

**DUAL CRITIQUE OF TALIBAN GENDER APARTHEID:
INTEGRATING FATIMAH MERNISSI AND JASSER AUDA'S MAQASID
SYARIAH FOR WOMEN'S EDUCATIONAL RIGHTS**

Hamidah Lutfiya Mu'asarotiz Zahraa¹
UIN Kiai Ageng Muhammad Besari Ponorogo
hamidah.zahraa@student.uinponorogo.ac.id

ABSTRAK

Kebijakan Taliban sejak 2021 yang disebut *gender apartheid* telah mengecualikan jutaan gadis Afghanistan dari pendidikan, sebagaimana dilaporkan UNAMA (2025) melalui dekrit bertahap seperti larangan universitas pada 2022 dan legalisasi pemukulan istri tahun 2026. Penelitian Islam kontemporer masih terbatas dalam mengintegrasikan kritik historis Fatimah Mernissi dalam *Beyond the Veil* dengan pendekatan maqasid syariah hierarkis Jasser Auda. Penelitian ini bertujuan menganalisis diskriminasi tersebut untuk mengusulkan ijtihad inklusif, menggunakan *library research* kualitatif berbasis analisis konten teks Islam primer, dekrit Taliban, dan laporan PBB. Hipotesis penelitian menunjukkan bahwa kebijakan Taliban mewarisi konstruksi patriarkal yang melanggar prioritas *hifz al-'aql* dan *al-nasl*, sehingga dapat diatasi melalui pemberdayaan perempuan melalui pendidikan virtual merupakan instrumen krusial bagi transformasi sosial guna memulihkan hak-hak perempuan dan mengembalikan martabat mereka sebagai subjek kemanusiaan yang otonom di tengah tantangan kontemporer.

Kata kunci : *gender apartheid*, Taliban, pendidikan perempuan, Fatima Mernissi dan Jasser Auda

ABSTRACT

Since 2021, Taliban policies labeled as *gender apartheid* have excluded 1.1 million Afghan girls from education, as reported by UNAMA (2025), through incremental decrees such as the 2022 university ban and the 2026 legalization of wife-beating. Contemporary Islamic scholarship remains limited in integrating Fatimah Mernissi's historical critique in *Beyond the Veil* with Jasser Auda's hierarchical maqasid syariah approach. This study aims to analyze such discrimination to propose inclusive ijtihad, employing qualitative library research based on content analysis of primary Islamic texts (*Qur'an*, *hadith*), Taliban decrees, and UN reports. The research hypothesis posits that the Taliban's policies are rooted in a patriarchal construction that violates the fundamental Maqasid priorities of *hifz al-'aql* (protection of intellect) and *hifz al-nasl* (protection of progeny). Consequently, this study argues that empowering women through virtual education serves as a crucial instrument for social transformation, aimed at restoring women's rights and reaffirming their agency as autonomous human subjects amidst contemporary challenges.

Keywords : *gender apartheid, Taliban, women's education, Fatimah Mernissi, Jasser Auda*

INTRODUCTION

The human rights situation in Afghanistan since the transition of power in 2021 has reached a critical juncture, primarily due to policies that systematically restrict women's roles in the public sphere. Recent reports from the United Nations Assistance Mission in Afghanistan (UNAMA) and UNICEF (2025–2026) confirm that these measures, widely characterized as 'gender apartheid,' have deprived millions of girls of access to formal education and imposed extreme constraints on their mobility (United Nations Assistance Mission in Afghanistan, 2025). This condition is particularly ironic, as the Taliban authorities attempt to justify these policies in the name of *Sharia* law a claim that has subsequently triggered extensive theological and sociological discourse at the global level.

This phenomenon demands a profound inquiry that extends beyond mere political condemnation, addressing the theological roots that fuel the misuse of religious interpretation. As critiqued by Fatima Mernissi, narratives that marginalize women are often historical constructs designed by patriarchal elites to maintain power, rather than the core teachings of Islam itself (Mernissi, 1991). Conversely, Jasser Auda's *Maqasid Syariah* framework provides a methodological basis to demonstrate that Taliban policies are fundamentally antithetical to the primary objectives of Islamic law, which should uphold justice (*al-'adl*) and human dignity (*al-karamah al-insaniyyah*) (Jasser Auda, 2008).

