens, regardless of gender. Also, the Article 44 specified the status of women in education, declaring “The state shall devise and implement effective programs to create and foster balanced education for women, improve education of nomads as well as eliminate illiteracy in the country.”⁶⁹ Afghanistan has ratified all of the above-mentioned agreements and is bound by international law and the Qur’an to comply with these.⁷⁰

2.1. History of Afghanistan

Framework of this chapter has mostly been limited to Afghanistan’s history beginning from the 1970s. Afghanistan is a mountainous country in Central Asia with a population of millions of people. The country is home to several different ethnic groups such as the Hazaras, Uzbeks and Tajiks and multiple languages are spoken. The majority of the population is Muslim, of which about 80 % are Sunnis and 19 % Shiites.⁷¹ Afghanistan has been a zone of conflict and full of violence for decades.⁷² Its challenging position in Central Asia has led it becoming a center of internal and international conflicts, making it one of the poorest and least developed countries in the world.⁷³ Afghanistan regained its independence and has remained independent since 1919. However, the country dived into a civil war due to reforms pushed by King Amanullah, which were heavily opposed by the people. From 1933, as the reign of Mohammad Zahir Shah began, Afghanistan fell into rather peaceful period.⁷⁴

⁶⁶ Nawabi A. M. (2003). *WOMEN’S RIGHTS IN THE NEW CONSTITUTION OF AFGHANISTAN*. Pp. 1-2

⁶⁷ The Constitution of the Islamic Republic of Afghanistan. (2004).

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*

⁷⁰ UNESCO. (2021). *Supra nota 49*

⁷¹ Oksanen, L. (2020). *Sotilaallisissa kriisinhallintatehtävissä Afganistanissa saadun koulutuksen ja kokemuksen hyödyntäminen poliisin tehtävissä*. Poliisiammattikorkeakoulu. p. 7.

⁷² Akbari, F. A. (2022). *The relationship between democracy and war in Afghanistan*. ResearchGate. Pp. 4-5.

⁷³ Globalis.fi. (2021). *Afganistan*. Accessible: <https://www.globalis.fi/Konfliktit/afganistan>. 28 March 2022.

⁷⁴ Oksanen, L. (2020). pp. 7–8. *Supra nota 71*

Fast forward to 1970s, Afghanistan was declared as a republic by Prime Minister Daoud after Shah was overthrown in the early 1970s. Communist officers seized power in 1978 and President Daoud was assassinated.⁷⁵ The communist regime supported by the Soviet Union began reforms in the country, for example to improve literacy and the status of women and girls, and to restrict the practice of religion. This aroused opposition among ethnic leaders and the Muslim ministry, and once again in 1979 the country dived into civil war.⁷⁶ The Communist regime called on Soviet troops to help fight the Muslim militias backed by the United States, Pakistan, Saudi Arabia, and Iran. In 1989, Soviet troops withdrew from Afghanistan. The Kabul regime collapsed in 1992, after which rebel warlords began fighting for power. Its neighboring countries also intervened in the power struggle with the support of several parties.⁷⁷

In refugee camps in Pakistan and in southern Afghanistan, the extremist Islamic Taliban movement of the Sunni Muslims emerged, occupying the capital Kabul in 1996. The Taliban promised to end the war and eradicate corruption. The country was craving for stability, so as a result the Taliban received support and ruled closer to 90 % of the country, with the exception of northern Afghanistan, where the Northern Alliance of Anti-Taliban Team were still in power.⁷⁸ The Taliban enacted very extreme form of Sharia law, banning, among other things, listening to music and watching television, men were required to grow their beards and women were forced to wear burqas, and women and girls were not allowed to go to school or leave their homes.⁷⁹

In 2001, the United States and its allies invaded Afghanistan to overthrow the Taliban regime, which refused to expel Osama bin Laden, the leader of the Al-Qaeda who was claimed responsible for the September 11, 2001, terrorist attacks in New York. The Taliban regime was overthrown, and they fled to southern and eastern Afghanistan. In 2001, under the support of the UN Security Council, a multinational NATO-led International Security and Assistance Force (ISAF) operation in Afghanistan was launched to support the Afghan administration. The first presidential elections of 2004 were democratic for the first time in the history of Afghanistan.

⁷⁵ Synovitz, R. (2003). *Afghanistan: History Of 1973 Coup Sheds Light On Relations With Pakistan*. Accessible: <https://www.rferl.org/a/1103837.html>. 28 March 2022.

⁷⁶ Runion, M. (2007). *History of Afghanistan*, The. Greenwood Histories of the Modern Nations (2nd ed.). Westport: Greenwood Publishing Group. pp. 116-119

⁷⁷ Oksanen, L. (2020). pp. 8–9. *Supra nota 71*

⁷⁸ Ghufraan, N. (2001). THE TALIBAN AND THE CIVIL WAR ENTANGLEMENT IN AFGHANISTAN. The Regents of the University of California. Pp. 462-465.

⁷⁹ Ibrahim, A. (2021). *Explainer: The Taliban and Islamic law in Afghanistan*. AlJazeera. Accessible: <https://www.aljazeera.com/news/2021/8/23/hold-the-taliban-and-sharia-law-in-afghanistan>. 28 March 2022.

However, rebels, who were mainly the Taliban, opposed to the new Afghan regime, and continued to fight until 2021. The war in Afghanistan took not only the lives of civilians, but lives of members of rebel groups and Western forces, who were tasked with, among other things, to train the Afghan forces. The UN has also had its own United Nations Assistance Mission in Afghanistan (UNAMA) since 2002, to support, for example the reconstruction process of the country and to improve the situation of women and girls.⁸⁰ Despite international support, fighting is still going on in Afghanistan and the Taliban has raised fears and re-emerged after the U.S. retreat in the fall of 2021.⁸¹

2.2. Girls' Right to education in national legislation

Before Taliban rose to power, the constitution of Afghanistan safeguarded and emphasized gender equality in many areas of life, including equal access to education for women and men. The Article 22 of the 2004 Constitution extended equality to both men and women. Article 22 of the constitution prohibits all discrimination on grounds of gender.⁸² As mentioned above the Article 43 recognizes free education as a right to all Afghan citizens regardless of gender from primary school to bachelor's degree, and the Article 44 further clarifies the right to education for women.⁸³

As can be seen from the constitution of Afghanistan, there are no legal barriers to girls' right to education because the law protects them from gender discrimination and their right to education is enshrined in law. The state is responsible for continuation and promotion for girls' education, as well as improving training programs and applying appropriate measures to education.⁸⁴ Although the right to education for all is enshrined in the Afghan constitution and Islamic law, girls still face many problems due to wrong practices that prevent them from exercising these rights properly.⁸⁵ The Bonn Agreement⁸⁶ of 2001 and the 2006 Afghanistan Compact⁸⁷

⁸⁰ Stimson Center. (2002). *REBUILDING AFGHANISTAN: THE UNITED NATIONS ASSISTANCE MISSION IN AFGHANISTAN (UNAMA)*. Stimson Center.

