



Home Office

# **Country Policy and Information Note** **Afghanistan: Unaccompanied children**

**Version 1.0**

**April 2018**

# Preface

## Purpose

This note provides country of origin information (COI) and analysis of COI for use by Home Office decision makers handling particular types of protection and human rights claims (as set out in the [basis of claim](#) section). It is not intended to be an exhaustive survey of a particular subject or theme.

It is split into two main sections: (1) analysis of COI; and (2) COI. These are explained in more detail below.

## Analysis

This section analyses the evidence relevant to this note – i.e. the COI section; refugee/human rights laws and policies; and applicable caselaw – by describing this and its inter-relationships, and provides an assessment on whether, **in general**:

- A person is reasonably likely to face a real risk of persecution or serious harm
- A person is able to obtain protection from the state (or quasi state bodies)
- A person is reasonably able to relocate within a country or territory
- Claims are likely to justify granting asylum, humanitarian protection or other form of leave, and
- If a claim is refused, it is likely or unlikely to be certifiable as ‘clearly unfounded’ under section 94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers **must**, however, still consider all claims on an individual basis, taking into account each case’s specific facts.

## Country of origin information

The country information in this note has been carefully selected in accordance with the general principles of COI research as set out in the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the Austrian Centre for Country of Origin and Asylum Research and Documentation’s (ACCORD), [Researching Country Origin Information – Training Manual, 2013](#). Namely, taking into account the COI’s relevance, reliability, accuracy, balance, currency, transparency and traceability.

The structure and content of the country information section follows a [terms of reference](#) which sets out the general and specific topics relevant to this note.

All information included in the note was published or made publicly available on or before the ‘cut-off’ date in the country information section. Any event taking place or report/article published after this date is not included.

All information is publicly accessible or can be made publicly available, and is from generally reliable sources. Sources and the information they provide are carefully considered before inclusion.

Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information, and
- whether the COI is consistent with and/or corroborated by other sources.

Multiple sourcing is used to ensure that the information is accurate, balanced and corroborated, so that a comprehensive and up-to-date picture at the time of publication is provided of the issues relevant to this note.

Information is compared and contrasted, whenever possible, to provide a range of views and opinions. The inclusion of a source, however, is not an endorsement of it or any view(s) expressed.

Each piece of information is referenced in a brief footnote; full details of all sources cited and consulted in compiling the note are listed alphabetically in the [bibliography](#).

## Feedback

Our goal is to continuously improve our material. Therefore, if you would like to comment on this note, please email [the Country Policy and Information Team](#).

## Independent Advisory Group on Country Information

The [Independent Advisory Group on Country Information](#) (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to support him in reviewing the efficiency, effectiveness and consistency of approach of COI produced by the Home Office.

The IAGCI welcomes feedback on the Home Office's COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. The IAGCI may be contacted at:

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Information about the IAGCI's work and a list of the documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's pages of the [gov.uk website](#).

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# Analysis

Updated: 16 March 2018

## 1. Introduction

### 1.1 Basis of claim

1.1.1 Fear of persecution or serious harm as an unaccompanied child by state actors, anti-government elements (AGEs), or by wider society due to their vulnerability as a minor without adult male support.

### 1.2 Points to note

1.2.1 Full consideration of the child's asylum claim must take place before consideration is given to any other forms of leave.

1.2.2 A decision on whether a child faces a risk of serious harm or persecution should be based on their individual circumstances and the country situation at the time of the decision.

1.2.3 For general guidance on processing children's asylum claims, see the [Asylum Instruction on Children's asylum claims](#).

1.2.4 For further analysis and information on:

- AGEs, see the Country Policy and Information Note on [Afghanistan: fear of anti-government elements](#).
- the security and humanitarian situation, see the Country Policy and Information Note on [Afghanistan: Security and humanitarian situation](#).
- the situation of women and girls, see the Country Policy and Information Note on [Afghanistan: women fearing gender-based harm/violence](#).
- the situation of Afghan's perceived as 'Westernised', see the Country Policy and Information Note on [Afghanistan: Afghan's perceived as "Westernised"](#).

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## 2. Consideration of issues

### 2.1 Credibility

2.1.1 For guidance on assessing credibility, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#) and the [Asylum Instruction on Children's asylum claims](#).

2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).

2.1.3 Decision makers should also consider the need to conduct language analysis testing (see the [Asylum Instruction on Language Analysis](#)).

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## 2.2 Particular social group

- 2.2.1 In the reported decision of [LQ \(Age: immutable characteristic\) Afghanistan \[2008\] UKAIT 00005](#) the Asylum and Immigration (AIT) Tribunal concluded that a person's age was an immutable characteristic so that children from Afghanistan constituted "a particular social group" for the purposes of Article 1A (2) of the Refugee Convention. The Tribunal concluded that since the appellant was an orphan and in view of the conditions pertaining in Afghanistan, the appellant in that case would be exposed to the risk of persecution by reason of his membership of the "particular social group".
- 2.2.2 The Court of Appeal (England and Wales) in [HK \(Afghanistan\) & Ors v Secretary of State for the Home Department \[2012\] EWCA Civ 315](#) concurred with the AIT's findings in [HK & Ors \(minors, indiscriminate violence, forced recruitment by Taliban, contact with family members\) Afghanistan CG \[2010\] UKUT 378 \(IAC\)](#), that [LQ](#) is not to be regarded as any form of country guidance nor precedent for any general proposition that all children in Afghanistan form a particular social group irrespective of their particular family circumstances. It held that if the unaccompanied child has family to whom he or she can return, then [LQ](#) will be inapplicable.
- 2.2.3 Although unaccompanied children from Afghanistan with no family to return to form a PSG, this does not mean that establishing such membership is sufficient to be recognised as a refugee. The question to be addressed in each case is whether the particular child will face a real risk of persecution on return on account of their membership of such a group.
- 2.2.4 For further guidance on particular social groups, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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## 2.3 Family tracing and links with Afghanistan

- 2.3.1 In the reported case [JS \(Former unaccompanied child – durable solution\) \(Afghanistan\) \[2013\] UKUT 568 \(IAC\) \(29 August 2013\)](#), heard on 14 March 2013 and 25 June 2013, the Upper Tribunal held '...in practice, where the appellant has positively stated he does not want his family to be traced, has every incentive to mislead about his family history if advancing a false picture of events, and where in the absence of reliable data from the appellant the respondent would have no information with which to make tracing inquiries in Afghanistan, that it is improbable that a failure of the tracing duty is likely to be material' (paragraph 39).
- 2.3.2 The Court of Appeal held in [EU \(Afghanistan\) & Ors v Secretary of State for the Home Department \[2013\] EWCA Civ 32 \(31 January 2013\)](#), heard on 17 December 2012, that 'Unaccompanied children who arrive in this country from Afghanistan have done so as a result of someone, presumably their families, paying for their fare ... The costs incurred by the family will have been considerable, relative to the wealth of the average Afghan family. ... they [the family] are unlikely to be happy to cooperate with an agent of the Secretary of State for the return of their child to Afghanistan...' (paragraph 10). The Court dismissed EU's appeal on the grounds that there was no link between the Secretary of State's breach of duty to endeavour to trace his family and EU's claim to remain in this country (paragraph 22).

- 2.3.3 Evidence indicates that Afghan migrants usually maintain contact with their families in their home country but the quality of the contact may depend on how long the person has been abroad, if they lived in Afghanistan before they left the region, and whether their family still lives in Afghanistan (See [Family contacts and networks](#) and [Family tracing](#)).
- 2.3.4 For further guidance on tracing the family members of unaccompanied asylum seeking children see the [Asylum Instruction on Family Tracing](#) and [Asylum Instruction on Children's asylum claims](#).

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## 2.4 Assessment of risk

### a) On the basis of being a child

- 2.4.1 Simply being a child from Afghanistan does not of itself give rise to a well-founded fear of persecution for a Convention reason. The Court of Appeal considered unaccompanied children in [HK \(Afghanistan\) \[2012\]](#), and held 'The onus is on the asylum seeker to make good the asylum claim, and that applies to children as it does to adults' (paragraph 34).
- 2.4.2 In [LQ \(emphasis added\)](#), the Tribunal held that 'At the date when the appellant's status has to be assessed he is a child and although, assuming he survives, he will in due course cease to be a child, he is immutably a child at the time of assessment. (That is not, of course, to say that he would be entitled indefinitely to refugee status acquired while, and because of, his minority. **He would be a refugee only whilst the risk to him as a child remained**)' (paragraph 6).
- 2.4.3 In the case of [ST \(Child asylum seekers\) Sri Lanka \[2013\] UKUT 292 \(IAC\) \(25 June 2013\)](#), heard 30 April 2013, the Tribunal made clear findings that risk on return must be assessed as at date of decision; and this assessment cannot be negated by granting another form of leave to remain. The Tribunal held that 'It is clear that the grant of the status of refugee cannot be evaded by the respondent in effect saying that although there is a risk of ill-treatment today, the Secretary of State proposes to grant discretionary leave to remain until the risk has diminished. Where an asylum claim is determined substantive and the criteria for the status are met, there is a right to the status...' (paragraph 27).
- 2.4.4 Equally, the Court of Appeal held in [EU \(Afghanistan\) & Ors v Secretary of State for the Home Department \[2013\] EWCA Civ 32 \(31 January 2013\)](#), heard 17 December 2012, that '... to grant leave to remain to someone who has no risk on return, whose Convention rights will not be infringed by his return, and who has no other independent claim to remain here [...] is to use the power to grant leave to remain for a purpose other than that for which it is conferred' (paragraph 6).
- 2.4.5 [ST](#) held that any risk of serious harm that **might** happen to a child in his or her country of origin does not necessarily make that child a refugee (paragraph 22 – **emphasis added**).
- 2.4.6 In the case of [KA \(Afghanistan\) & Ors v Secretary of State for the Home Department \[2012\] EWCA Civ 1014 \(25 July 2012\)](#), the Tribunal considered 'the eighteenth birthday point':



[...] Although the duty to endeavour to trace does not endure beyond the date when an applicant reaches that age, it cannot be the case that the assessment of risk on return is subject to such a bright line rule. The relevance of this relates to the definition of a “particular social group” for asylum purposes. In DS, Lloyd LJ considered [LQ](#) (Age: immutable characteristic) Afghanistan [2008] UKAIT 00005 in which the AIT held that “for these purposes age is immutable”, in the sense that, although one’s age is constantly changing, one is powerless to change it oneself’ (para 18).