This article aims to deconstruct the narrative distortions employed by the Taliban regime by integrating Mernissi's sociological critique with Auda's systemic framework. Departing from prior studies that have largely focused on statistical impacts, this research offers a counter-narrative perspective through moderate Islamic diplomacy and the reconstruction of more inclusive *ijtihad*. Through this approach, the study is expected to contribute theoretical insights toward the protection of women's rights in conflict-affected regions, by reinforcing a progressive, open, and justice-oriented Islamic narrative.

METHOD

This study employs a qualitative approach through library research to dissect the Taliban's *gender apartheid* policy using a critical theoretical lens. Data were gathered from official reports by international organizations such as UNAMA and UNICEF (2025–2026), as well as relevant academic literature regarding Fatima Mernissi's thought and Jasser Auda's systemic *Maqasid Syariah* framework. The analysis was conducted through a hermeneutic-contextual approach to unpack the religious narrative distortions employed by the regime, while simultaneously formulating counter-arguments as a conceptual framework for restoring educational rights for women in Afghanistan.

DISCUSSION

Analysis of Taliban Policy as Gender Apartheid

The policies implemented by the authorities in Afghanistan throughout the first half of 2025 demonstrate a systematic practice widely categorized as 'gender apartheid' (United Nations Assistance Mission in Afghanistan, 2025). According to reports from the United Nations Assistance Mission in Afghanistan (UNAMA) for the period of April–June 2025, the Taliban authorities have consistently enforced decrees aimed at excluding women from the public sphere through increasingly stringent regulations (United Nations Assistance Mission in Afghanistan, 2025). This practice is no longer sporadic or discriminatory in nature; rather, it has become an official state policy that restricts women's access to fundamental rights, including employment and the freedom to utilize public services. The shift from oral directives to written decrees appears to be a strategic maneuver by the regime to provide a facade of legal legitimacy, thereby facilitating the suppression of dissent under the guise of legal compliance.

The UNAMA report specifically highlights that the enforcement of these regulations is often arbitrary and heavily dependent on the interpretations of local authorities in the field, as evidenced by several instances of women's detention in the provinces of Herat and Uruzgan (United Nations Assistance Mission in Afghanistan, 2025). These actions transcend ordinary administrative regulations, as they increasingly intrude into private spaces and constrain daily mobility, ultimately

fostering an atmosphere of pervasive fear among Afghan women. This phenomenon confirms that such policies are not merely a matter of differing interpretations of social norms, but a form of institutionalized discrimination that places women in a state of permanent subordination, clearly violating fundamental principles of justice (Pritania et al., 2025). This condition is a reflection of a 'politics of fear,' where rules are deliberately crafted with vague boundaries, ensuring that anyone can be ensnared and compelling women to self-censor to avoid the threat of punishment.

Consequently, the control over women's lives through various restrictive legal instruments has fostered mass social isolation. The authorities' failure to ensure equality and justice for all citizens, regardless of gender, indicates a systemic degradation in the protection of human rights. An analysis of the UNAMA monitoring data provides strong empirical evidence to categorize these policies as a systematic attempt to erase women's active role from the structure of modern civilization in Afghanistan (Pritania et al., 2025). Ultimately, it must be recognized that if these practices persist, we are not merely witnessing the erosion of women's rights, but the systematic erasure of their identity from the very narrative of Afghan civilization.