⁸¹ Goenka, P. (2022). *The fate of Afghan Women - Consistent violation of women's rights in Afghanistan: A Legal Study*. Jus Corpus Law Journal. pp. 26-27.

⁸² The Constitution of the Islamic Republic of Afghanistan. (2004). *Supra nota 67*

⁸³ *Ibid.*

⁸⁴ Haqmal, H. (2012). THE STATE OF WOMEN'S EDUCATION IN AFGHANISTAN. P. 211

⁸⁵ *Ibid.* p. 212

⁸⁶ Agreement on Provisional Arrangements in Afghanistan Pending the Re-Establishment of Permanent Government Institutions ("Bonn Agreement") [Afghanistan], S/2001/1154, 5 December 2001.

⁸⁷ THE AFGHANISTAN COMPACT. (2006).

emphasize the duty of the executive and legislative authorities to bring Afghan laws in conformity to fundamental principles of human rights which falls to Taliban's responsibility in this context.⁸⁸

National legislation of Afghanistan includes Islamic law, constitutional law, and customary law.⁸⁹ Equal access to education is also enshrined in Article 2 (1) and the right to education without any kind of discrimination in the Article 3 of the 2008 Education Law⁹⁰ of Afghanistan. Leading the traditional legal systems, the Jirga and Shura are the primary institutions. The legal system has been unfavorable to Afghan females, who are often stuck between constitutional rights and cultural restrictions, as well as religious and national laws.⁹¹ The problem with the implementation of Afghan national legislation is the fact that for an example many rural areas abide customary laws that are not considered as official state laws because the judicial system was and is severely corrupt and weak in its scope. Customary laws are unofficial principles and guidelines that the Afghan citizens follow, and these are deemed to be an essential part of its community. Customarily, people who violate these customary laws and more often known to be convicted than if they violated the state laws.⁹² Customary law has gained "popularity" in Afghanistan as most of the country due to the conflict and war, has operated without formal government institutions for several years.⁹³

2.3. Girls' Right to education under the Taliban rule

The Taliban has not shown any changes in their legitimate point of view since they were last in power in Afghanistan over 20 years ago. As the Taliban seized the power again in 2021, millions of Afghans have been affected by the situation, but girls and women, not to mention sexual and gender minorities, are on the hotline. Practices of the extremist organization include the

⁸⁸ Elliesie, H. (2010). *Rule of Law in Afghanistan*. In Matthias Koetter / Gunnar Folke Schuppert, *Understandings of the Rule of Law in various Legal orders of the World, Rule of Law Working Paper Series Nr. 4*, Berlin. Pp. 3-4

⁸⁹ Alekseyeva, K. et al. (2017). *An Introduction to the Laws of Afghanistan*. Afghanistan Legal Education Project (ALEP) at Stanford Law School. 4th ed. Pp. 19-20

⁹⁰ Education Law of 1387 (2008).

⁹¹ Qazi Zada, S. (2021). *Legislative, institutional and policy reforms to combat violence against women in Afghanistan*. *Indian Journal of International Law* 59, pp. 266

⁹² Luke, A., Khwaja, S., Rahman, L., & Hunte, K. *Women's Equality in Afghanistan*. University of Victoria Faculty of Law. P.

⁹³ Barfield, T. J. (2008). *Culture and Custom in Nation-Building: Law in Afghanistan*. *Maine Law Review*.

introduction of Sharia law and its strict interpretation, which puts girls' legal right to education and their role in the society once again under a major threat.⁹⁴

The Taliban is an Islamist extremist organization operating in Afghanistan, and the word "Taliban" derives from Pashtu language meaning students. It is a Sunni movement whose values and actions are guided by a harsh and their own interpretation of Islamic law, a pre-Islamic code Pashtunwali and religious policies.⁹⁵ The Taliban have been seeking regional dominance in Afghanistan from when they first rose to power in 1996, and their power is feared to undermine human rights in the country.⁹⁶ According to its ideology, girls over the age of 10 have no right to education or access to schools, and women had no right to work outside their homes.⁹⁷

The Taliban's ideology has its roots in the southern Pashtun village of the late 1970s. The village had a variety of ethical traditions, one of which laid the foundation for the Taliban movement, including key features of its oppression, such as restrictions on girls and women.⁹⁸ Taliban's view has changed in the past few decades from seeking to structure and defend the notion of Islam that prevailed in the southern Pashtun village, to a phase closer to the political form of Islam adopted that was in 2007. The Taliban have not necessarily changed their way to govern less authoritarian or traditional, but their ways of dominating certain groups of people have changed. Their ideology is also based on the theory of knowledge, known as religious knowledge. The theory was closely tied to certain traditions Pashtunwali, but today it is more reminiscent of modern Islam.⁹⁹

Shortly after the Taliban captured Kabul in 1996 and declared the establishment of an Islamic emirate, Mullah Omar, the founder of the Taliban, ordered that the girls' education be suspended, citing security. During the Taliban rule, the prohibition was never lifted, although it was never fully implemented. When the Taliban revolted for one year in 2004-2005, the movement showed resentment to the schools run by the Ministry of Education (MOE), which they blamed on foreign countries. However, the Taliban's policy on education has not been

⁹⁴ Human Rights Watch. (2022). *Afghanistan: Taliban Deprive Women of Livelihoods, Identity*. Accessible: <https://www.hrw.org/news/2022/01/18/afghanistan-taliban-deprive-women-livelihoods-identity>. 4 April 2022.

⁹⁵ Maizland, L. (2021). *The Taliban in Afghanistan*. Council on Foreign Relations. Accessible: <https://www.cfr.org/backgrounder/taliban-afghanistan>. 6 April 2022.

⁹⁶ *Ibid.*

⁹⁷ Yousufi, F. (2021). *The Prospect of Women's Rights in the Post-Taliban-Government Peace Agreement*. *Journal of International Women's Studies*, 22(9), p. 1.

⁹⁸ Gopal, A., van Linschoten, A. S. (2017). *Ideology in the Afghan Taliban*. P. 5.