- 2.4.7 In the case of [ZH \(Afghanistan\) v Secretary of State for the Home Department \[2009\] EWCA Civ 470 \(07 April 2009\)](#), on eligibility for UASC Discretionary Leave, the Court of Appeal held that:

‘The mere fact that a child applicant for asylum falls within the policy of the Secretary of State is not in my judgment of itself sufficient to discharge the burden on the child applicant to demonstrate that he is at real risk, or there is a serious possibility that he will be persecuted if returned. The threshold for what amounts to persecution is relatively high, the policy sidesteps that difficulty by being broader in scope. The unaccompanied child does not have to demonstrate that he would be at real risk of persecution if returned to fall within the Secretary of State’s policy. All he has to demonstrate is that he is unaccompanied, that his parents cannot be traced and that adequate reception arrangements cannot be made for him. Thus the policy is plainly broader in scope for perfectly understandable policy reasons than the narrower definition of what amounts to refugee status. Thus it does not follow automatically, simply from the fact that a child falls within the Secretary of State’s broader policy, that there is a real risk or a serious possibility that that particular child’s basic human rights will be so severely violated that he will suffer what amounts to persecution’ (paragraph 10).

- 2.4.8 From 6 April 2013, the policy of granting UASC Discretionary Leave was replaced by UASC Leave under paragraph 352ZE of the Immigration Rules. For guidance on the UASC leave policy see the [Asylum Instruction on Children’s asylum claims](#).

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#### b) Societal treatment, including by AGEs

- 2.4.9 In addition to the general risks faced by adults, there may be particular risks to children, including: physical abuse, sexual abuse, trafficking, forced labour and disruption to their education (see [Violence against children](#), [Child labour](#) and [Education](#)).
- 2.4.10 Boys may be at risk of forced dancing and sexual exploitation (bacha bazi) – and may face criminal charges and detention as a result (see [Bacha bazi](#)); whilst girls may be at risk of illicit underage and/or forced marriage (see [Early and forced marriage](#)), and ‘honour’ killing (see the [Country Policy and Information Note Afghanistan: Women fearing gender-based violence](#), for information on ‘honour’ and ‘moral crimes’, which may affect girls as well as women).
- 2.4.11 Street children, not all of whom are orphans, face threats of violence and exploitation, and have little or no access to government-run services (see [Street children](#)).

- 2.4.12 In the CG case of [HK and others \(minors- indiscriminate violence – forced recruitment by Taliban – contact with family members\) Afghanistan CG \[2010\] UKUT 378 \(IAC\)](#) the Upper Tribunal (UT) found that while forcible recruitment by the Taliban cannot be discounted as a risk, particularly in areas of high militant activity or militant control, evidence is required to show that it is a real risk for the particular child concerned and not a mere possibility (paragraph 34) (see Child soldiers: [Anti-government elements](#)).
- 2.4.13 Current evidence continues to indicate that boys may be used in armed conflict, by a range of armed non-state groups, including the Taliban. Forced recruitment by the Taliban may be declining, however, children are still being coerced into joining the Taliban or other armed non-state groups through, for example, indoctrination or financial benefit (see Child soldiers: [Anti-government elements](#)).
- 2.4.14 The evidence does not suggest there are ‘very strong grounds supported by cogent evidence’ to justify ‘not taking into account and following’ those findings in HK and Others (see paragraph 47 of the Court of Appeal’s determination in [SG \(Iraq\) v Secretary of State for the Home Department \[2012\] EWCA Civ 940 \(13 July 2012\)](#)).
- 2.4.15 As regards unaccompanied children, the Upper Tribunal, in the Country Guidance case of [AA \(unattended children\) Afghanistan CG \[2012\] UKUT 16 \(IAC\) \(01 February 2012\)](#), heard on 28 October 2010 and 23 May 2011, held ‘... the background evidence demonstrates that unattached children returned to Afghanistan, depending upon their individual circumstances and the location to which they are returned, may be exposed to risk of serious harm, inter alia from indiscriminate violence, forced recruitment, sexual violence, trafficking and a lack of adequate arrangements for child protection’ (paragraph 93ii).
- 2.4.16 As held by the UT in [AA](#), decision makers must take into account such risks when addressing the question of whether a return is in the child’s best interests, a primary consideration when determining a claim to humanitarian protection (paragraph 93ii).
- 2.4.17 The evidence continues to support the position held in [AA](#). Unaccompanied children may be at risk of, among other things, violence, sexual abuse, forced recruitment, abduction and trafficking, early and forced marriage, and forced labour. However, decision makers must establish whether such treatment is sufficiently serious by its nature and repetition that it will reach the high threshold of being persecutory or otherwise inhuman or degrading treatment.
- 2.4.18 For further information and guidance on assessing risk, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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#### c) State treatment

- 2.4.19 There are reports that the security forces use children in combat and non-combat roles, exacerbated by difficulties in determining the age of recruits due to lack of birth registration and/or the use of false documents (see Child soldiers: [Afghan national forces](#) and [Documentation](#)). Some members of the

security forces, or other figures in authority, sexually abuse and exploit young girls and boys (see [Child abuse](#) and [Bacha bazi](#)).

- 2.4.20 The evidence continues to support the position held in [AA](#) that unaccompanied children may be at risk of, among other things, indiscriminate violence, forced recruitment, sexual violence, and a lack of adequate arrangements for child protection (paragraph 93(ii)), which may amount to serious harm or persecution. However, decision makers must establish whether such treatment is sufficiently serious by its nature and repetition that it will reach the high threshold of being persecutory or otherwise inhuman or degrading treatment.

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#### d) Security situation

- 2.4.21 As with adults, the prevalence of child casualties as a consequence of internal conflict, varies considerably depending on the location (see [Conflict-related violence](#)).
- 2.4.22 In [AA](#) the UT held that ‘The evidence before us does not alter the position as described in [HK](#), namely that when considering the question of whether children are disproportionately affected by the consequences of the armed conflict in Afghanistan, a distinction has to be drawn between children who were living with a family and those who are not.’ The Tribunal did not accept that the conflict-related violence had reached such a level as to lead to the conclusion that all children would qualify for international protection (paragraph 93i).
- 2.4.23 The country guidance case of [AK \(Article 15\(c\) Afghanistan CG \[2012\] UKUT 00163\(IAC\) \(18 May 2012\)](#), heard on 14-15 March 2012 having considered evidence up to early 2012, replaces [GS \(Article 15\(c\): indiscriminate violence\) Afghanistan CG \[2009\] UKAIT 00044](#) as current country guidance on the applicability of Article 15(c) to the on-going armed conflict in Afghanistan. The country guidance given in [AA](#), insofar as it relates to unattended children, remains unaffected by this decision (paragraph 249 B(i)).
- 2.4.24 In [AK](#) the Upper Tribunal held that despite a rise in the number of civilian deaths and casualties and an expansion of the geographical scope of the armed conflict in Afghanistan, the level of indiscriminate violence in the country taken as a whole was not at such a high level as to mean that, within the meaning of Article 15(c) of the Qualification Directive, a civilian faces a real risk to his life or person solely by being present in the country (paragraph 249B(ii)).
- 2.4.25 This finding was upheld in both [HN & Ors, R \(on the application of\) v Secretary of State for the Home Department \(JR - scope - evidence \(IJR\) \[2015\] UKUT 437 \(IAC\) \(27 July 2015\)](#) and [HN & SA \(Afghanistan\) \(Lead Cases Associated Non-Lead Cases\), R \(on the application of\) v The Secretary of State for the Home Department \[2016\] EWCA Civ 123](#).
- 2.4.26 Whilst the number of child casualties has consistently risen since recording began in 2009 (see [Conflict-related violence](#)) the evidence continues to support the position held in [AA](#) in that conflict-related violence has not

reached such a level to conclude that all children will qualify for international protection.

- 2.4.27 Even though there is no general Article 15(c) risk, decision makers must consider whether there are particular factors relevant to the child's individual circumstances, which might place them at risk.
- 2.4.28 For guidance on humanitarian protection and Article 15(c), including consideration of enhanced risk factors, see the [Asylum Instruction on Humanitarian Protection](#).
- 2.4.29 For further guidance on Article 15c and the security situation see the [Country Policy and Information Note Afghanistan: Security and humanitarian situation](#).