A Dual Critique of Patriarchy and Educational Legitimacy from a *Maqasid* Perspective

The practice of 'gender apartheid' implemented by the Taliban is deeply rooted in a patriarchal construction, long critiqued by Fatima Mernissi as a form of historical and social distortion of Islamic teachings. Mernissi sharply exposes that policies marginalizing women's roles are often born from the desire of patriarchal elites to monopolize political power and religious narrative (Shodiqin & Risdayah, 2025). She emphasizes that many restrictions on women's roles in the public sphere, often misunderstood as Sharia, actually stem from misogynistic *hadiths* that require re-examination through a critical sociological and historical approach (Fahrudin & Ansari, 2019). In the Afghan context, the Taliban are not merely enforcing law; they are engaging in 'historical engineering' by selectively choosing texts to support the entrenchment of patriarchal structures. Within their policies, this patriarchal narrative is manipulated to marginalize women's positions, which, in Mernissi's view, represents an effort by patriarchal elites to maintain their power structures by

limiting women's access to political space and religious discourse (Ahmad et al., 2025).

Furthermore, Jasser Auda's systemic approach to *Maqasid Syariah* challenges the validity of the Taliban's policies, as they fail to satisfy the principles of justice (*al-'adl*) and human dignity (*al-karamah al-insaniyyah*) (Jasser Auda, 2008). Departing from rigid, legalistic perspectives, Auda views Islamic law as a system that must be inherently dynamic and teleological. Within Auda's framework, Sharia should be oriented toward social transformation (*taṭawwur*) and universal justice. In this context, the protection of intellect (*hifz al-aql*) necessitates equal access to education for both men and women as a crucial element in achieving the common good (*maslahah*) (Jasser Auda, 2008). For Auda, education is not a mere privilege that can be arbitrarily granted or revoked, but a fundamental instrument for safeguarding the existence and dignity of human intellect.

The suppression of women's participation, as enforced by the Taliban regime, constitutes a serious violation of *Maqasid Syariah* values, as it obstructs the protection of the intellectual potential and dignity of half of the nation's population (Siagian et al., 2025). Employing Auda's perspective, it is evident that Taliban policies represent a fatal regression that undermines the hierarchy of *Maqasid* values. When education is denied, the fundamental right to think and develop (*hifz al-aql*) is disregarded; this automatically compromises the principle of *hifz al-nasl* (protection of progeny), as future generations are deprived of guidance and upbringing from educated women. Such impacts demonstrate that these policies are, in essence, antithetical to the objectives of *Sharia* that uphold human well-being.

The author posits that the Taliban's approach is a regressive maneuver that stifles the dynamics of humanity. *Sharia*, which was inherently revealed as a mercy to all creation, is being misused to perpetuate a repressive, authoritarian rule. Fundamentally, it is difficult to perceive how this policy can ensure long-term social stability if the authorities consistently disregard the principles of human dignity guaranteed by *Sharia* itself. As long as the authorities continue to deny women access to education, they are actively eroding the sociological foundations and the future of their own nation. The widening gap between the rhetoric of a 'Sharia state'

and the oppressive empirical reality will ultimately trigger a profound crisis of legitimacy, both in the eyes of the international community and the Afghan people themselves.

The Erosion of Humanity: The Systemic Impact of Erasing Women's Agency

The ban on education for girls, enforced by the Taliban since 2021, has deprived millions of children of the opportunity to pursue secondary education (UNICEF, 2024). This figure is not merely statistical data; it represents the loss of an entire generation deprived of the right to shape their own future. The implications of these restrictions extend beyond individual rights, as the policy systematically dismantles the continuity of women's professions, risking the loss of tens of thousands of female teachers and healthcare workers by 2030 (Xinhua, 2026). The author contends that the loss of these educators and healthcare professionals constitutes an incalculable cost, as we are witnessing a state-led process of intellectual impoverishment imposed upon its own citizens.

Sociologically, this exclusion not only deprives women of their fundamental rights but also threatens the nation's economic foundations and social welfare (Almusyarofah et al., 2025). The author observes that the Taliban is actively fostering an environment of intentional structural poverty. By barring women's participation in the workforce, the regime not only forfeits potential economic productivity but also undermines the family structure, wherein women serve as the primary educators for the next generation. This situation is profoundly ironic while the regime claims to be building a society based on Islamic values, it simultaneously severs the chain of knowledge transmission, which is the cornerstone of societal well-being (*maslahah*) itself.

