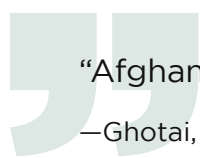


# ARTICLE 4

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.
2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.



“Afghanistan has become the graveyard of buried hopes.”

—Ghotai, a young woman computer science student in Baghlan, Afghanistan<sup>1</sup>

“I had a job before. I had bread and peace. I am now under house arrest... I raised my voice against the policies of the Taliban to save Afghan women from this crisis. I have been subjected to physical violence and threats many times. I am currently living in hiding because of these threats, because I have criticized their policies in the media and social networks.”

—Arefa, a teacher and midwife in Farah, Afghanistan<sup>2</sup>

## Introduction

Article 4 of CEDAW addresses two key categories of special measures intended to promote gender equality: (1) temporary special measures aimed at accelerating the attainment of substantive equality between men and women, and (2) measures related to maternity protection. These provisions explicitly state that such measures shall not be regarded as discriminatory. Rather, they are corrective tools designed to redress systemic and historical inequalities that hinder women’s full participation in various sectors, including politics, education, and employment. Temporary special measures—such as affirmative action initiatives, quota systems, and targeted development programs—are considered necessary to overcome entrenched disparities. Their application is intended to be time-bound

and should be discontinued once their intended objectives are fulfilled.

In addition, Article 4 recognizes the importance of safeguarding women’s rights during maternity. It emphasizes that maternity should be viewed as a social function and underscores the need for appropriate protections to enable women to balance professional and family responsibilities. Such measures may include paid maternity leave, access to social security benefits, childcare support services, and equitable access to healthcare during and after pregnancy. These protections are considered essential to ensuring that maternity does not serve as a barrier to women’s full participation in economic and public life.<sup>3</sup>

Positive discrimination or affirmative action measures are present in Article 83 of the 2004 Constitution.

Article 83 institutes a quota system to help ensure women's political representation, with two women to be elected from each of the 34 provinces, meaning that approximately 25 percent of seats in the lower house of parliament (Wolesi Jirga) are reserved for women, and 17 percent of seats in the upper house (Meshrano Jirga) reserved for women. The electoral law requires that at least 20 percent of seats in every Provincial, District, and Village Council should be reserved for women candidates.<sup>4</sup>

The constitutional quota requirements significantly increased Afghan women's representation in Afghanistan's parliament, quickly surpassing the rate of women's participation in Western countries, including the United States. Millions of Afghan women registered and voted in the 2004 Presidential elections, and women continued to run for public office and to vote in the Presidential elections of 2009, 2014, and 2019.

In 2008, the government's "National Policy on Gender Mainstreaming," "National Action Plan for the Women of Afghanistan (2008–2018)," and the "Afghanistan National Development Strategy," all committed to efforts to reach a goal by 2020 of promoting gender equality; women holding 30 percent of civil services positions; that all government ministries and independent departments would have a minimum of 30 percent

of women on their staff; and increasing women's role in the Afghan National Defense and Security Forces. Women were appointed to ministerial roles, held governorships, and were elected members of parliament and provincial and local councils.

However, due to strong, conservative patriarchal approaches and norms, widespread lack of public awareness of women's rights and capabilities, and men harassing, discriminating against, marginalizing, and at times threatening women who entered politics, Afghan women struggled to fully realize their rights and capacities. Social, cultural, and institutional barriers to women's political and civil participation were amplified in rural areas.<sup>5</sup>

Upon coming to power in August 2021, the Taliban have rejected the 2004 constitution, sought to invalidate national laws that addressed violence against women and girls in its many forms, and dismantled all affirmative action policies that sought to help girls and women achieve equality with boys and men. As this report comprehensively details, the actions of the Taliban have sought in nearly every facet of public and private life to discriminate against and violate the rights of girls and women guaranteed by CEDAW.

1 UNWomen. *In Focus: After August – Voices of Afghan Women Two Years After the Taliban Takeover*. August 12, 2023, np. <https://www.unwomen.org/en/news-stories/in-focus/2023/08/in-focus-after-august-voices-of-afghan-women-two-years-after-the-taliban-takeover>.

2 UNWomen. *In Focus: After August – Voices of Afghan Women Two Years After the Taliban Takeover*. August 12, 2023, np. <https://www.unwomen.org/en/news-stories/in-focus/2023/08/in-focus-after-august-voices-of-afghan-women-two-years-after-the-taliban-takeover>.

3 Schulz, Patricia, Ruth Halperin-Kaddari, Beate Rudolf, and Marsha A. Freeman, eds. *The UN Convention on the Elimination of All Forms of Discrimination Against Women and its Optional Protocol: A Commentary*. Oxford University Press, 2023.

4 Mosamim, Parwiz, and Jean-Patrick Villeneuve. 2023. "Women in Government: The Limits and Challenges of a Representative Bureaucracy for Afghanistan (2001–2021)." *Policy Studies* 44 (6): 703–27. doi:10.1080/01442872.2022.2161499.

5 Mosamim, Parwiz, and Jean-Patrick Villeneuve. 2023. "Women in Government: The Limits and Challenges of a Representative Bureaucracy for Afghanistan (2001–2021)." *Policy Studies* 44 (6): 703–27. doi:10.1080/01442872.2022.2161499.