⁹⁹ *Ibid.*

radicalized after 2009.¹⁰⁰ During the Taliban rule, they closed schools out of girls and restricted other forms of education. After their rule 20 years ago, the Taliban has issued statements that supports education as a basic right for all within their ideology.¹⁰¹

The Taliban have claimed to be more favorable to girls and their fundamental rights, but the rest of the world has been skeptical about this. Women and girls remember what it was like to live in fear under the Taliban regime in the 1990s, and now the fear has been exacerbated by the Taliban's lack of a clear position on girls' rights. They have made circular statements about how girls' and women's rights are respected within the framework of Islam law, but their actions have generated little confidence.¹⁰² Several Western countries have condemned the Taliban's ruling to close secondary schools for girls. The Taliban ordered the girls' schools to close on late March just hours after they reopened.¹⁰³

2.4. How restricting girls' right to education violates international law

The Taliban violated and once re-emerged, violated international human rights law by engaging in widespread discrimination regarding girls' education. Regardless of the government change in Afghanistan, the Taliban is bound by international law, customary international law and human rights treaties particularly those mentioned above.¹⁰⁴ Under international law, no party cannot invoke its national law, including one based on religious principles, to rationalize not complying with a treaty or preventing discrimination.¹⁰⁵ While being in power, the Taliban has constantly violated many articles of the UDHR. One of the most fundamental articles it has violated has

¹⁰⁰ Rubin, B., Rudeforth, C. (2016). *Enhancing Access to Education: Challenges and Opportunities in Afghanistan*. Center on Cooperation International. P. 6.

¹⁰¹ *Ibid.*

¹⁰² UN Women Suomi. (2021). Sukupuolten tasa-arvo on kriittisessä roolissa Afganistanin tulevaisuudelle, kehitykselle ja pitkäkestoiselle rauhalle. Accessible: <https://unwomen.fi/yleinen/sukupuolten-tasa-arvo-on-kriittisessa-roolissa-afganistanin-tulevaisuudelle-kehitykselle-ja-pitkakestoiselle-rauhalle/>. 6 April 2022.

¹⁰³ (2022). *Länsimaat tyrmäsivät Talebanin päätöksen sulkea tyttöjen toisen asteen koulut*. Uusimaa. Accessible: <https://www.uusimaa.fi/uutissuomalainen/4525994>. 6 April 2022.

¹⁰⁴ Miller, A. (2021). *Violation of International Laws and Women's Rights: Afghanistan, the Taliban and the Price of Peace*. Columbia University blog published by the Institute for the Study of Human Rights (ISHR). Accessible: <https://blogs.cuit.columbia.edu/rightsviews/2021/07/30/violation-of-international-laws-and-womens-rights-afghanistan-the-taliban-and-the-price-of-peace/>. 6 April 2022.

¹⁰⁵ United Nations Human Rights Office of the High Commissioner. (2022). *Afghanistan: UN experts condemn Taliban decision to deny girls secondary education*. Accessible: <https://www.ohchr.org/en/press-releases/2022/03/afghanistan-un-experts-condemn-taliban-decision-deny-girls-secondary>. 7 April 2022.

been the Article 26 which guarantees the right to education should be accessible for all citizens.¹⁰⁶

One of the most significant treaties Afghanistan has ratified regarding girls' rights is the CEDAW. Although the Taliban was not in power in the time of ratification, it is bound by the obligations under the convention. Accordingly, Taliban's decision prevents girls from accessing education, violating Articles 2 and 10 of the convention.¹⁰⁷ Restricting and denying girls from accessing education is a breach of the articles 2, 13 and 14 of the ICESCR, as these guarantee the right to education for all regardless of gender as well as the right not to be discriminated against on the grounds of sex. By ratifying CEDAW, Afghanistan committed itself, despite its administration, to achieving the goals of the Convention, such as education and the right not to be discriminated against on the basis of gender. The Taliban have clearly failed to comply with the objectives of the Convention, in violation of Articles 2 and 10 of CEDAW.

The UN Security Council has called out the Taliban ever since their latest rise to power. The Taliban has been reminded on their responsibility to protect children and more specifically girls' basic human rights.¹⁰⁸ The Taliban are in addition to the above-mentioned violations violating the several articles of international treaties, restricting or banning the education of girls has a significant impact on the status and livelihood of children and women.¹⁰⁹ In addition to international law violations, restricting girls access to education is again weakening girls' place in the society. If girls are not allowed to exercise one of their fundamental rights under the treaties ratified in Afghanistan, they will be at risk to lose their basic rights and be even more vulnerable to other substantial human right violations such as child labor or early marriages.¹¹⁰

¹⁰⁶ UAB Institute for Human Rights Blog. (2021). *Women's Education in Afghanistan*. Accessible: <https://sites.uab.edu/humanrights/2021/12/14/womens-education-in-afghanistan/>. 7 April 2022.

¹⁰⁷ Barr, H. (2021). *How the International Community Can Protect Afghan Women and Girls*. Just Security. Accessible: <https://www.justsecurity.org/78071/how-the-international-community-can-protect-afghan-women-and-girls/>. 7 April 2022.

¹⁰⁸ United Nations. (2022). *With Afghanistan 'Hanging by a Thread', Security Council Delegates Call on Taliban to Tackle Massive Security, Economic Concerns, Respect Women's Equal Rights*. Accessible: <https://www.un.org/press/en/2022/sc14776.doc.htm>. 7 April 2022.

¹⁰⁹ Somani, T. (2017). *Importance of Educating Girls for the Overall Development of Society: A Global Perspective*. Walden University. Pp. 128.

¹¹⁰ HRW. (2022). *Afghanistan: Taliban Deprive Women of Livelihoods, Identity*. Human Rights Watch. Accessible: <https://www.hrw.org/news/2022/01/18/afghanistan-taliban-deprive-women-livelihoods-identity>. 7 April 2022.

3. GIRLS' RIGHT TO EDUCATION IN THE STATE OF PALESTINE

The question of Palestine has been on the United Nations agenda since the organization's first steps.¹¹¹ There are a record number of resolutions on the conflict, but a peaceful solution has not been found yet. Palestine was recognized as a UN observer state in 2012. As an observer state, the Palestinian authorities were given the opportunity to be represented at UN general assemblies, but without the right to vote.¹¹²

Girls have suffered from social, institutional, and legal discrimination in the Palestinian territories for years. Inequality is not only due to the conflict with Israel, but also to their outdated, non-harmonized legal system. Over the years, progress has been made, but important pieces of legislation still do not meet the basic requirements of international human rights law.¹¹³ Palestinian girls today are confronting rising and unequal effects of the worsening humanitarian and in Palestine. This has led to an increase in the number of victims and protection against risks, forced migration and loss of liberties.¹¹⁴

The Palestinian legal system is made up of historic laws that derive from different legal systems, as well as new legislation. Among other things, the ongoing Israeli occupation, and the previously internal conflict between the political groups and the lack of consensus on the direction of reform stand in the face of a new legislative reform.¹¹⁵ The laws of Jordan and Egypt, which have long since become obsolete, continue to apply in Palestine still today. Newer Palestinian laws also often lack coherence because they do not have sufficient capacity for

¹¹¹ Tervahartiala, A. (2016). *UTAGOESUN: ISRAEL JA PALESTIINA – YK:N TYÖPÖYDÄLLÄ VUODESTA 1947*. Accessible: <https://www.ykliitto.fi/uutiset-media/uutiset/utagoesun-israel-ja-palestiina-ykn-tyopoydalla-vuodesta-1947>. 9 April 2022.