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## 2.5 Protection

- 2.5.1 Where the child's fear of persecution or serious harm is from the state, they will not be able to avail themselves of the protection of the authorities.
- 2.5.2 Where the child's fear of persecution is at the hands of non-state actors, decision makers must assess whether effective protection is available and accessible in relation to the particular circumstances and profile of the child. Any past persecution or past lack of effective protection may indicate that effective protection would not be available in the future. The onus is on the person to demonstrate why they would be unable to access effective protection (see also the [Asylum policy guidance on Children's asylum claims](#)).
- 2.5.3 Although Afghanistan signed the International Convention on the Rights of the Child in 1994 it is not considered as a legally binding instrument and is not fully incorporated into the domestic legal system. In Article 54 of the Afghanistan Constitution, special care for securing the best interests of the child has been recognized and included. However, implementation and enforcement of domestic laws relevant to child rights is poor and continue to be negatively affected by the application of codified, customary and sharia laws (see [Legal context](#)).
- 2.5.4 The government ran 15 child protection units (CPUs) to prevent the recruitment of children into the security forces (see Child soldiers: [Afghan national forces](#)). Although there are few support services for victims of bacha bazi, a commission set up to investigate sexual abuse and exploitation of children by members of the security forces has resulted in convictions of officials (see [Bacha bazi](#)).
- 2.5.5 The Child Protection Action Network (CPAN) can make referrals to orphanages for children identified as victims of violence within the family (see [Child abuse](#) and [Government support](#)). There are 42 government-run care homes and training centres for vulnerable children, and 45 run by private charities. Conditions in orphanages are reportedly poor (see [Street children](#) and [Orphans and orphanages](#)).
- 2.5.6 Although efforts have been made by the government aimed at helping children identified as being at risk of harm or violence, as held in [AA](#), there

continues to be a lack of adequate arrangements for child protection. As a result, the state may be willing but unable to offer effective protection and the child may not be able to avail themselves of the protection of the authorities.

- 2.5.7 For further guidance on assessing the availability of state protection, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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## 2.6 Internal relocation

- 2.6.1 Where the person's fear is of persecution or serious harm from the state, they will not be able to relocate to escape that risk.
- 2.6.2 Where the person's fear of persecution is at the hands of non-state actors, decision makers must give careful consideration to the relevance and reasonableness of internal relocation on a case-by-case basis taking full account of the individual circumstances of the particular person (see also the country policy and information note on [Afghanistan: Security and humanitarian situation](#)).
- 2.6.3 In the absence of an adult male relative who is willing and able to provide care and support for the child, internal relocation is likely to be unreasonable.
- 2.6.4 For guidance on considering internal relocation and factors to be taken into account, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#) and the [Asylum policy guidance on Children's asylum claims](#).

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## 2.7 Return and reception arrangements

- 2.7.1 In [HK \(Afghanistan\) \[2012\]](#) the Court of Appeal held that it would not, in all cases, be appropriate to draw an adverse inference that the child would be safely received merely from the failure of the child to try to make contact with his or her family (paragraph 35); it does not necessarily follow that a child, with no family to receive them in Afghanistan, could not safely be returned (paragraph 36). [LQ](#) is not a country guidance decision and the fact that the evidence in that case satisfied the IAT that the applicant, an orphan, faced a real risk of serious harm if returned to Kabul does not mean that all tribunals thereafter will have to reach identical findings of fact (paragraph 36).
- 2.7.2 In the reported case of [LQ](#), heard in October 2006, the Tribunal found there would be no adequate reception facilities for an orphan child if he were to be returned to Afghanistan, and that in those circumstances he would be at risk of exploitation and ill-treatment (paragraph 4). The evidence continues to support that there remain no adequate reception facilities for an orphan child.
- 2.7.3 In [ST \[2013\]](#) the Tribunal confirmed that an assessment of risk on the hypothesis that the child will be removed at the time of decision is required (paragraph 29).
- 2.7.4 Therefore, decision makers must make an assessment of risk using the hypothetical scenario that the unaccompanied child will return to Afghanistan at the time of the decision, taking into account that return of the child would only take place where:

- Family contact is established and ongoing
- Adequate reception arrangements are in place
- It is in the best interests of the child, as a primary consideration, to leave the UK, return to their home country and reunite with their family members
- Safe and practical return arrangements are confirmed, such as being fully escorted in transit, to the point of reunification with family members at Kabul International airport

2.7.5 If all points in the hypothetical scenario above are met – taking into account the guidance provided by the Tribunal in [ST \[2013\]](#) (paragraph 78), in which there is no requirement to provide detailed evidence of a ‘removal plan’ when there is no proposal to remove – then the risk factors identified in [AA \[2012\]](#) are not engaged because the child is not unattached upon return to Afghanistan, and would therefore fail to qualify for refugee status as a member of a PSG.

2.7.6 In addition, the safety of the child on their journey to adequate reception facilities needs consideration. For detailed information concerning the presence of anti-government elements in specific provinces see the [EASO Country of Origin Report: Afghanistan: Security Situation](#), December 2017.

2.7.7 In the case of [Ravichandran \[1995\] EWCA Civ 16](#) the Tribunal held that ‘... in asylum cases the appellate structure ... is to be regarded as an extension of the decision-making process’, thus applying the general principle that an appellate tribunal must consider asylum cases on the basis of the latest evidence and material, including any which postdates the original decision, whilst also taking into account the hypothetical scenario, utilised in [ST \[2013\]](#), that return and reception arrangements are in place.

2.7.8 If adequate and sustainable reception arrangements with family members cannot be made, and there is no current prospect of them being made, and but for this it would be reasonable for the child to return, decision makers must consider granting UASC leave under paragraphs [352ZC to 352ZF of the Immigration Rules](#).

2.7.9 For further guidance on reception arrangements for the return of unaccompanied children, see the [Asylum policy guidance on Children’s asylum claims](#).

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## 2.8 Certification

2.7.1 Where a claim is refused, it is unlikely to be certifiable as ‘clearly unfounded’ under section 94 of the Nationality, Immigration and Asylum Act 2002.

2.7.1 For guidance on certification in relation to children’s asylum claims, see the [Asylum policy guidance on Children’s asylum claims](#); and in general, see [Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 \(clearly unfounded claims\)](#).

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# Country information

Updated: 16 March 2018

## 3. Demography

### 3.1 Population

- 3.1.1 Estimates of Afghanistan's population range from 28.1 million to 32 million; 50% of the population is 17 years old and under, and an estimated 12.2 million under 15 years old<sup>1</sup>.

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### 3.2 Family structure

- 3.2.1 As noted by UNICEF in its 2015 Child Notice Afghanistan:

'Family structure follows a very traditional, patriarchal structure and is centred [sic] on notions of honour and shame, governed by tribal codes and interpretations of Islam. The father is seen as the breadwinner, and the wife is seen as the mother. The man generally is the primary decision maker and discipliner in the family. Within the home, the parents are seen as responsible for the upbringing of the child, with support from extended family. Outside of the family, religious leaders, community elders, teachers and mullahs are all seen as responsible for providing guidance in upbringing. Sons are raised to help their father, learning how to provide for the family and become a future breadwinner for their own future family. Daughters are raised to focus more on domestic skills, with social norms attaching honour to preparing for a future marriage.'<sup>2</sup>

- 3.2.2 UNICEF cited a report by War Child UK on juvenile justice, in which it stated:

'Afghan life and culture very much revolve around families and clans. The laws and moral standards are based on these blood ties much more than on the state and the "rule of law" like in countries such as the UK. Less emphasis is placed on individual rights, and the notion of children's rights isn't as understood or enshrined in the same way as in other countries. Given the decades of conflict that have plagued the country, families do their best to protect their children – especially the girls. Home is usually considered to be the safest place for them, but this sometimes comes at the cost of their education or social life.'<sup>3</sup>

See also [Education](#).

- 3.2.3 A European Asylum Support Office (EASO) report on Afghanistan Networks, authored by Landinfo and published January 2018, indicated that it is usually the extended family who collectively decide to send a minor son to Europe, with the hope they will find work and support the family financially. The report noted 'Family members outside of the country have a moral obligation to help support their relatives back home. Many Afghans are worried about

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<sup>1</sup> UNICEF, 'Child Notice Afghanistan 2015', (page 16), 2015, [url](#).

<sup>2</sup> UNICEF, 'Child Notice Afghanistan', (page 22), 2015, [url](#).

<sup>3</sup> UNICEF, 'Child Notice Afghanistan', (page 22), 2015, [url](#).

developments in the security situation. They consider it useful to have a close family member in the West in case the situation dramatically worsens, as that person would then be able to help get the rest of the family out.<sup>4</sup>

See also [Family contacts and networks](#).

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## 4. Legal context

### 4.1 Constitution

- 4.1.1 The Constitution of Afghanistan has 2 Articles that make specific reference to the rights of children: Article 49 prohibits the forced labour of children, and Article 54 states: 'The State shall adopt necessary measures to attain the physical and spiritual health of the family, especially of the child and mother, upbringing of children, as well as the elimination of related traditions contrary to the principles of the sacred religion of Islam.'<sup>5</sup>

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### 4.2 International law

- 4.2.1 Afghanistan ratified the Convention on the Rights of the Child (CRC) on 28 March 1994; the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 24 September 2003; and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography on 19 September 2002<sup>6</sup>.
- 4.2.2 According to UNICEF in 2014, the government of Afghanistan 'does not view the CRC as legally binding, and as such the full range of child rights has not been systematically incorporated into the legal system or domestic policy. There is little direct reference to the rights of children in the Constitution, in policy and legislative frameworks or national level policy dialogues.'<sup>7</sup>

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### 4.3 Domestic legislation

- 4.3.1 The age of majority is 18 according to the Afghan Civil Code<sup>8</sup>. UNICEF noted, however, that 'Customary practices in Afghanistan make decisions on the age of maturity based on physical and mental maturity. A study by the Peace Training and Research Organization shows that social norms in Afghanistan view transition from child to adult as occurring something starting from 13-18 years old.'<sup>9</sup> UNICEF's 2015 Child Note contains a table documenting the 'Legal Ages according to Afghan law'.<sup>10</sup>
- 4.3.2 In a general overview of Afghanistan's national legal provisions on children's rights, the Child Rights International Network (CRIN) noted:

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<sup>4</sup> EASO, 'Afghanistan: Networks', (pages 20-21), January 2018, [url](#).

<sup>5</sup> Islamic Republic of Afghanistan, 'The Constitution of Afghanistan', 26 January 2004, [url](#).