Furthermore, these actions constitute a blatant violation of Afghanistan's international obligations under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (Almusyarofah et al., 2025). This transgression is not merely a matter of international law, but a profound affront to the universally recognized dignity of humanity. The Taliban regime's failure to guarantee access to education and employment for women has transformed the social order into a lopsided society, in which half of the population is deprived of the agency to contribute to national development (*Laporan PBB: Hak-Hak*

Perempuan Afghanistan Makin Berkurang, 2025). To the author, the regime's choice to prioritize international isolation over providing space for women demonstrates that their priority is not the nation's progress, but rather the preservation of absolute control at the expense of its people's suffering.

This situation has engendered what may be described as a 'crisis of dignity,' wherein the Afghan population despite enjoying post-conflict security stability is unable to lead a life protected by duly recognized fundamental rights (*Laporan PBB: Hak-Hak Perempuan Afghanistan Makin Berkurang*, 2025). The security stability so often touted by the de facto authorities becomes irrelevant when the citizens themselves, particularly women, feel as though they are 'prisoners' in their own homes. The author contends that stability predicated solely upon the absence of physical conflict, without an accompanying respect for humanity, is both fragile and illusory. The order they enforce is merely a facade for profound injustice, which is gradually eroding the public's sense of justice and their trust in the state.

This situation has plunged Afghanistan into a genuine intellectual emergency. By consciously stifling the potential of its women, the state is, in effect, committing a form of sociological 'suicide.' We are witnessing a slow-motion destruction of the future, in which young girls are stripped of their right to dream and to contribute to the nation. In the author's view, without meaningful intervention, Afghanistan will not only lose essential professionals such as teachers and doctors, but it will also forfeit the very human spirit that has long served as the primary pillar of the nation's continuity.

Moderate Islamic Diplomacy and Inclusive Ijtihad as a Counter-Narrative

In confronting the dominance of gender extremism masquerading as Sharia, the urgency of building a counter-narrative through moderate Islamic diplomacy has become a crucial step (Nurmila, 2021). The Taliban's ability to monopolize religious discourse stems, in part, from the absence of alternative voices possessing strong theological authority. The author contends that the intellectual involvement of moderate Muslims, particularly from Indonesia, is essential to act as an 'honest broker' capable of offering an inclusive perspective of Islam that is conducive to women's rights (Amarilisyaringtyas, 2020). The application of an inclusive ijtihad model that integrates Maqasid al-Sharia has proven to be an effective instrument

for challenging the authoritarian legitimacy long employed by the regime in Afghanistan (Ramadhani, 2022). This strategy is not merely rhetorical but represents a earnest theological effort to restore Islam to its essence, which is inherently liberating and upholds human dignity.

One urgent step that must be taken is the development of technology-based education, such as virtual madrasas, designed to reach Afghan women who are now isolated from formal educational spaces (Hein, 2025). The use of alternative media such as the *mubadalah.id* platform serves as a concrete illustration of how counter-narratives against patriarchal practices can be disseminated effectively in the digital era to provide a platform for women's experiences (Khairani et al., 2021). The author maintains that virtual education is no longer merely an alternative; rather, it has become the final line of defense to ensure that the intellectual spirit of Afghan women is not extinguished amidst the systematic efforts to stifle their potential.

The role of Indonesian diplomacy is highly strategic, given that Indonesia's credibility as a democratic, Muslim-majority nation demonstrates that gender equality and Sharia can coexist harmoniously (Talmullah et al., 2024). Financial and technical support for human resource development for Afghan women must be continuously expanded, with a focus on sustainable empowerment and advocacy rooted in transnational feminism (Talmullah et al., 2024). The author believes that Indonesia's active engagement can provide a tangible 'theological inspiration', demonstrating that Islam, in various corners of the globe, is capable of progressing by honoring women's dignity as equals without sacrificing its core Islamic identity.