¹¹² McMahon, R., Masters, J. (2012). *Palestinian Statehood at the UN*. Council on Foreign Relations. Accessible: <https://www.cfr.org/background/palestinian-statehood-un>. 9 April 2022.

¹¹³ (2019). Social and Economic Situation of Palestinian Women and Girls (July 2016-2019). United Nations Economic and Social Commission for Western Asia.

¹¹⁴ (2022). Occupied Palestinian Territory (oPt) Protection Analysis Update March 2022. P. 1

¹¹⁵ Al-Botmeh, R., Siam, A., Tunise, L., Mahanna, A. A. (2012). *A Review of Palestinian Legislation From a Women's Rights Perspective*. UNDP.

legislative planning and policymaking and have not reached their aims. The impact of gender factors cannot be exaggerated on the Palestinian legislative reform process resulting from the conflict.¹¹⁶ The standards and procedures pursued by Israel are undermining Palestinian efforts to create a legal and judicial framework capable of protecting the rights of girls and women. These laws will ultimately lose their relevance if the Palestinian authorities are constantly prohibited from applying them in the Palestinian territories themselves without Israelis permission.¹¹⁷

As Israel is a significant reason for Palestinian girls and human right situation, the international community has reminded the Israeli Government to fulfill its obligations under international law and to take immediate action to ensure that Palestinian children have safe access to quality education.¹¹⁸

3.1. History of the State of Palestine and the Israel-Palestine conflict

Afghanistan's and Palestine's histories differ from each other, although both of these countries have been affected by conflicts for decades. Taking this into account, in Afghanistan and Palestine the conflicts they have been involved in share similar features where more countries are involved. The history of Palestine is fraught with recurring conflicts and violent coups.¹¹⁹ Palestine was typically referred to as the geographical area between the Mediterranean and the Jordan River from the fall of the Ottoman Empire after the First World War to 1918.¹²⁰ After this, Palestine was officially under British mandate from 1922 until 1947. In 1948, the UN suggested by their Resolution 181¹²¹ that the mandate would be concluded and Palestine would be separated into two, independent Arab and Jewish states, and to establish a separate dual-jurisdictional area in Jerusalem.¹²²

¹¹⁶ *Ibid.*

¹¹⁷ (2018). PALESTINIAN WOMEN UNDER PROLONGED ISRAELI OCCUPATION The Gendered Impact of Occupation Violence https://reliefweb.int/sites/reliefweb.int/files/resources/Palestine-UPR_web-2-5.pdf

¹¹⁸ United Nations Human Rights Office of High Commissioner. (2022). *Israel's 55-year occupation of Palestinian Territory is apartheid – UN human rights expert*. Accessible: <https://www.ohchr.org/en/press-releases/2022/03/israels-55-year-occupation-palestinian-territory-apartheid-un-human-rights>. 7 May 2022.

¹¹⁹ Piittala-Jensen, E. (2022). ISRAELIN JA PALESTIINAN VÄLISEN KONFLIKTIN PINNAN ALLA: Metanarratiivien ilmeneminen akateemisesti koulutettujen ja kouluttautuvien israelilaisten ja palestiinalaisten diskursseissa. Tampereen Yliopisto. pp. 19–20.

¹²⁰ United Nations. The Question of Palestine. Accessible: <https://www.un.org/unispal/history/>. 15 April 2022.

¹²¹ RESOLUTION ADOPTED ON THE REPORT OF THE AD HOC COMMITTEE ON THE PALESTINIAN QUESTION, A/RES/181(II).

¹²² United Nations. The Question of Palestine. *Supra nota 120*

In order to give an overview of the Palestinian history, it is important to also address Israel in this context. The Israeli-Palestinian conflict has been going on for seven decades since the establishment of the state of Israel in 1948. However, the conflict can be seen to have begun during the British mandate.¹²³ Israel's state policy and legislation have been shaped from the outset by the goal of maintaining the status of the Jewish majority and maximizing Israeli Jewish rule at the expense of the Palestinians. The parties of the conflict use different terms for the 1948 war, which is also evident in schools. For the Jews in Israel, the war was a war of independence, as it is still called in the Israeli narrative. Palestinians, on the other hand, call the war a disaster. Palestinians and Israelis see the causes of the conflict differently. In the narratives of both parties, the other party is blamed for the outbreak of the conflict.¹²⁴

The Israelis succeeded in expanding their land in two wars, the first waged immediately after the establishment of the Jewish state and the second in 1967. They occupied the Palestinian region and were responsible for expelling the Palestinians from the territory. Many Palestinians fled to neighboring countries where they have since lived in refugee camps. During the conflict, Jordan occupied what is now the West Bank and Egypt took over the Gaza Strip, where the Arab League established the Palestinian authority.¹²⁵

According to the Israeli narrative, Egypt began the Six-Day War in 1967 with the closure of the Tiran Strait from Israel. Israeli narrative has said that the main goal of the Arab states was to destroy Israel and return to what the land was before 1948, when the state of Israel was established. The threat posed by the Arab states to destroy Israel reminded the Israelis of the trauma and fear of the Holocaust.¹²⁶ The threats posed by these states had to be addressed. This Israeli narrative specifically emphasizes that Israel is a victim who had to respond to a threat from the Arab states in order to defend itself. The fear that the Arab states would take over the whole country was great, and that threat had to be addressed in some way.¹²⁷

Today, the Palestine consists of the West Bank and the Gaza Strip, which are completely separate and both under Israeli occupation. Palestine has been occupied by Israel since 1967 but

¹²³ Piittala-Jensen, E. (2022). *Supra nota 119*, p. 19

¹²⁴ *Ibid.* pp. 19-20

¹²⁵ United Nations. The Question of Palestine. *Supra nota 119*

¹²⁶ Piittala-Jensen, E. (2022). *Supra nota 119*, p. 21

¹²⁷ *Ibid.*

is working hard for its independence for which they increasingly need the help from the international community.¹²⁸

3.2. The current leaders and factors affecting girls' right to education

Afghanistan is internationally recognized de jure and de facto state, although the Taliban is not recognized as the country's government by the international community.¹²⁹ Palestine on the other hand is a state officially recognized by the UN and nominally independent, but it is only considered only a de jure state.¹³⁰ Yasser Arafat, was in the board of the executive committee of the 1964 Palestinian Liberation Organization (hereinafter PLO) and declared Palestine independent in 1988. 138 of the UN Member States has recognized Palestine¹³¹ and it has served as a UN observer since 1974, which was accorded to it in the UN General Assembly resolution 67/19¹³².