<sup>6</sup> UN OHCHR, 'Ratification status for Afghanistan', undated, [url](#).

<sup>7</sup> UNICEF, 'Children and Women in Afghanistan', (page 22), November 2014, [url](#).

<sup>8</sup> Civil Law of the Republic of Afghanistan, (Article 39), 5 January 1977, [url](#).

<sup>9</sup> UNICEF, 'Child Notice Afghanistan', (page 51), 2015, [url](#).

<sup>10</sup> UNICEF, 'Child Notice Afghanistan', (page 31), 2015, [url](#).



‘There is no single consolidated Children's Act in Afghan law; rather, laws pertinent to children are found throughout domestic legislation. For example, juvenile justice matters are covered under the Criminal and Penal Codes, while matters relating to the definition and capacity of children fall within the Civil Code. Other relevant laws include, but are by no means limited to:

- The Juvenile Code (2005)
- The Law of Juvenile Rehabilitation Centres (2009)
- The Law on Counter Abduction and Human Trafficking (2008)
- The Education Law (2008)
- The Law on Investigation of Children's Violations
- The Law of Labour (2007) - regarding exploitation of children and hazardous employment
- The Citizenship Law- regarding the conditions for gaining Afghan nationality at birth.’<sup>11</sup>

4.3.3 UNICEF noted in its 2015 report ‘There is no legal provision to define, criminalize and prohibit acts of domestic violence against children in Afghanistan.’<sup>12</sup>

4.3.4 The UN Committee on the Rights of the Child (CRC) commented on how Afghanistan was implementing the provisions of the Convention of the Rights of the Child, and noted with concern:

‘... in spite of recent legislative developments in the field of child rights, the State party does not consider the Convention as a legally binding instrument in the internal order and has therefore not incorporated it systematically into domestic legal system in order to make it applicable. The Committee is also concerned that child rights continue to be negatively affected by the application of different sources of law, namely codified, customary and sharia laws, and that legislation contradictory to the Convention remains in force. The Committee is further concerned about the low implementation of legislation enacted in the field of child rights due mainly to weak enforcement, limited level of awareness of the legal norms promulgated, widespread corruption, and the application by courts of provisions of customary or sharia law which infringe the principles and rights contained in the Convention.’<sup>13</sup>

4.3.5 In January 2017, the Law to Combat Trafficking in Persons and Smuggling of Migrants entered into force. The Law prohibits recruiting, transferring, transporting, harbouring, or receiving children for the purposes of exploitation, including sexual exploitation, production of pornography, forced dancing ([Bacha bazi](#)), and use in armed conflict or illicit activities<sup>14</sup>.

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<sup>11</sup> Child Rights International Network, ‘Afghanistan: National laws on children's rights’, undated, [url](#).

<sup>12</sup> UNICEF, ‘Child Notice Afghanistan’, (page 53), 2015, [url](#).

<sup>13</sup> UN CRC, ‘Convention on the Rights of the Child’, (paragraph 7), 8 April 2011, [url](#).

<sup>14</sup> US Department of Labor, ‘2016 Findings on the Worst Forms of Child Labor’, (page 4), 30 September 2017, [url](#).

UNICEF's 2015 Child Note contains a table documenting the 'Afghan laws and strategies relevant to children'.<sup>15</sup>

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## 5. Social and economic rights

### 5.1 Education

#### 5.1.1 As reported by the Special Inspector General for Afghanistan Reconstruction (SIGAR) in December 2017:

'The Afghan Ministry of Education (MOE) is responsible for administering general education, Islamic education, technical and vocational education, and teacher and literacy training in Afghanistan. The MOE-administered education system consists of three levels:

'1. Primary Education: Grades 1 through 6, where students age 7 to 12 learn reading, writing, arithmetic, and national culture;

'2. Lower Secondary Education: Grades 7 through 9, for students age 13 to 15;

'3. Higher/Upper Secondary Education: Grades 10 through 12, where students age 16 to 18 choose between continuing an academic path that could lead to university or studying subjects such as applied agriculture, aeronautics, arts, commerce, and teacher training.'<sup>16</sup>

#### 5.1.2 The same report noted that:

'According to the MOE's Education Management Information System (EMIS) for Afghan fiscal year 1395 (December 22, 2015 – December 21, 2016), Afghanistan reportedly had 15,709 general education (government run, grades 1-12) schools, including 904 inactive/closed schools, with 8.4 million students enrolled. The number of enrolled students includes both students who regularly attend school as well as those that have been absent for up to three years. The MOE counts students who have been absent for up to three years as enrolled because, it says, they might return to school. In December 2016, Minister of Education Assadullah Hanif Balkhi said that after adjusting school records to remove registered but permanently absent students, six million students were actually attending classes in Afghanistan.'<sup>17</sup>

#### 5.1.3 Human Rights Watch (HRW) cited 4 main types of schools for primary and secondary education: government-run, CBE [Community-based education], madrassas and private-run schools<sup>18</sup>.

#### 5.1.4 In August 2017, UNICEF reported that, since 2002, huge progress had been made to rebuild Afghanistan's education system, including the enrolment of boys and girls in school. At the end of 2016 there were 17,482 schools and 14,728 community-based education (CBE – formal schooling held in classes in homes, mosques, community meeting places, or outside) sites. 9,627,912

<sup>15</sup> UNICEF, 'Child Notice Afghanistan', (page 25), 2015, [url](#).

<sup>16</sup> SIGAR, 'Schools in Faryab Province, Afghanistan', (page 4), December 2017, [url](#).

<sup>17</sup> SIGAR, 'Schools in Faryab Province, Afghanistan', (page 4), December 2017, [url](#).

<sup>18</sup> HRW, 'Girls' Access to Education in Afghanistan', (pages 9 and 12), 17 October 2017, [url](#).

students were enrolled at all levels (393,453 in CBE), and 216,680 teachers were employed across the education sector<sup>19</sup>.

5.1.5 As stated in a report on girls' access to education in Afghanistan, published October 2017, Human Rights Watch (HRW) were told by an official from the Ministry of Education that there were 9.3 million children in school, 39% of whom were girls. However, HRW considered the numbers were inflated, adding that in some provinces only 15% of students were girls. Only 37% of adolescent girls were literate compared to 66% of boys<sup>20</sup>. According to the UNFPA, only 23% of girls attended higher education<sup>21</sup>.

5.1.6 An EASO report, dated August 2017, on 'Key socio-economic indicators, state protection, and mobility in Kabul City, Mazar-e Sharif, and Herat City', noted:

'The literacy rate and school attendance rate are, according to a 2013 survey of the Central Statistics Office, relatively high in Kabul Province compared to other provinces. However, according to the Norwegian Refugee Council (NRC), the situation differs according to the place a person is living and it is especially difficult in the informal settlements and among IDPs population, where school attendance is very low. No girls attended school in some communities surveyed.'<sup>22</sup>

5.1.7 UNICEF noted that key challenges remained – 3.5 million school-age children were not enrolled in school; 1.5 million were enrolled but marked permanently absent; more than 50% of teachers were not suitably qualified; and the quality of learning, attendance and rates of success in college entrance exams was low, particularly amongst girls<sup>23</sup>. There was also a shortage of female teachers, further affecting girls' access to education<sup>24 25</sup>.

5.1.8 HRW further concluded in its October 2017 report that:

'... an estimated two-thirds of Afghan girls do not go to school. and as security in the country has worsened, the progress that had been made toward the goal of getting all girls into school may be heading in reverse – a decline in girls' education in Afghanistan. Forty-one percent of all schools in Afghanistan do not have buildings. many children live too far from the nearest school to be able to attend, which particularly affects girls. Girls are often kept at home due to harmful gender norms that do not value or permit their education.'<sup>26</sup>

5.1.9 Access to education for girls was reportedly restricted or impeded by Anti-Government Elements (AGEs). Restrictions included complete bans on education for girls; restrictions of girls' attendance beyond 4th or 6th grade; or explicit prohibitions of girls attending school without a female teacher. Impediments included threats and intimidation against students and

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<sup>19</sup> UNICEF, 'Mid-Term Review', (pages 6 and 10), 28 August 2017, [url](#).

<sup>20</sup> HRW, 'Girls' Access to Education in Afghanistan', (pages 7-8), 17 October 2017, [url](#).

<sup>21</sup> UNFPA, 'The State of World Population 2017', 18 October 2017, [url](#).

<sup>22</sup> EASO, 'Key socio-economic indicators', (page 121), August 2017, [url](#).

<sup>23</sup> UNICEF, 'Mid-Term Review' (page 7), 28 August 2017, [url](#).

<sup>24</sup> UNICEF, 'Mid-Term Review' (page 6), 28 August 2017, [url](#).

<sup>25</sup> HRW, 'Girls' Access to Education in Afghanistan', (pages 20 and 22), 17 October 2017, [url](#).

<sup>26</sup> HRW, 'Girls' Access to Education in Afghanistan', (page 2 – Summary), 17 October 2017, [url](#).

teachers, school burnings and bomb attacks<sup>27</sup>. (See also [Attacks on, and occupation of, schools](#)).