This reconstruction of inclusive *ijtihad* is, in essence, an endeavor to liberate Islamic teachings from the grip of the authoritarianism that hinders the advancement of civilization (Almusyarofah et al., 2025). When progressive fatwas are communicated widely through various digital channels, they will gradually erode the claim to singular truth that has been promulgated by the Taliban. A feminist approach to Islamic studies encompassing a critical analysis of both sacred texts and tradition must be integrated into this strategy to provide a foundation for broader social reform (Ramadhani, 2022). The author asserts that this narrative must be articulated in language accessible to the general public, ensuring that the

message that 'Islam honors women' does not remain a hollow slogan, but becomes a living reality that continues to be collectively championed.

In sum, the struggle against the practice of gender apartheid is not merely a matter of political diplomacy, but a fight for the very essence of Islamic values. The author argues that authentic Islam is one that exists to liberate, not to oppress. If we are capable of mobilizing the collective strength of Muslim scholars at the global level to consistently advocate for this inclusive *ijtihad*, we are laying the groundwork for a future where Afghan women are not only entitled to live but also empowered to dream and contribute fully to humanity.

CONCLUSION

This study asserts that the gender apartheid policy enforced by the de facto Taliban authorities in Afghanistan is not merely a collection of discriminatory actions confined to specific sectors, but rather a systemic restructuring aimed at eradicating women's active roles through the distortion of Sharia interpretation. Through a critical analysis that integrates the 'dual critique' framework of Fatima Mernissi and the systemic *Maqasid al-Sharia* framework of Jasser Auda, it can be concluded that the Taliban's actions represent an archaic form of patriarchy cloaked in religious rhetoric. Fundamentally, this policy stands in stark opposition to the principles of justice (*al-'adl*) and human dignity (*al-karamah al-insaniyyah*) that are held in the highest regard within Islamic teachings.

Monitoring data from UNAMA throughout 2025 provides robust empirical evidence that these policies have triggered a profound humanitarian crisis. The loss of access to education and public spaces does not merely deprive women of their fundamental rights as individuals; it also precipitates an intellectual and sociological regression that threatens Afghanistan's future as a nation. With the interruption of the next generation of female professionals and the closure of avenues for them to contribute to social development, Afghanistan is currently undergoing a process of civilizational decline that risks inflicting long-term adverse consequences on future generations.

Therefore, the effort to build a counter-narrative through moderate Islamic diplomacy and inclusive *ijtihad* is an urgent imperative. This counter-narrative

must be reinforced by leveraging virtual educational technology and sustained advocacy involving global Muslim scholars, with the aim of demonstrating that authentic Islamic teachings serve as a liberating force, rather than a tool for oppression. Inclusive diplomacy, such as that initiated by various intellectual actors including the strategic role played by Indonesia must serve at the forefront of efforts to erode the claims of singular truth long propagated by groups driven by gender extremism.

In conclusion, the author emphasizes that the struggle against these policies is, fundamentally, a fight for the very essence of Islamic values. Success in restoring the rights of women in Afghanistan will not only restore their dignity as citizens but will also reclaim the image of Islam as a rahmatan lil-alamin a blessing for all creation that consistently upholds the values of justice and equality. The future of Afghanistan now depends on our collective courage to challenge authoritarian interpretations and to reconstruct a space where every individual, regardless of gender, has equal opportunity to dream, contribute, and live a life of dignity in accordance with universal humanistic principles.