Fatah, originating from the Palestinian National Liberation Movement, is known being the main Palestinian political party. Yasser Arafat together with numerous Algerians set up an organization that initially resisted the PLO. In its early years, Fatah carried out dozens of attacks exclusively against civilian targets. In 1993, Yasser Arafat recognized the legitimacy of the two-state solution and signed the Oslo Accords¹³³ with Israel. The Oslo Accords marked the first formal mutual recognition between the PLO and Israel.¹³⁴ Although the formal establishment of a Palestinian state had not been formally confirmed, they transferred control of Gaza and the West Bank's main Palestinian cities to a new Palestinian Authority. However, the Oslo Accords were never fully implemented and relations between the two sides deteriorated again and have

¹²⁸ Globalis.fi. (2015). *Palestiina*. Accessible: <https://www.globalis.fi/Maat/palestiina>. 16 April 2022.

¹²⁹ Saul, B. (2021). "Recognition" and the Taliban's International Legal Status. Accessible: <https://icct.nl/publication/recognition-talibans-international-legal-status/>. 17 April 2022.

¹³⁰ Alashqar, Y. (2019) Case Studies of Contemporary State Recognition: Palestine, In book: Routledge Handbook of State Recognition, Chapter 27, Routledge, London.

¹³¹ World Population Review. *Countries That Recognize Palestine 2022*. Accessible: <https://worldpopulationreview.com/country-rankings/countries-that-recognize-palestine>. 18 April 2022.

¹³² UN General Assembly, Status of Palestine in the United Nations : resolution / adopted by the General Assembly, 4 December 2012, A/RES/67/19.

¹³³ Peace Agreements & Related, Declaration of Principles on Interim Self-Government Arrangements ("Oslo Agreement"), 13 September 1993.

¹³⁴ Perks, R. (2009). *A Law of Diminishing Returns: The Oslo Accords and the Dynamics of Palestinian Self-Governance*. Journal of Undergraduate Studies at Trent. P. 6.

been conflicted ever since.¹³⁵ The terror of Palestinian extremist organizations plagued the Israelis, and the radical organization Hamas came to power among the Palestinians in Gaza. It even ran into a conflict with the more moderate Fatah movement in power in the Palestinian territories of the West Bank.¹³⁶

Both Afghanistan and Palestine have very similar leaders as for an example all of them they have all had some connection to terrorism. What makes it difficult to recognize the Taliban internationally and to recognize Palestine as an independent state is the Taliban having past connections to Al-Qaida¹³⁷, and Hamas being classified as a terrorist organization by the United States and the EU.¹³⁸ This also poses problems for the international community, as countries do not want to appear to support governments or countries that they believe are linked to terrorism. In Afghanistan, the Taliban holds the current power as mentioned in previous chapter, but in Palestine power is divided between Israeli-occupied troops and settlements, but mainly by Hamas operating in Gaza, and Fatah, which is nominally leading the West Bank. Palestinian political parties are continuing to work both by peaceful methods, mainly Fatah, as well as by forceful methods, mainly by Hamas, to eventually to become de facto state.¹³⁹

Fatah remains the largest political and military power in the Palestinian Authority, but its links to terrorist activities are causing tensions between Israel and the Palestinians. In fact, the unification of Hamas and Fatah has been discussed among Palestinians and abroad since 2007. Both sides want to maintain their own country and control but acknowledge that the political division within the Palestinian infrastructure is likely to be unsustainable.¹⁴⁰ Fatah and Hamas surprised the world by signing their latest Fatah-Hamas Agreement in 2017.¹⁴¹ In Palestine, Hamas has been the party to affect girls right to education but not at the same level as the

¹³⁵ Simmons, E. (2010). *Is Gaza Occupied?: Redefining the Legal Status of Gaza*. Begin-Sadat Center for Strategic Studies. p. 922.

¹³⁶ Wietschorke, J., & Lukas, S. (2018). *A failed peace process?: The rapprochement between Hamas and Fatah and the consequences of the announced relocation of the US Embassy*. Federal Academy for Security Policy. P. 1.

¹³⁷ Lederer, M. E. (2022). *UN experts: 'Terrorist groups' enjoy freedom in Afghanistan*. AP News. Accessible: <https://apnews.com/article/islamic-state-group-afghanistan-asia-united-nations-syria-55a15d0a370f657aa60ccc1282b603c6>. 1 May 2022.

¹³⁸ Laub, Z., Robinson, K. (2021). *What Is Hamas?*. Council on Foreign Relations. Accessible: <https://www.cfr.org/background/what-hamas>. 1 May 2022.

¹³⁹ Lintl, P. (2018). *Actors in the Israeli-Palestinian Conflict, Interests, Narratives and the Reciprocal Effects of the Occupation*. German Institute for International and Security Affairs. Pp. 13-14

¹⁴⁰ Swart, M. (2019). *Palestinian Reconciliation and the Potential of Transitional Justice*. Brookings Institution. Pp. 7-10.

¹⁴¹ Asseburg, M. (2017). *The Fatah–Hamas Reconciliation Agreement of October 2017, An Opportunity to End Gaza's Humanitarian Crisis and Permanently Overcome the Blockade*. German Institute for International and Security Affairs. Pp. 1-2.