- 5.1.10 Similarly, HRW in its report of October 2017, on access to education for girls, summarised the following barriers that remained in place for girls to get into school and be kept there through secondary school. These included:

‘Discriminatory attitudes toward girls by both government officials and community members; child marriage; insecurity and violence stemming from both the escalating conflict and from general lawlessness, including attacks on education, military use of schools, abduction and kidnapping, acid attacks, and sexual harassment; poverty and child labor; a lack of schools in many areas; poor infrastructure and lack of supplies in schools; poor quality of instruction in schools; costs associated with education; lack of teachers, especially female teachers; administrative barriers including requirements for identification and transfer letters, and restrictions on when children can enroll; a failure to institutionalize and make sustainable community-based education; and corruption.’<sup>28</sup>

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## 5.2 Health and welfare

- 5.2.1 Under-five mortality rate steadily declined between 1990 and 2015; decreasing 49.7% from 181 to 91 deaths per 1,000 live births<sup>29</sup>. 1.6 million children were severely malnourished, reported UN OCHA in December 2017<sup>30</sup>.
- 5.2.2 The human rights organisation Watchlist on Children and Armed Conflict (‘Watchlist’) undertook a research mission in November and December 2016 to investigate attacks on healthcare facilities in Afghanistan and the subsequent impact on children. The mission took place in the provinces of Helmand, Kunduz, Nangarhar and Maidan Wardak. The report noted:
- ‘... parties to the conflict have forced temporary or permanent closure of medical facilities; damaged or destroyed medical facilities; looted medical supplies; stolen ambulances; threatened, intimidated, extorted, or detained medical personnel; and occupied medical facilities for military purposes. Watchlist also found that disruptions in health care access from these attacks have compounded challenges to children’s health, which were already exacerbated by the escalation of the conflict in 2015. In the past two years, an increase in conflict and targeted attacks on health care have led to more children directly injured and suffering from acute malnutrition, diarrheal disease, and vaccine-preventable diseases (e.g. polio and measles).’<sup>31</sup>
- 5.2.3 In its Afghanistan Humanitarian Needs Overview for 2018, the Office for the Coordination of Humanitarian Affairs (OCHA) noted ‘Immunisation coverage, already sub-optimal and uneven across large parts of the country, is particularly compromised in areas heavily affected by conflict, with children

<sup>27</sup> UNAMA/UNICEF, ‘Education and healthcare at risk’, (page 8), April 2016, [url](#).

<sup>28</sup> HRW, ‘Girls’ Access to Education in Afghanistan’, (page 7), 17 October 2017, [url](#).

<sup>29</sup> UNICEF, ‘Afghanistan’ undated, [url](#).

<sup>30</sup> UN OCHA, ‘Humanitarian Needs Overview 2018: Afghanistan’, (page 7), December 2017, [url](#).

<sup>31</sup> Watchlist, ‘The Impact on Children’, (page 5), undated, [url](#).

in these locations significantly less likely to complete their vaccinations than in areas of relative security.<sup>32</sup>

#### 5.2.4 The OCHA further noted:

‘More than a third of children have been exposed to psychological distress due to loss of family and community members and the constant risk of death and injury, while a perception survey conducted in Laghman province in 2017 highlighted fear of airstrikes as the number one concern among local communities. Psychological distress and trauma affects displaced children and adults alike, with affected adults exposed to prolonged toxic stress affecting their ability to deliver caretaking responsibilities and provide a stable environment for their children.’<sup>33</sup>

#### 5.2.5 Tabish, an Afghan NGO working within the psychosocial sector, told UNICEF in August 2015 that ‘There are no specialized juvenile mental healthcare facilities in Afghanistan, the one State-run mental health hospital is in Kabul. Other provinces only have mental wards within the local hospital.’<sup>34</sup>

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### 5.3 Children with disabilities

#### 5.3.1 The Afghanistan Independent Human Rights Commission (AIHRC) noted in its report on the rights of people with disabilities in Afghanistan, published in June 2016, that children with disabilities faced difficulties in accessing healthcare and education, often due to the distance to the appropriate facilities. The report also noted that some parents viewed education only as means to access a livelihood rather than to increase knowledge. Since they did not expect a child with a disability to earn an income, going to school was not seen as a priority<sup>35</sup>.

#### 5.3.2 According to the UNFPA’s Afghanistan State of Youth Report for 2014:

‘There is only one school in Afghanistan (in Kabul) for students with visual impairments. This is administered by the MoE [Ministry of Education] with 150 students. There are four schools for students with hearing impairments (two in Herat, one in Kabul, and one in Jalalabad) accommodating 900 students altogether. The MoE is running 29 pilot general schools in Kabul for inclusive education (where children with and without disabilities learn together).’<sup>36</sup>

#### 5.3.3 Human Rights Watch reported in October 2017:

‘Regular government schools typically have no institutionalized capacity to provide inclusive education or assist children with disabilities. Children with disabilities who attend regular schools are unlikely to receive any special assistance. Only a few specialized schools for children with disabilities exist, and they are of limited scope. With no system to identify, assess, and meet

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<sup>32</sup> UN OCHA, ‘Humanitarian Needs Overview 2018: Afghanistan’, (page 13), December 2017, [url](#).

<sup>33</sup> UN OCHA, ‘Humanitarian Needs Overview 2018: Afghanistan’, (page 13), December 2017, [url](#).

<sup>34</sup> UNICEF, ‘Child Notice Afghanistan’, (page 67), 2015, [url](#).

<sup>35</sup> AIHRC, ‘Persons with Disabilities in Afghanistan 1393’, (pages 35-36), June 2016, [url](#).

<sup>36</sup> UNFPA, ‘Afghanistan State of Youth Report 2014’, (page 74), 2014, [url](#).

the particular needs of children with disabilities, they often instead are kept home or simply fall out of education.<sup>37</sup>

See also [Education](#).

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## 5.4 Illegitimate children

- 5.4.1 UNICEF noted that children born outside of marriage, known as harami (illegitimate), were not addressed in the Afghan Civil Code<sup>38</sup>. Children born out of wedlock may be denied of their right to birth registration<sup>39</sup> (See also [Birth registration and certificates](#)). According to the Government of Afghanistan, an unregistered child may have no access, or difficulty accessing, social services<sup>40</sup>. No further information on the position of harami children could be found amongst the sources consulted by CPIT.

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## 6. Judicial and penal rights

### 6.1 Juvenile justice

- 6.1.1 The Juvenile Code provides the legal framework for Afghanistan's criminal juvenile justice system and outlines the procedures for a juvenile's (defined as a person aged between 12 and 18) arrest, prosecution, and detention<sup>41</sup>.
- 6.1.2 According to the Juvenile Code, no child under the age of 12 can be held criminally responsible. It recommends the sanctions to be taken into consideration when sentencing a child: for children aged between 12 and 16, their sentence cannot exceed one-third of the maximum adult sentence for the same crime, as prescribed in the Penal Code; sentencing for children who have completed their 16<sup>th</sup> year, but not their 18<sup>th</sup>, cannot exceed half of the maximum adult sentence. No child can be sentenced to life imprisonment or the death penalty<sup>42</sup>.
- 6.1.3 The US Department of State's Country Report on Human Rights Practices for 2016 (USSD HR Report 2016) noted 'The law provides for the creation of special juvenile police, prosecution offices, and courts. Due to limited resources, special juvenile courts functioned in only six provinces (Kabul, Herat, Balkh, Kandahar, Nangarhar, and Kunduz). Elsewhere, children's cases fall under the ordinary courts.'<sup>43</sup>
- 6.1.4 As noted by UNICEF in 2015:
- 'Informal justice systems which follow customary (informal) laws, tribal codes and customs are more commonly used than the official state government justice sector, with an estimated 90 per cent of Afghans use non-state legal systems. In the non-state legal systems children do not have a voice in the

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<sup>37</sup> HRW, 'Girls' Access to Education in Afghanistan', (page 26), 17 October 2017, [url](#).

<sup>38</sup> UNICEF, 'Child Notice Afghanistan', (page 52), 2015, [url](#).

<sup>39</sup> UN CRC, 'Convention on the Rights of the Child', (paragraph 33), 8 April 2011, [url](#).

<sup>40</sup> Ministry of Interior Affairs, 'Newborn Registration Service', undated, [url](#).

<sup>41</sup> Juvenile Law (Juvenile Code), 23 March 2005, [url](#).

<sup>42</sup> Juvenile Law (Juvenile Code), (Article 5.1 and Article 39), 23 March 2005, [url](#).

<sup>43</sup> USSD, 'Country Report 2016', (Section 1d), 3 March 2017, [url](#).

justice process, instead complaints are presented by the child's parents. A child's inability to represent their cases means that many abuses go under-reported and unpunished.<sup>44</sup>

6.1.5 The USSD HR Report 2016 noted:

'Some children in the criminal justice system were victims rather than perpetrators of crime. In some instances authorities chose to punish victims because they brought shame on the family by reporting an abuse. In the absence of sufficient shelters for boys, authorities detained abused boys and placed them in juvenile rehabilitation centers because they could not be returned to their families and shelter elsewhere was unavailable. There were also allegations that authorities allegedly treated children related to a perpetrator as proxies and imprisoned them.'<sup>45</sup>

6.1.6 The Australian Department for Foreign Affairs and Trade (DFAT) noted 'NGOs have reported a predominantly punitive and retributive approach to juvenile justice throughout the country. Although illegal, corporal punishment in schools, rehabilitation centres and other public institutions remains common.'<sup>46</sup>

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## 6.2 Arrest and detention

6.2.1 The Law on Juvenile Rehabilitation and Correction Centres (JRC Law) and the Regulation on Juvenile Rehabilitation Centres (JRC Regulation) prescribe the rights to juveniles detained in Juvenile Rehabilitation Centres. The JRC Law provides the standards and requirements for detention conditions, and requires JRCs to provide access to education, vocational training and healthcare; and opportunities to study, work, and practice religion; family contact and visits; and a complaints mechanism. The JRC Regulation enhances these rights<sup>47</sup>.

