



**COUNCIL FOR INTERNATIONAL RELATIONS & INTERNATIONAL LAW &  
LAW AND SOCIETY COMMITTEE,  
NATIONAL LAW SCHOOL OF INDIA UNIVERSITY, BANGALORE**

*presents a panel discussion on*

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**CONSTITUTION MAKING AND INTERNATIONAL LAW –  
THE UN’S ROLE & EFFECT IN AFGHANISTAN UNDER TALIBAN?**

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The Taliban’s return to power in Afghanistan has sparked debates about the legitimacy of the regime and the ‘*constitutionalization*’ thereof. This exercise in constitutionalism will inevitably shape Afghanistan’s approach towards humanitarian law, refugee law and the international aid mechanism. Owing to the significant impact this may have in the region, the United Nations’ interest in the same cannot be overstated; the formation of a stable legal and political framework in the war-torn region could be one way in which this interest manifests.

The proposed panel discussion seeks to explore the UN’s role in this process and the potential impact it can have on the future of Afghanistan. To this effect, the discussion is expected to cover the following broad themes:

**CONSTITUTION-MAKING IN AFGHANISTAN**

The Taliban recently announced the eventual adoption of provisions from the 1964 Constitution, insofar as they are in accordance with Sharia law. The 1964 Constitution granted the freedom of religion, thought, and expression to men and women, alongside universal suffrage. Unfortunately, to date, the Constitution is considered a political failure and a crushed social experiment. Conversely, the westernized Constitution of 2004 – favoring Eurocentric democratic instruments and decentralization of power – has been declared illegal by the Taliban. The Constitution making effort in Afghanistan therefore requires careful balancing between liberties and the interests of the apparently authoritarian regime.

**A REFUGEE CRISIS IN THE MAKING?**

The coup has aggravated the already severe, pandemic induced humanitarian crisis that Afghanistan faces with mounting food insecurities and mass displacement. The potential refugee crisis can be discerned from the sights at the Kabul airport soon after the Taliban’s claim to state

power. The UNHCR has estimated that around 270,000 people have been recently displaced in the region, bringing the total displaced population to more than 3.5 million. Public-spirited civilians with a history of human rights activism face the most dreadful threat at the hands of the newly empowered Taliban. Fearing persecution and atrocities, past government workers, minorities and women form a significant part of the population who will be left seeking refuge in neighboring countries. With the Taliban blocking such an exodus and the principle of non-refoulement obligating neighboring nations to grant asylum to these refugees – the viability of the Refugee Convention of 1951 to deal with the crisis comes under question.

The discussion will look into whether and how the UN will apply the Convention, or act proactively to prevent the crisis before it materializes.

### **THE HUMAN RIGHTS DEBATE**

This conference will further deliberate upon the responsibility of institutions like the UN to ensure that withdrawal of the US forces does not lead to reinforcement of the state-sponsored violence and silencing of women's rights. International agencies like the World Bank, have functioned as principal channels for providing urgent assistance to humanitarian aid in Afghanistan – whilst also enforcing global standards of human rights in other authoritarian regimes. Therefore, negotiations with the Taliban must include securing human rights obligations, amnesty for Afghan government workers, and absolute intolerance to harboring terrorist groups – as a start.

The Taliban's assurances about honoring the rights of women within the tenets of Islam are without any certainty or enforcement mechanism. How the UN may emerge as the enforcer of such rights is a significant point for discussion; to what extent such enforcement via aid-negotiations serves the cause of legitimizing and recognizing the Taliban 'government' may also serve as an interesting counterpoint to this debate.

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The **Law and Society Committee** and the **Council for International Relations and International Law, National Law School of India University** look forward to hosting academics, diplomats, practitioners, journalists and policy advisors to comment on the above subjects.

The tentative date for the talk is on **24<sup>th</sup> October 2021** (United Nations Day).