Taliban in Afghanistan. Hamas has been since 2013 in favor of gender segregation in schools in the Gaza Strip,¹⁴² but they have not denied girls' access or right to education as opposed to Taliban. Moreover, the education of girls is currently more affected by the Israeli-Palestinian conflict and the resulting continuous violence, such as school bombings by Israel rather than any legal barriers. Also, in 2020, cases of psychological violence against girls as well as young women attending schools were reported in the West Bank area.¹⁴³ Related to the Israeli conflict between the Palestinian armed groups in Gaza and the Israeli security forces, violent attacks on education took place in Palestine in 2019 and 2021.¹⁴⁴

3.3. Girls' right to education in national legislation

Today the main source of Palestine's legislation is their main constitutional record, the 2003 Palestinian Basic Law¹⁴⁵. In addition, its legal framework is based on the Egyptian, Jordanian, Ottoman, and Israeli legal systems.¹⁴⁶ The human rights norms are essentially stated in this law, while it lacks a number of basic rights that play an important role in achieving equality for women and girls and for gender equality. Regardless of this, the Basic Law does recognize equality in its Article 9 stating that Palestinians are equal before the law without discrimination based for an example upon sex. It also establishes and protects a free right to education for all in Article 24.¹⁴⁷ Under Palestinian Basic law, basic education is compulsory and free for ten years. Though during the school trips, children and especially girls are subjected to harassment and violence. Not all young people continue their studies, as they find it useless for their future. More specifically, girls usually end their studies because of the insecurity that comes with practicing their right to education.¹⁴⁸

¹⁴² (2013). *Hamas orders gender segregation at schools*. Aljazeera. Accessible:

<https://www.aljazeera.com/news/2013/4/2/hamas-orders-gender-segregation-at-schools>. 2 May 2022.

¹⁴³ UN Women Palestine. (2020). Preventing violence through education in the West Bank. Accessible:

<https://palestine.unwomen.org/en/news-and-events/stories/2020/12/preventing-violence-through-education-in-the-west-bank>. 2 May 2022.

¹⁴⁴ Global Coalition to Protect Education from Attack. (2022). *Measuring the impact of attacks on education in Palestine*. p. 4

¹⁴⁵ The Palestinian amended Basic Law of 2003.

¹⁴⁶ European Committee of the Regions. *Palestine Introduction*. Accessible:

<https://portal.cor.europa.eu/divisionpowers/Pages/Palestine-Introduction.aspx>. 4 May 2022.

¹⁴⁷ The Palestinian amended Basic Law of 2003.

¹⁴⁸ Maahanmuuttovirasto. (2015). *Palestiinalaiset Länsirannalla*. Pp. 3-4.

Nevertheless, the rights included in the Basic Law, containing the right to education and the right not to be discriminated based on gender, if violated, cannot be legally prosecuted. The reason why the Palestinian Constitution lacks relevance and inaction to the national legal system is that it is not recognized.¹⁴⁹ The Palestinian legislation has its pros and cons for the rights of girls in the Palestine. It gives the Palestinian High Court the power to repeal unconstitutional legislation, such as those based on discrimination on the basis of gender. The judges in lower courts are also bound by taking all of the articles of the Basic Law into account when legislation is being construed. These again work on paper but in practice they fail to even promote rights of girls and women.¹⁵⁰

Islamic law is also practiced in Palestine as well as in Afghanistan, though as we came to the conclusion above, the Taliban is known to interpret the Islamic law more strictly, while Palestine's legislation is as well based on Islamic law but not as strictly.¹⁵¹ In both Afghanistan and Palestine, there are and should not be any legal barriers to girls' right to education. In Afghanistan the educational system falls under the control of Taliban, allowing them to restrict and prevent girls' from entering schools on the basis of religious principles. Although the Taliban justifies the restriction on these religious principles, it has been proven that there are no religious grounds to prevent girls from exercising their right to education.¹⁵² What can be presumed from this is that the Taliban's opposition to girls' right to education may well have its roots in the patriarchal traditions of Afghanistan's history, not in any laws or religious principles.¹⁵³ Opposed to Afghanistan, the educational system of the Gaza Strip is not controlled by Hamas but the United Nations Relief and Works Agency for Palestine Refugees in the Near East (hereinafter UNRWA). Because of the international recognition of degrees concluded in the West Bank area, the UNRWA's the West Bank's educational structure. The Gaza Strip administration has also recognized the importance of education in their society. The presence of UNRWA in the Gaza Strip has been an irreplaceable asset to its educational system.¹⁵⁴

¹⁴⁹ Al-Botmeh, R., Siam, A., Tunise, L., Mahanna, A. A. (2012). *Supra nota 115*

¹⁵⁰ *Ibid.*

¹⁵¹ Cunningham, E. (2012). *Hamas eases strict enforcement of Sharia law*. TheWorld. Accessible: <https://theworld.org/stories/2012-07-10/hamas-eases-strict-enforcement-sharia-law>. 4 May 2022.

¹⁵² VOA News. (2022). *Muslim Scholars, Activists: Taliban Ban on Girls' Education Not Justified*. VOA. Accessible: <https://www.voanews.com/a/muslim-scholars-activists-taliban-ban-on-girls-education-not-justified-6526830.html>. 6 May 2022.

¹⁵³ *Ibid.*

¹⁵⁴ Brown, J. N. (2012). *Gaza Five Years on: Hamas Settles In*. Carnegie Endowment for International Peace. p. 13

4. CHALLENGES OF SECURING THE RIGHT TO EDUCATION, AND FUTURE PROSPECTS

Education gives hope and creates faith in the future and one's own potential. The education of girls is one of the most effective means of reducing poverty, promoting equality and strengthening democracy around the world. Children in fragile situations are in the midst of pandemics, environmental disasters and/or conflicts.¹⁵⁵ Educational systems have suffered a lot in both Afghanistan and Palestine due to the ongoing conflicts and the choices made by their governments. Securing the conditions for education, for example by increasing the cooperation with the international community and supporting the work of non-governmental organizations in Afghanistan and Palestine, is paramount for the future.

There are numerous challenges when it comes to Afghanistan and Palestine securing girls right to education. The Taliban have adopted practices that have created huge barriers to the education of girls and also women. One of the reasons why it is difficult to secure girls right to education is correspondingly the role of girls and women in the society. Girls can be assumed to be only eligible to perform domestic and care responsibilities and that they cannot be financially independent but need a husband for that.¹⁵⁶ This factor is something that applies to both Afghanistan and Palestine because, for example, in Afghanistan the education of girls is banned and before early 2021 it was also a current problem in the Gaza Strip where unmarried women are not allowed to move outside without a man, but this was revised due to its controversy.¹⁵⁷ These examples support these harmful stereotypes.

The Taliban is using girls as a bargaining chip. Girls will not be able to go to school until the international community recognizes the Taliban regime and the funds in Afghanistan, which are

¹⁵⁵ Thakur, Y. (2021). Importance of education for girls. Legal Study Material. Accessible: <https://legalstudymaterial.com/importance-of-education-for-girls/>. 7 May 2022.

¹⁵⁶ Human Rights Watch. (2022). *Four Ways to Support Girls' Access to Education in Afghanistan*. Accessible: <https://www.hrw.org/news/2022/03/20/four-ways-support-girls-access-education-afghanistan>. 9 May 2022.