6.2.2 The USSD HR Report 2016 noted:

'According to the juvenile code, the arrest of a child "should be a matter of last resort and should last for the shortest possible period." Reports indicated children in juvenile rehabilitation centers across the country lacked access to adequate food, health care, and education. Like adult detainees, detained children frequently were denied basic rights and many aspects of due process, including the presumption of innocence, the right to be informed of charges, access to defense lawyers, and protection from self-incrimination.'<sup>48</sup>

6.2.3 In a report commissioned by the UK-based charity, Children in Crisis, Samuel Hall, an independent think tank, noted in August 2017:

'Police are required to report the arrest and detention of children to their guardians within 24 hours, and prosecutors have the authority to release children on bail without money. But, the reality diverges from theory,

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<sup>44</sup> UNICEF, 'Child Notice Afghanistan', (page 42), 2015, [url](#).

<sup>45</sup> USSD, 'Country Report 2016', (Section 1d), 3 March 2017, [url](#).

<sup>46</sup> DFAT, 'Country Information Report Afghanistan', (paragraph 4.17), 18 September 2017, [url](#).

<sup>47</sup> UNAMA, 'Juvenile Rehabilitation Centers' (page 4), November 2016, [url](#).

<sup>48</sup> USSD, 'Country Report 2016', (Section 1d), 3 March 2017, [url](#).

especially for children without legal awareness, strong family support or negotiation power. Of particular concern are long timelines for investigations and children who must idly wait in the JRC [Juvenile Rehabilitation Centre] without any information while their dossiers are completed, unable to integrate in the JRC until properly sentenced, but exclude from life outside.’<sup>49</sup>

6.2.4 The Samuel Hall report noted:

‘Upon completing their 18<sup>th</sup> year, children are to be transferred to an adult prison, ... The practice of age determination and lack of birth certificates, however, mean that some children may stay in the JRC well after completing their 18th year, something that is informally known amongst staff and the children, and sometimes pushed for by guardians in favour of adult prisons. At the same time, children determined to be older than their actual age may be transferred to an adult prison prematurely.’<sup>50</sup> (See also [Birth registration and certificates](#)).

6.2.5 The UN Secretary General on children and armed conflict, reporting on 2016 events, noted:

‘As at December [2016], the Government reported that 167 boys were held in juvenile rehabilitation centres on national security-related charges, including for association with armed groups. The United Nations remains concerned about the detention of these children in adult detention centres, particularly the large increase in children detained in the maximum security detention facility in Parwan, where 133 juveniles were held in December compared with 53 juveniles held in January [2016].’<sup>51</sup>

6.2.6 In its assessment of Juvenile Rehabilitation Centres (JRC), which took place between September 2015 and March 2016, UNAMA’s Rule of Law Unit noted that 1,018 juveniles, including 104 girls, were incarcerated in JRCs<sup>52</sup>.

6.2.7 There were 34 JRCs, located in the capital cities of each province. Of the 31 JRCs surveyed for the UNAMA Rule of Law report, 22 were located in privately-rented facilities and 9 were in facilities owned and designed by the Ministry of Justice. Five JRCs reported they were unable to accommodate female detainees<sup>53</sup>. The Samuel Hall August 2017 report noted ‘An alternative to full detention is the Open JRC, where children spend daytime in rehabilitation and evenings and weekends at home. The Open JRC in Kabul nevertheless remains a detention facility... What crimes and what child profiles qualify for the Open Centre are up to the judge’s discretion’.<sup>54</sup>

6.2.8 The UNAMA Rule of Law report stated, ‘Overcrowding was not a concern in most JRCs surveyed... UNAMA Rule of Law calculated that over 50% of JRCs comply with both the ICRC’s [International Committee of the Red Cross] minimum recommended standard (3.4 square meters per adult

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<sup>49</sup> Samuel Hall, ‘Hope behind bars’, (page 19), August 2017, [url](#).

<sup>50</sup> Samuel Hall, ‘Hope behind bars’, (page 21), August 2017, [url](#).

<sup>51</sup> UNSG, ‘Children and armed conflict’, (paragraph 23), 24 August 2017, [url](#).

<sup>52</sup> UNAMA, ‘Juvenile Rehabilitation Centers’ (pages 3-4), November 2016, [url](#).

<sup>53</sup> UNAMA, ‘Juvenile Rehabilitation Centers’ (pages 3, 4 and 14), November 2016, [url](#).

<sup>54</sup> Samuel Hall, ‘Hope behind bars’, (pages 15 and 21), August 2017, [url](#).



prisoner) and the European Rules Commentary's minimum recommended standard (4 square meters per juvenile in shared accommodation).<sup>55</sup>

- 6.2.9 The UNAMA Rule of Law report continued 'Additionally, juveniles had regular access to quality food, appropriate clothing, clean drinking water, sanitary facilities, and bedding..., conditions at purpose-built JRC facilities were better than at rented facilities operated out of residential homes.' The report added, however, 'At most JRCs, access to educational and vocational training aimed at preparing juveniles for re-entry into society is limited.'<sup>56</sup>
- 6.2.10 The Afghanistan Independent Human Rights Commission (AIHRC) annual report on the human rights situation for the Persian year 1395 (20 March 2016 to 20 March 2017) noted that during the reporting period it identified eligible prisoners under the Presidential Pardon Decree. As a result, 179 children had their sentences reduced, and 137 children were released<sup>57</sup>.

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## 7. Violence against children

### 7.1 Conflict-related violence

- 7.1.1 In its Annual Report for 2017, the UN Assistance Mission in Afghanistan (UNAMA) reported on the impact of the conflict on children, noting a consistent rise in child casualties between 2009 and 2016<sup>58</sup>.
- 7.1.2 During 2017, UNAMA recorded '... 3,179 child casualties (861 deaths and 2,318 injured), an overall 10 per cent decrease compared to 2016, with decreases in both fatalities and injuries.' Ground engagements was the leading cause (45% of child casualties), followed by Improvised Explosive Devices (IEDs – non-suicide – 17%), unexploded ordnance (16%) and aerial operations (8%). Whilst child casualties from ground engagements decreased by 19% compared to 2016, casualties from airstrikes saw a 33% increase. According to UNAMA, 71% of casualties were boys<sup>59</sup>.
- 7.1.3 The same source noted 'UNAMA attributed 44 per cent of child casualties to Anti-Government Elements, responsible for 1,384 child casualties (330 deaths and 1,054 injured), a five per cent decrease compared to 2016. Pro-Government Forces caused 913 child casualties (313 deaths and 600 injured), responsible for 29 per cent of all child casualties, marking a 19 per cent decrease from the previous year.'<sup>60</sup>
- 7.1.4 For detailed information about the situation in specific provinces, refer to the [EASO report: Afghanistan: Security Situation \(December 2017\)](#)<sup>61</sup>.

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<sup>55</sup> UNAMA, 'Juvenile Rehabilitation Centers' (pages 2 and 12), November 2016, [url](#).

<sup>56</sup> UNAMA, 'Rehabilitation Centers' (page 2), November 2016, [url](#).

<sup>57</sup> AIHRC, 'Annual Report 1395', (page 38), June 2017, [url](#).

<sup>58</sup> UNAMA, 'Annual Report: 2017', (page 11), February 2018, [url](#).

<sup>59</sup> UNAMA, 'Annual Report: 2017', (page 11), February 2018, [url](#).

<sup>60</sup> UNAMA, 'Annual Report: 2017', (page 11), February 2018, [url](#).

<sup>61</sup> EASO, 'Afghanistan: Security Situation', December 2017, [url](#).

## 7.2 Children with family members of adverse interest to anti-government elements (AGEs)

- 7.2.1 According to sources cited by UNHCR in its Afghanistan Eligibility Guidelines, dated April 2016, there have been some reports that children of government officials and members of the ANSF (Afghan National Security Forces) have been subjected to harassment, kidnappings, violence, and killings by AGEs, including the Taliban<sup>62</sup>.
- 7.2.2 In its 2016 Annual Report, UNAMA noted that  
'Anti-Government Elements primarily abducted boys aged 16 and 17 whom they perceived to be government supporters, members of the Afghan national security forces, or linked to rival Anti-Government Elements. For example, on 13 November, in Alishang district, Laghman province, Anti-Government Elements abducted a man and two boys from a vehicle based on an assumption that their family members worked for the Government. Anti-Government Elements subsequently released the three individuals following negotiations with local elders.'<sup>63</sup> (See also [Abduction and trafficking](#)).
- 7.2.3 With regard to the children and other family members of ANSF personnel, the EASO COI Report 'Afghanistan: Individuals targeted by armed actors in the conflict', published December 2017, noted: 'Sources interviewed by the Canadian IRB [Immigration and Refugee Board] explained that family members could be put under pressure to give information on the whereabouts of the wanted person. Family members can also be punished in absence of the wanted person, or family members are threatened in order to pressure the wanted person to give oneself up. This is said to be "a fairly successful tactic".'<sup>64</sup>
- 7.2.4 The EASO report added 'Insurgents can also threaten family members to force people to resign from their public positions. Abubakar Siddique called this practice "very common, especially in rural areas". [Antonio] Giustozzi says that "wherever the Taliban are present" they have been pressuring family members to force ANSF-members to resign. And although not always using (the threat of) violence, sometimes family members have been executed.'<sup>65</sup>
- 7.2.5 The EASO report also cited a 2015 UNAMA Report on Kunduz Province, which noted that 'During their takeover of Kunduz city, the Taliban performed a targeted search of the city looking for female human rights defenders, among others. Taliban members went to their homes and if the wanted person was not home, they threatened and physically assaulted their family members.'<sup>66</sup>
- 7.2.6 A report by Dr. Antonio Giustozzi for Landinfo, published 27 August 2017, listed the range of targeted individuals, which included members of the

<sup>62</sup> UNHCR, 'Eligibility Guidelines', (page 41), 19 April 2016, [url](#).

<sup>63</sup> UNAMA, 'Annual Report: 2016', (page 20), February 2017, [url](#).

<sup>64</sup> EASO, 'Afghanistan: Individuals targeted by armed actors', (page 59), December 2017, [url](#).

