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3.16.3. Child labour and trafficking in children

COMMON ANALYSIS
Last update: May 2024

COI summary

The previous government of Afghanistan ratified all key international conventions concerning child labour and trafficking, and established its own laws and regulations, adopting its first Child Rights Protection law in 2019. However, the law had been blocked due to a disagreement over 'the definition of a child as under-18', which has been seen as a contravention to the sharia [KSEI 2020, 2.2.5., p. 35; Security 2020, 1.4.5., p. 49].

It remains unclear what the applicable legal framework is following the Taliban takeover, including with regard to children's rights [Security 2022, 1.2.3., p. 29]. As reported by USDOS in April 2022, the Taliban had not expressed any intention to change existing labour laws and had not yet commented on child labour. The source further mentioned children being forced to work under threat of physical violence from their families and boys being sent to work in neighbouring Iran [KSEI 2022, 8.3., p. 61]. Based on a nationwide household survey (conducted between April and September 2022), the UNDP assessed that more than 850 000 households had sent their children to work and almost 80 000 had married off girls earlier than intended [Country Focus 2023, 2.5., p. 49].

Poverty is reported to be a driving factor for child labour and several sources noted an increase in child labour in Afghanistan. According to one report, in Charikar alone, the capital of Parwan province, more than 1 700 children were engaged in forced labour and more than 100 of them were homeless. Up to 20 % of Afghan families were reportedly forced to put their children to work as incomes had fallen dramatically and an estimated one million children were now engaged in child labour in the first six months after the Taliban takeover. Boys and children living in rural areas are reported to be generally more likely to be affected by child labour than girls and children living in urban areas. Another report noted that 'twice as many boys as girls are engaged in work outside the home, while girls are mostly confined to work in their homes, rendering them invisible and thus more difficult to assess' [KSEI 2022, 8.3., p. 62].

UN experts stated that restrictions imposed by the Taliban against women and girls increased the 'risk of exploitation of women and girls including of trafficking for the purposes of child and forced marriage as well as sexual exploitation and forced labour' [KSEI 2022, 8.4., pp. 62-63].

The trafficking of Afghan children reportedly increased since the Taliban takeover. There have been multiple recent reports of boys being smuggled across the Iranian and Pakistan borders, and of incidents of sexual violence against them committed by paid 'guides'. In a report on child labour in Afghanistan published in September 2021, the US Department of Labour reported that children were subjected to trafficking in human beings both domestically and internationally, and that boys migrating unaccompanied were particularly vulnerable to trafficking in human beings, including for agricultural and construction work. There were reports of children being trafficked as a means of paying off their families' debts [KSEI 2022, 8.4., p. 63].

Conclusions and guidance

Do the acts qualify as persecution under Article 9 QD?

Trafficking in children amounts to persecution.

Not all forms of child labour would amount to persecution. An assessment should be made in light of the nature of the work and the age of the child. Work that is likely to harm the health, safety or morals of children could be considered to reach the severity of persecution10. Being a child is to be taken into account in the assessment on whether an act reaches the threshold of persecution.

The impact of child labour on access to education should also be taken into account. Other risks, such as involvement in criminal activities and trafficking should also be considered.

What is the level of risk of persecution (well-founded fear)?

The individual assessment of whether there is a reasonable degree of likelihood for the child to face persecution in the form of trafficking and/or child labour should take into account risk-impacting circumstances, such as: age, gender, socio-economic status of the child and the family, family status, etc.

Are the reasons for persecution falling within Article 10 QD (nexus)?

The individual circumstances of the child need to be taken into account to determine whether a nexus to a reason for persecution can be substantiated in relation to the risk of trafficking in children and/or child labour.

See other topics concerning children:

- 3.16.1. Violence against children
- 3.16.2. Child recruitment
- *3.16.3. Child labour and child trafficking*
- 3.16.4. Children without a support network in Afghanistan

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  International Labour Organization (ILO), Minimum Age Convention, C138, 26 June 1973, available at http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138
  Worst Forms of Child Labour Convention, C182, 17 June 1999, available at http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182

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