¹⁵⁷ DW. (2021). *Gaza to revise women's travel ruling after backlash*. Accessible: <https://www.dw.com/en/gaza-to-revise-womens-travel-ruling-after-backlash/a-56593358>. 9 May 2022.

now frozen, will be released.¹⁵⁸ The recognition of the regime is and will possibly be the main problem for a longer period. In order for girls' right to education to be a reality in the future, it would be important to find some connection or relationship between the international community and the Taliban, as it has once again shown through its rise that they will probably be ruling Afghanistan for years. Regardless of this, the international community while being cautious of Taliban, wanted to believe that Taliban would have learned from the past and would not let the overall legal situation to get to the same point as previously.¹⁵⁹ The Taliban has voiced their desire and intention to being part of the international community, but once again the violations of girls' right to education as well as the newest policy that women should once again cover their faces in public places, preferably with a traditional all-encompassing burqa, shows the unreliability of the Taliban¹⁶⁰, so it remains to be seen how international community and organizations, for example, will potentially try to cooperate with the Taliban.

Securing Palestinian education for all is also challenged by multiple factors. During the conflict, numerous Palestinian schools have been destroyed by the Israeli forces, children have been killed and their access to education has been deprived.¹⁶¹ Israel continues to justify their attacks on the Palestinian region on self-defense. However, Israel's attack for example on schools and other civil buildings, does not constitute as self-defense but they violate international human rights law and humanitarian law.¹⁶² The UN Committee on the Rights of the Child has given a unanimous proclamation that Israel has international obligations to Palestinian children, but Israel has not accepted this and refuses to provide information to the UN.¹⁶³ In order to safely guarantee the right to education for all, regardless of gender, a clear and lasting peace agreement must be found for the Israeli-Palestinian conflict with impartial actors. Without a clear solution or a permanent ceasefire until a legally binding peace agreement is concluded, no fundamental human rights can be safeguarded. The international community must be involved in finding a solution to the Israeli-Palestinian conflict. Countries that continue to support Israel and do not recognize Palestine as an independent state are funding the illegal occupation of Israel and

¹⁵⁸ Skorka, M. (2022). *How to Protect the Hope for Girls' Education in Afghanistan*. Council on Foreign Relations. Accessible: <https://www.cfr.org/blog/how-protect-hope-girls-education-afghanistan>. 9 May 2022.

¹⁵⁹ Khan, A. H. (2021). *Afghanistan*. ResearchGate. Pp. 6-7.

¹⁶⁰ Kermani, S. (2022). *Afghanistan: Women's faces become latest Taliban restriction after face veil rule*. BBC. Accessible: <https://www.bbc.com/news/world-asia-61363969>. 9 May 2022.

¹⁶¹ Anera. (2020). *Understanding Education in Palestine and the Need for Educational Aid*. Accessible: <https://www.anera.org/blog/need-for-educational-aid-in-palestine/>. 9 May 2022.

¹⁶² Al Mezan Center for Human Rights. (2021). *Fact Sheet on Obstacles to Accessing Education in the Gaza Strip*. p. 2

¹⁶³ Chaney, P. (2022). *Civil Society Perspectives on Children's Rights in the Occupied Palestinian Territories*. *The International Journal of Children's Rights*, 30(1). p. 8

encouraging violations of international law.¹⁶⁴ Both parties of the conflict must safeguard schools and end violent attacks threats on students and other school staff, which they are under international law bound to protect.¹⁶⁵ From a legal point of view, the only way to protect and guarantee girls' right to education in the Palestinian territories is for the international community to put pressure to get both sides of the conflict to respect international law, albeit difficult when not all countries agree to recognize Palestine as an independent state.

When seizing power last year, Taliban allowed girls to attend primary school but banned their access to secondary school. They also allowed girls to continue their studies afterwards to higher education, but many girls were unable to continue their studies. The access to primary school was not as easy as it was made to believe. Gender segregation in classrooms regarding students and teachers was again mandatory. The new taliban government did give their approval to some of the schools run by nongovernmental organizations who were able to continue providing primary education to girls in areas where they were unable to attend schools run by the government. Regardless, the majority of girls' schools have not been opened to this date even though the Taliban did promise to open schools for girls in late March 2022.¹⁶⁶

In order to improve the situation of girls in Afghanistan, solutions should be found that best support the realization of their rights. When the Taliban closed girls' schools and deprived them of their right to education, several girls and women protested against the decision. There are always risks involved in protesting, especially in the context of Afghanistan and the interpretation its legislation by Taliban. Women in particular, who have protested against the girls and their own education, have been subjected to violence, abductions and disappearances.¹⁶⁷ The international community should continue to support such organizations promoting girls' and women's rights, either financially or through the dissemination of information. It would be important for international actors to continue investing in, for example, teachers' salaries, as they accounted for almost 80 % of the Afghan government's budget and almost 50 % of the education budget.¹⁶⁸ The Taliban alone cannot cover these, so the support of the international community is vital to guarantee equal right to education. International actors

¹⁶⁴ Kuwari, A. (2021). *Israel's Violations Of International Law In The Occupied Palestinian Territories*. Human Rights Pulse. Accessible: <https://www.humanrightspulse.com/mastercontentblog/israels-violations-of-international-law-in-the-occupied-palestinian-territories>. 9 May 2022.

¹⁶⁵ Global Coalition to Protect Education from Attack. (2022). *Supra nota 144*. p. 2

¹⁶⁶ Human Rights Watch. (2022). *Supra nota 156*

¹⁶⁷ *Ibid.*

¹⁶⁸ *Ibid.*

should therefore fund primary education where girls have not yet been completely excluded. At secondary level and at the level of higher education, funding should only be targeted at schemes that are accessible to girls and young women.¹⁶⁹ Even if opening a school for girls is already a big step, exercise in securing this right also involves continuous monitoring of aspects of education. Monitoring should be initiated by international actors such as the UN. The girls' right to education is overshadowed by fear of the Taliban. The international community should pay more attention to the realization of girls' right to education, but also to their access to education, their learning environment and, most importantly, their safety.¹⁷⁰

Lastly, it is also important to show how the support of individual states can be vital for these countries. Finland has been Afghanistan's development cooperation partner after the Taliban's rule in 2002.¹⁷¹ Since the Taliban re-emerged, Finland has stopped evolving their development cooperation in Afghanistan, but is channeling its funds through humanitarian organizations to humanitarian activities and to the necessities of all Afghans. Finland is known to be a democratic state governed by the rule of law, which considers equal education without discrimination on the basis of gender to be one of its main pillars.¹⁷² Finland has stopped its cooperation because, as has been said above, the Taliban is not a democratically elected government and does not respect the fundamental rights of all people.¹⁷³ Although Finland has suspended direct development cooperation with Afghanistan and the Taliban, it is working to promote the rights of girls and women and to achieve inclusion through international organizations.¹⁷⁴ Before the re-emerge of Taliban, through the cooperation significant changes took place in primary education in particular, and girls' access to school was not restricted.¹⁷⁵

Given the future in Palestine, for example, Finland, which is considered one of the model countries for education, has sought to support Palestinian education and the equal right to

¹⁶⁹ *Ibid.*

¹⁷⁰ United Nations. (2022). *Taliban's backtracking on girls' education, 'deeply damaging'*. UN News Global perspective Human stories. Accessible: <https://news.un.org/en/story/2022/03/1114482>. 9 May 2022.