REFERENCES

- Ahmad, N. M., Anam, S., & Aisyi, H. R. (2025). Kritik Narasi Misoginis : Analisis Pemikiran Fatima Mernissi tentang Hadis dan Kuasa Perempuan. *Iklila : Jurnal Studi Islam Dan Sosial*, 8(1). <https://doi.org/10.61941/iklila.v8i1.347>
- Almusyarofah, S. F., Zunnuraeni, & Apriliana, A. N. R. (2025). Pembatasan Hak Pendidikan Pada Perempuan Di Afghanistan Berdasarkan Convention On The Elimination Of All Forms Of Discrimination Against Women. *Mataram Journal of International Law*, 13(1).
- Amarilisyaringtyas, A. (2020). Perlawanan terhadap Marginalisasi Perempuan dalam Islam : Analisis Wacana Kritis pada Laman mubadalah . id. *Jurnal Komunikasi Islam*, 10(02).
- Fahrudin, & Ansari. (2019). Penolakan Hadis Misoginis (Telaah Pemikiran Fatima Mernissi dalam Hermeneutika Hadis). *An-Nur: Jurnal Studi Islam Volume*, 11(2), 1–22.
- Hein, S. von. (2025). *Afghanistan: Girls want to learn despite Taliban school ban*. <https://www.dw.com/en/afghanistan-girls-want-to-learn-despite-school-ban/a-74033909>
- Jasser Auda. (2008). *Maqasid Al-Shariah As Philosophy Of Islamic Law A Systems Approach*. the international institute of islamic thought.
- Khairani, I., Sadiyahunnimah, S., & Djafar, T. B. M. (2021). The Role Of Counter-

- Patriarchy Media Mubadalah.Id In Supporting The Elimination Of Sexual Violence Bill Ratification. *JSPS : Journal of Social Political Sciences JSPS*, 2(4), 381–395.
- Laporan PBB: Hak-hak Perempuan Afghanistan Makin Berkurang. (2025). Voice of America Indonesia. <https://www.voaindonesia.com/a/laporan-pbb-hak-hak-perempuan-afghanistan-makin-berkurang/8006223.html>
- Mernissi, F. (1991). *The Veil and the Male Elite: A Feminist Interpretation of Women's Rights in Islam*. Addison-Wesley Publishing Company.
- Nurmila, N. (2021). The Spread Of Muslim Feminist Ideas In Before and After the Digital Era. *Al-Jāmi'ah: Journal of Islamic Studies*, 59(1), 97–126. <https://doi.org/10.14421/ajis.2021.591.97-126>
- Pritania, N., Nasir, M., Putra, J. S., & Hussin, N. I. (2025). Gender Apartheid In Afghanistan: Analysis Discrimination Against Women's Rights Under The Taliban Regime (2021-2023). *Musāwa Jurnal Studi Gender Dan Islam*, 24(1), 89–103.
- Ramadhani, F. E. (2022). Pendekatan feminis dalam studi islam. *Jurnal El-Hamra : Kependidikan Dan Kemasyarakatan*, 7(3), 41–52.
- Shodiqin, A., & Risdayah, E. (2025). Strategi Pemberdayaan Perempuan dalam Masyarakat Islam : Studi Wacana Kritis Pemikiran Fatima Mernissi dalam Buku Beyond The Veil. *Bayt Al Hikmah*, 1(1), 54–65.
- Siagian, N. I., Rahmawati, A., & Hasan, T. I. (2025). Keadilan Gender dalam Maqasid Al- Syari ' ah : Pendekatan Feminisme Islam. *Aufklarung: Jurnal Pendidikan, Sosial Dan Humaniora*, 5(2), 1–5.
- Talmullah, A. Z., Situmeang, N., & Nasir, A. K. (2024). Relevansi Feminisme Dalam Isu Kontemporer: Kehadiran Un Women Dalam Pemberdayaan Perempuan Dan Manusia Di Afghanistan. *MANDALA : Jurnal Hubungan Internasional Kemajuan*, 07(01).
- UNICEF. (2024). The Costs of Inaction on Girls ' Education and Women ' s Labour Force Participation in Afghanistan. *UNICEF*, 1–16.
- United Nations Assistance Mission in Afghanistan. (2025a). *Afghanistan: Taliban restrictions on women's rights intensify*.
- United Nations Assistance Mission in Afghanistan. (2025b). *Update on the human rights situation in Afghanistan : April-June 2025 Update*. https://unama.unmissions.org/sites/default/files/english_-_unama_hrs_update_on_human_rights_in_afghanistan_april-june_2025_final.pdf
- Xinhua. (2026). *Afghanistan berisiko kehilangan 25.000 guru dan nakes perempuan per 2030*. Indonesia Window. <https://indonesiawindow.com/afghanistan-berisiko-kehilangan-25000-guru-dan-nakes-perempuan-per-2030>