<sup>65</sup> EASO, 'Afghanistan: Individuals targeted by armed actors', (page 59), December 2017, [url](#).

<sup>66</sup> EASO, 'Afghanistan: Individuals targeted by armed actors', (page 60), December 2017, [url](#).

Afghan security forces, and individuals selected as 'useful or necessary to their war effort.'<sup>67</sup> The same report stated 'The targeting of family members also occurs occasionally; the Taliban appear to have restrained this practice after police and militia started going after Taliban family members in retaliation.'<sup>68</sup>

- 7.2.7 For further information on targeted individuals, see the [Country Policy and Information Note Afghanistan: Fear of anti-government elements \(AGEs\)](#).

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### 7.3 Children with family members in anti-government armed groups

- 7.3.1 In its 2017 Annual Report, UNAMA cited incidents where Afghan national security forces killed or injured civilians they suspected of supporting the Taliban or other AGEs. Whilst some incidents perpetrated by the Afghan Local Police (ALP) were investigated, UNAMA remained concerned at the lack of accountability for ALP members past and ongoing human rights abuses<sup>69</sup>.

### 7.4 Attacks on, and occupation of, schools

- 7.4.1 The UN Secretary General on Children and armed conflict reported on 77 verified attacks on schools and education personnel in 2016, a decrease of nearly 42% compared to 2015<sup>70</sup>.
- 7.4.2 Despite Afghanistan's endorsement of the Safe Schools Declaration on 29 May 2015<sup>71</sup>, numerous sources reported on the occupation of school buildings by Afghan National Security Forces (ANSF), as well as by pro-government forces, and insurgent groups<sup>72 73</sup>.
- 7.4.3 In its Annual Report for 2016, UNAMA documented:  
'... the use of 36 educational facilities [out of over 17,000 schools; see [Education](#) above], mainly by Afghan national security forces, who occupied or used 26 schools. The mission also documented the use of one school by a pro-Government armed group and the use of nine educational facilities by Anti Government Elements. The occupation or use of educational facilities for military purposes occurred throughout Afghanistan, including in Helmand, Kunduz, Logar, Maidan Wardak, Takhar, Farah, Badakshan, Ghor, Jawzjan and Paktya provinces.'<sup>74</sup>
- 7.4.4 UNAMA did not document any military or AGE occupation of educational facilities during 2017<sup>75</sup>.
- 7.4.5 Based on research undertaken in April 2016, Human Rights Watch (HRW) documented the occupation or other use for military purposes of 12 schools

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<sup>67</sup> Landinfo, 'Report Afghanistan', (pages 10-11), 23 August 2017, [url](#).

<sup>68</sup> Landinfo, 'Report Afghanistan', (page 17), 23 August 2017, [url](#).

<sup>69</sup> UNAMA, 'Annual Report: 2017', (pages 48-53), February 2018, [url](#).

<sup>70</sup> UNSG, 'Children and armed conflict', (paragraph 28), 24 August 2017, [url](#).

<sup>71</sup> Government of Norway, 'Safe Schools Declaration', last updated 14 November 2017, [url](#).

<sup>72</sup> HRW, 'Military Use of Schools in Afghanistan's Baghlan Province', August 2016, [url](#).

<sup>73</sup> UNSG, 'Children and armed conflict', (paragraph 28), 20 April 2016, [url](#).

<sup>74</sup> UNAMA, 'Annual Report: 2016', (page 23), February 2017, [url](#).

<sup>75</sup> UNAMA, 'Annual Report: 2017', February 2018, [url](#).

in one area of Baghlan province in north-eastern Afghanistan. HRW also reported ‘In July 2016 a government security advisor told Human Rights Watch that not only did the ANSF use schools for military purposes, but that some were used as command centers for military operations.’<sup>76</sup>

- 7.4.6 As reported by the UN Secretary General on Children and armed conflict, during 2016:

‘Intensive fighting between the Afghan National Defence and Security Forces and the Taliban led to schools being hit in crossfire. Of the verified incidents, 51 were attributed to the Taliban, 7 to ISIL-KP and 12 to undetermined armed groups; 23 incidents directly targeted girls’ education; 4 incidents were attributed to the Afghan National Defence and Security Forces (3 to the Afghan National Army, 1 undetermined); and 1 incident was jointly attributed to the Afghan National Army and the Taliban.’<sup>77</sup>

- 7.4.7 The EASO COI Report ‘Afghanistan: Individuals targeted by armed actors in the conflict’ examined the position of the Taliban towards education since 2017 and noted ‘The Taliban regularly issue statements claiming to be in support of education and proclaiming an absolute ban on attacks on education.’<sup>78</sup>

- 7.4.8 The same report further noted ‘According to a 2016 study by the Afghanistan Research and Evaluation Unit (AREU), an independent research think tank based in Kabul, the current objective of the insurgents is not the school closures, as was the case in their violent campaign of 2006-2008, but to gain control over them. This control is asserted through local deals with local government officials. Such negotiated settlements include arrangements over curriculum with the Taliban being able to inspect the schools regularly. However, in Paktika province, for example, dozens of schools remain closed because of insecurity.’<sup>79</sup>

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## 7.5 Abduction and trafficking

- 7.5.1 According to the April 2016 UNHCR Eligibility Guidelines for Afghanistan, ‘The ANSF and AGEs are reported to abduct children for various purposes, including reprisals and punishment of the victim’s family members. Children are also reported to be abducted, and subsequently to be executed, maimed or raped, on the basis of accusations of having assisted the opposing party.’<sup>80</sup>

- 7.5.2 As reported in its 2017 Annual Report:

‘UNAMA documented 18 incidents involving the abduction of 42 children (40 boys and two girls) by Anti Government-Elements [compared to 7 incidents involving 11 children in 2016<sup>81</sup>]. For instance, on 2 November, in Bilchiragh

<sup>76</sup> HRW, ‘Military Use of Schools’, (Chapter III and page 16), August 2016, [url](#).

<sup>77</sup> UNSG, ‘Children and armed conflict’, (paragraph 28), 24 August 2017, [url](#).

<sup>78</sup> EASO, ‘Afghanistan: Individuals targeted by armed actors’, (page 39), December 2017, [url](#).

<sup>79</sup> EASO, ‘Afghanistan: Individuals targeted by armed actors’, (pages 39 and 40), December 2017, [url](#).

<sup>80</sup> UNHCR, ‘Eligibility Guidelines’, (page 69), 19 April 2016, [url](#).

<sup>81</sup> UNAMA, ‘Annual Report: 2016’, (page 20), February 2017, [url](#).

district, Faryab province, Taliban abducted four boys, aged between four and 10 years, to force their fathers, both commanders of pro-Government armed groups, to withdraw from the area and stop fighting. In addition, UNAMA attributed the abduction of one boy, on 25 March, in Samagan province, to a pro-Government armed group.<sup>82</sup> (See also [Children who are family members of persons of adverse interest to anti-government elements \(AGEs\)](#)).

7.5.3 Covering the period between 1 April 2016 and 31 March 2017, the US Department of State's 2017 Trafficking in Persons Report (USSD TIP Report 2017) stated:

'Most Afghan trafficking victims are children exploited in carpet making and brick factories, domestic servitude, commercial sex, begging, poppy cultivation, transnational drug smuggling, and assistant truck driving within Afghanistan. Some Afghan families knowingly sell their children into sex trafficking, including for bacha baazi – where men, including some government officials and security forces, use boys for social and sexual entertainment. There are reports that some law enforcement officials, prosecutors, and judges accept bribes from or use their relationships with perpetrators of bacha baazi to allow them to escape punishment. Opium farming families sometimes sell their children to settle debts with opium traffickers. Children in orphanages overseen by the government, but run by NGOs, were sometimes subjected to trafficking.'<sup>83</sup> (see also [Bacha Bazi](#)).

7.5.4 In July 2017, Radio Free Europe reported that Afghan police arrested members of a human trafficking ring accused of kidnapping 25 children aged between 4 and 14 years, who were reportedly being taken to Pakistan to be trained as suicide bombers for the Afghan Taliban. Police reported that they were attempting to locate the families of the children, who were all from Ghazni<sup>84</sup> (see also Child soldiers: [Anti-government elements \(AGEs\)](#)).

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## 7.6 Child abuse, including sexual and physical violence

7.6.1 As reported in the US Department of State's Country Report on Human Rights Practices for 2016, child abuse was widespread in Afghan society, and sexual abuse of children remained a pervasive problem, with girls being most frequently abused in their families or communities, and boys being subjected to abuse by men external to their families. Sexual abuse and child rape, including by religious figures, police and officials, reportedly occurred with impunity. Some families were reportedly complicit, allowing local strongmen to abuse their children in exchange for status or money<sup>85</sup>.

7.6.2 UNICEF noted in 2015 that 'There is no legal provision to define, criminalize and prohibit acts of domestic violence against children in Afghanistan. However, CPAN [Child Protection Action Network] can refer children identified as victims of violence to a state run orphanage or non-government

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<sup>82</sup> UNAMA, 'Annual Report: 2017', (page 12), February 2018, [url](#).

<sup>83</sup> USSD, '2017 Trafficking in Persons Report', (page 58), 27 June 2017, [url](#).

<sup>84</sup> RFE/RL, 'Afghan Police: Children Kidnapped', 10 July 2017, [url](#).

<sup>85</sup> USSD, 'Country Report 2016', (Section 6), 3 March 2017, [url](#).

organization shelter for temporary care while the violence within the family is addressed through mediation.’<sup>86</sup> (See [Government support](#) and [Orphans and orphanages](#)).