¹⁷¹ Suomen suurlähetystö, Kabul. *Kahdenväliset suhteet*. Suomi Ulkomailla. Accessible: <https://finlandabroad.fi/web/afg/kahdenväliset-suhteet>. 9 May 2022.

¹⁷² Ulkoministeriö. Suomen kehitysyhteistyö Afganistanin muuttuneessa tilanteessa. Accessible: <https://um.fi/suomen-kehitysyhteistyö-afganistanissa>. 9 May 2022.

¹⁷³ The Nomad Today. (2021). *Finland suspends development cooperation in Afghanistan*. The Nomad Today. Accessible: <https://www.thenomadtoday.com/articulo/finland/finland-suspends-development-cooperation-in-afghanistan/20210818112127013430.html>. 9 May 2022.

¹⁷⁴ Laakso, T. (2021). *Suomi keskeyttää kehitysyhteistyönsä Afganistanissa*. Maaailma.net. Accessible: <https://www.maaailma.net/uutiset/suomi-keskeyttaa-kehitysyhteistyönsä-afganistanissa>. 10 May 2022.

¹⁷⁵ Ulkoministeriö. (2021). *Suomi keskeyttää kehitysyhteistyönsä Afganistanissa*. Valtioneuvosto. Accessible: <https://valtioneuvosto.fi/-/suomi-keskeyttaa-kehitysyhteistyönsä-afganistanissa>. 10 May 2022.

education for all. Finland has been working to support the search for a peaceful solution and to offer its assistance in securing and improving education and justice since 1994.¹⁷⁶ The main priorities of Finnish-Palestinian cooperation have been the provision of education and the development of fragile areas.¹⁷⁷ In 2021–2024, Finland's bilateral development co-operation will focus on improving the quality of education, building Palestinian state-building and civil society, and supporting the crisis resilience of the most vulnerable Palestinian communities.¹⁷⁸ Finland's support in the Palestinian Territories has seen positive results since receiving support, for example, better access to public primary schools and all children, regardless of gender, have continued their education without being absent.¹⁷⁹

As can be seen, for example, from Finland's cooperation with both of these countries, international support has a vital role to play in safeguarding and developing the fundamental rights of countries that are already at a worse level, also on an economic and humanitarian level. The situation in Afghanistan will certainly be overshadowed by the lack of international recognition of the Taliban regime, which has cut off almost all cooperation with the country. In Palestine, on the other hand, the international recognition of the country and the ongoing conflict with Israel pose problems, for which it would be vital to find a solution sooner or later, as the continuing bombings and acts of violence prevent the protection of fundamental rights, including education for all. Also, choosing one administration would be an ideal situation for Palestine, which, after all the evidence, would be a better and safer option for this task. All parties must make greater efforts to find long-term solutions and achieve lasting peace.

¹⁷⁶ Ulkoministeriö. *Suomen suhteet ja kehitysyhteistyö Palestiinassa*. Accessible: <https://um.fi/kehitysyhteistyo-palestiinalaisalue>. 11 May 2022.

¹⁷⁷ *Ibid.*

¹⁷⁸ Ministry for Foreign Affairs of Finland. (2021). *Finland's country strategy for Palestine 2021–2024*. P. 2-3.

¹⁷⁹ Ulkoministeriö. *Supra nota 175*

CONCLUSION

Education is and remains one of the fundamental human rights granted to every human being regardless of gender. Equal access to education for girls is also linked to the development of society and the individual's future. Supporting girls in the most vulnerable situations is not only ethically and legally correct but also financially sensible. It has been shown very clearly that the participation of girls and women in working life increases wealth and contributes to the success of societies.

The aim of legal research was to find out how girls' right to education differs in Afghanistan and Palestine. To achieve this goal, the author examined the fundamental legal framework of international agreements and the status of girls' right to education in international law and how these international agreements safeguard girls' right to education. It also sought to examine the situation of this right, briefly on the basis of history, and its current status in Afghanistan and Palestine. Going through the histories of both Afghanistan and Palestine, the author came to the conclusion that the problem of girls' right to education, especially in Afghanistan, has its roots in the harmful stereotypes of history and not so much in their interpretation of Islamic law. However, the legal problem arises in the fact that equal access to education is enshrined in the constitution of Afghanistan, and in international law. In Palestine, on the other hand, what hinders girls' access to education is its long and conflict-rich history with Israel. When both international agreements and the national legislations were reviewed, the author did not find any legal justification for denying or violating the right of girls to education. It was important for girls' right to education to provide background information on the histories of these countries because the reasons for today's violations of this right come from history.

After analyzing girls' right to education under the Taliban rule and the national legislation of Afghanistan, which guarantees equal access to education for all citizens, the author was successfully able to argue that the Taliban is violating both their national laws and the international treaties that they are bound by them because they currently form the Afghan

government. The Taliban violates girls' right to education on the grounds that it falls under the interpretation of Islamic law, but this was overturned as several sources testified that there was no basis in Islamic law to ban the education of girls. In Palestine, the right of girls to education is not in itself violated by Palestine itself but by Israel. The conflict between Israel and Palestine is causing constant problems and violating the right of all children and girls to education. In the third chapter where the comparison of Afghanistan and Palestine was summarized, it was established that although the histories of these countries are similar due to the conflicts they have been involved in, the reason why girls' right to education is not realized is very different.

The author was able to state successfully the current problems in securing this right and also to suggest ways in which this right could be improved. The international recognition of both the Taliban government as well as the recognition of an independent Palestinian state would be needed that girls' right to education could be safeguarded without discriminatory practices or that their right to education would be safeguarded without fear of a conflict or its effects. Lastly, although we have international agreements guaranteeing education as a human right, anti-discrimination agreements and agreements focusing solely on children's rights, there are multiple obstacles that still need to be conquered before girls right to education can be safeguarded anywhere in the world. The international community must strive to comply with international law and work together to make girls' right to education a reality in Afghanistan and Palestine.

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