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3.17. LGBTIQ persons

COMMON ANALYSIS
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This profile refers to persons who are perceived as not conforming to religious and/or social norms because of their sexual orientation and/or gender identity, including the treatment of lesbian, gay, bisexual, trans, non-binary, intersex and queer (LGBTIQ) individuals. However, it should be noted that specific information on some of the relevant sub-profiles was not available in the COI reports used for the purpose of this analysis.

For issues related to the practice of *bacha bazi*, which is not considered homosexuality in Afghan society, please see 3.16.1. Violence against children.

COI summary

In Afghan society, sexuality is not a concept that is generally discussed. Therefore, little information can be obtained about LGBTIQ individuals and their position in society [Society-based targeting, 4, p. 62]. Moreover, 'documenting killings of people suspected of being LGBT' have become 'especially difficult' as people who knew the victims either feared or were too ashamed to report [Targeting 2022, 11.3, p. 184].

Same-sex activity is punishable with death under the sharia and incidents of physical violence against LGBTIQ individuals had been reported under the former Afghan government [Society-based targeting, 4.1, pp. 62-64].

On 29 October 2021, a Taliban spokesman stated that human rights will be respected within the framework of Islamic law, but this does not include LGBTIQ rights as that is against sharia [Country Focus 2022, 2.10, p. 56]. In January 2022, Human Rights Watch reported that the Taliban 'echoed the previous government's support for the criminalisation of same-sex relations', with some Taliban leaders 'vowing to take a hard line' against the rights of the 'LGBT' persons. According to a manual issued by the Taliban in 2020 and revised in February 2021, same-sex relations were prohibited, while 'strong allegations' of homosexuality were to 'be reported to the ministry's district manager for further action, presumably punishment' [Targeting 2022, 11.1, p. 181].

Targeting and extrajudicial punishment by (then) insurgent groups had also taken place in the past and after the recent takeover of Taliban. Following the takeover, members of the LGBTIQ community reportedly lived in fear, many went into hiding and wanted to flee out of fear for their lives. Some transwomen reportedly felt forced to grow beards to hide their gender identity, and lesbian women were under pressure to act 'more feminine' [Targeting 2022, 11.1, p. 182].

LGBTIQ individuals were reported to have faced targeting by the Taliban, including attacks, direct threats, arrests, detentions, torture, killings, sexual assaults, and rapes. There were also allegations of street attacks on LGBTIQ persons and threats received over the phone. Dozens of cases of harassment, beatings, burning, and killings of young LGBTIQ people were documented since the takeover [Targeting 2022, 11.3, pp. 184-185].

Although killings involving LGBTIQ Afghans could not be 'independently verified', sources reported on allegations of the beheading of a gay man and noted that a gay man had allegedly been killed by the Taliban after 'gay material' was found on his mobile phone during a checkpoint search. It was reported that the Taliban were 'very harsh' at checkpoints and some transgender people were beaten and detained for hours. It was also said that queer individuals were tortured by the Taliban when they identified them after checking their phone at a checkpoint [Targeting 2022, 11.1, p. 183; 11.3, p. 184].

There were also claims that the Taliban had a 'kill list' of LGBTIQ individuals and that they seemed to complement these lists through data leaks and entrapment. For example, individuals had reportedly received emails asking for personal data and claiming to be connected with a LGBTIQ organisation. It was also said that Taliban were attempting to trick gay men by contacting them on social media and offering ways to escape from Afghanistan [Country Focus 2022, 2.10, p. 55].

After the takeover, attacks on LGBTIQ people by family members, neighbours, and members of general society have also reportedly increased. LGBTIQ individuals were facing threats from family members, neighbours, acquittances, romantic partners, and online contacts. Many LGBT people were reportedly mistreated by their families and lived in fear of their neighbours. Beatings by neighbours were also reported. There were also claims that neighbours and family members of some LGBTIQ people reported them to the Taliban. Many LGBT Afghans reportedly conformed to societal expectations and married an opposite-sex partner and had children because they wanted to maintain ties with their families. Lesbian women were reportedly forced into engagement or marriage. It was also reported that transgender persons were abandoned by their families and rejected by the Afghan society. At the same time, the previously existing support network of LGBTIQ people 'largely disintegrated' as the members of the community either fled Afghanistan or went into hiding [Targeting 2022, 11.2, pp. 183-184].

Although Afghanistan has traditions of a 'third gender', where individuals identify outside categories of male and female, these people are not legally recognised and function only at the margins of society [Society-based targeting, 4.2.1, p. 66].

Conclusions and guidance

Do the acts qualify as persecution under Article 9 QD?

Acts reported to be committed against individuals under this profile are of such severe nature that they amount to persecution (e.g. rape, execution, killings). Persecution could be by the Taliban or other armed groups, as well as by the family and/or the society in general, as there is a low societal tolerance in Afghanistan for individuals with sexual orientation or gender identities deviating from the ‘norm’.

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

For individuals under this profile, well-founded fear of persecution would in general be substantiated.

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

Available information indicates that the persecution of this profile is highly likely to be for reasons of membership of a particular social group, based on a shared characteristic or belief that is so fundamental to the identity of the applicant, that he or she should not be forced to renounce it, and based on their distinct identity in Afghanistan, because they are perceived as being different by the surrounding society.

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