- 7.6.3 In a study based on 1,000 children from Balkh, Jowzjan, Sar-e Pul, Nangarhar, and Kabul (street working children only) Provinces, published in August 2017, Save the Children found that 91% of children in Afghanistan faced some sort of abuse<sup>87</sup>. Corporal punishment was routinely used against children in schools and at home<sup>88 89</sup>.
- 7.6.4 According to the study, child respondents experienced high levels of all types of violence, including exposure to violence, psychological violence, physical and emotional neglect, physical violence, and sexual abuse. Only 9% of children reported not experiencing any type of violence. Save the Children found that children from urban areas reported experiencing more violence than children in rural areas. Almost 50% of the children experienced at least a form of psychological violence at home, including shouting, insults, blaming for parent’s misfortune, cursing, public embarrassment, threats of abandonment, and locking out of home. Lack of awareness, unemployment, drug abuse and poverty were given as the main reasons for violence against children<sup>90</sup>.
- 7.6.5 The UN Secretary General on Children and armed conflict reported that in 2016:  
‘The United Nations verified 7 cases of sexual violence: 5 incidents were attributed to the Afghan National Defence and Security Forces and 2 to the Taliban. These incidents included children being raped at Afghan National Police and Afghan Local Police checkpoints as well as the abduction and forced marriage of a nine-year-old girl by the Taliban. As at early 2017, the United Nations had not received any information regarding actions taken against the perpetrators.’<sup>91</sup>
- 7.6.6 A Save the Children study reported that answers from respondents on sexual abuse were very likely underreported. The study found that:  
‘... sexual abuse at home is high with 11% of children reporting being forced to watch videos or pictures with people with no or little clothes on; 7% admitted that they had to look at adult’s private parts or adults looked at theirs; 7% reported being touched on their private parts in a sexual way or being forced to touch other’s private parts; and 4.7% were forced into sexual intercourse. Sexual abuse at community level was reported in considerably higher percentages, especially by girls.’<sup>92</sup>
- 7.6.7 According to the April 2016 UNHCR Eligibility Guidelines for Afghanistan:

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<sup>86</sup> UNICEF, ‘Child Notice Afghanistan’, (page 53), 2015, [url](#).

<sup>87</sup> Save the Children, ‘A Baseline Study’, (Executive summary), August 2017, [url](#).

<sup>88</sup> IWPR, ‘Afghanistan: Spare the Rod, Spoil the Child’, 17 March 2017, [url](#).

<sup>89</sup> Save the Children, ‘A Baseline Study’, (Executive summary), August 2017, [url](#).

<sup>90</sup> Save the Children, ‘A Baseline Study’, (pages 1 and 36), August 2017, [url](#).

<sup>91</sup> UNSG, ‘Children and armed conflict’, (paragraph 27), 24 August 2017, [url](#).

<sup>92</sup> Save the Children, ‘A Baseline Study’, (page 1), August 2017, [url](#).

'Impunity for sexual abuse of children is reported to remain a problem: most abusers are not arrested, and there are reports of children raped with impunity by security officials and police officers. Some children who were prosecuted for "moral crimes" were survivors of abuse rather than perpetrators of crime; having reported instances of sexual abuse, they are perceived to have brought shame on their family and to be in need of punishment. Some children were reportedly imprisoned as a family proxy for the actual perpetrator.'<sup>93</sup> (See also [Childcare and protection](#)).

- 7.6.8 For further information on sexual violence against women and girls, and the availability of state protection, see the [Country Policy and Information Note Afghanistan: women fearing gender-based harm/violence](#).

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## 7.7 Bacha bazi

- 7.7.1 In 2016, the US Department of Labor found:

'Children are subject to commercial sexual exploitation throughout the country. The practice of bacha bazi (boy play), in which men – including warlords, police commanders, influential tribal leaders, and mafia heads – force boys to provide social and sexual entertainment, is particularly prevalent. In many cases, these boys are dressed in female clothing, used as dancers at parties and ceremonies, and sexually exploited. According to the Afghanistan Independent Human Rights Commission, the practice exists in all provinces of the country. Research has found specific cases in the provinces of Baghlan, Balkh, Faryab, Konduz, Helmand, Takhar, and Uruzgan. A national inquiry conducted in 2014 found that most boys were between the ages of 13 and 16, and that 60 percent of them had been subjected to physical violence, confinement, and threats of death. Some government officials, including members of the Afghan National Police, the Afghan Local Police, and the Afghan Border Police, exploit boys for bacha bazi as well as to work as tea servers or cooks in police camps. Some local police commanders abduct boys and use them for bacha bazi. One source indicated that the practice of bacha bazi is the biggest weakness of the police forces. In 2016, the Ministry of Interior ordered police to stop having parties in which boys are dressed as girls and forced to perform dances. In 2016, in Uruzgan Province, the Taliban used boys engaged in bacha bazi to attack policemen who subjected the same boys to sexual exploitation. The police chief of Balkh province stated that some local officials support and defend suspects of bacha bazi.'<sup>94</sup>

- 7.7.2 According to sources cited by EASO:

'Bacha bazi, described by AFP as an "institutionalised form of sex slavery" has seen a resurgence since the end of the Taliban period, under which it had been banned. Although not specifically addressed in the law, under the 1976 Penal Code, bacha bazi is punishable as pederasty, rape and degradation. According to UNAMA, a newly revised draft Penal Code was endorsed by Presidential Decree in March 2017, which criminalises bacha

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<sup>93</sup> UNHCR, 'Eligibility Guidelines', (pages 67-68), 19 April 2016, [url](#).

<sup>94</sup> US Department of Labor, '2016 Findings on the Worst Forms of Child Labor', (page 2), 30 September 2017, [url](#).

bazi but is not yet in force. Under the new provisions of the Penal Code, prosecution of victims of bacha bazi is set to be outlawed. Bacha bazi perpetrators generally operate with impunity in the context of weak rule of law and corruption and official complicity with law enforcement perpetrators...

'There is a culture of silence and shame that prevents bacha bazi victims and their families from seeking assistance. Victims and their families reportedly face social isolation, particularly if the boy becomes well known in bacha bazi circles. Those who try to complain to authorities also face threats from perpetrators or are fearful due to the high status of perpetrators who are sometimes officials or police. Running away has reportedly resulted in beatings. Victims are frequently themselves punished, detained when seeking assistance, or revictimized.'<sup>95</sup>

#### 7.7.3 The US Department of Labor noted:

'In 2015, the President ordered the creation of a committee to investigate and prosecute cases of commercial sexual exploitation of children by security forces, but the committee never convened. In June 2016, the President ordered an investigation into reports of sexual abuse of children by police officials. The President's Office stated that any official involved in such sexual abuse would be prosecuted and punished, regardless of rank. Officials in Balkh Province began investigating 60 men suspected of using boys for bacha bazi. In October 2016, five Afghan National Army soldiers were accused of sexually abusing a boy, possibly in bacha bazi. All five were arrested and transferred to an Afghan National Army court, where one soldier was convicted of unlawful use of lethal force and sentenced to two years of imprisonment; another soldier was convicted of battery and sentenced to one year of imprisonment. Some government officials contributed to the lack of prosecutions of individuals who subject boys to bacha bazi. The Afghanistan Independent Human Rights Commission's 2014 report assessed that most men who engage in bacha bazi paid bribes to, or had relationships with, law enforcement, prosecutors, or judges that effectively exempted them from prosecution... Male child sex trafficking victims, including those subjected to bacha bazi, were in some cases referred to juvenile rehabilitation centers on criminal charges.'<sup>96</sup>

#### 7.7.4 UNAMA noted 'Currently, there are very few services and support mechanisms for victims of bacha bazi, while punitive measures taken to address this issue allegedly fall on the victims, who are often punished and re-victimized by law enforcement and the court system.'<sup>97</sup> According to the USSD TiP Report 'The Child Protection Action Network ... provided shelter to some child victims. NGOs operated two shelters for victims of labor and sex trafficking in Kabul, including one specifically dedicated to serving boys under age 18. At times, the government placed child victims in orphanages,

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<sup>95</sup> EASO, 'Afghanistan: Individuals targeted under societal and legal norms', (pages 69 and 70), December 2017, [url](#).

<sup>96</sup> United States Department of Labor, '2016 Findings on the Worst Forms of Child', (page 6), 30 September 2017, [url](#).

<sup>97</sup> UNAMA, 'Annual Report: 2016', (page 22), February 2017, [url](#).



although some children in orphanages were subjected to trafficking.<sup>98</sup> (See also [Childcare and protection](#)).

- 7.7.5 For further information on bacha bazi, and the availability of state protection, see the [Country Policy and Information Note Afghanistan: Sexual orientation and gender identity](#) and Section 5.1 of the [European Asylum Support Office EASO Country of Origin Report: Afghanistan – Individuals targeted under societal and legal norms](#), dated December 2017.

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## 7.8 Early and forced marriage

- 7.8.1 As prescribed in the Afghan Civil Code, the legal age for marriage is 16 for girls and 18 for boys. Girls aged 15 may marry with her father's, or a competent court's, permission<sup>99</sup>. However, Human Rights Watch (HRW) stated that the law was rarely enforced and marriages occurred at even earlier ages<sup>100</sup>. UNICEF noted in 2015 that 'Sharia law, which influences the informal justice system states no age limit on marriage, and the Shiite Personal Status law (domestic legislation) permits marriage for boys and girls 'at puberty', making the Afghan Civil Code ineffective.'<sup>101</sup>
- 7.8.2 According to the 2015 Demographic Health Survey for Afghanistan, the average age for marriage was 18.5 years; however, approximately 14% of women aged between 25-49 were married at age 15 and nearly 45% were married at age 18<sup>102</sup>. According to a 2013 survey by the Afghanistan Independent Human Rights Commission, cited by Save the Children, up to 80% of marriages were forced marriages on girls. The same research found that children were often forced to early marriage by violent means and it was widely accepted that parents did not face prosecution for having their children marry at an early age<sup>103</sup>.
- 7.8.3 Child marriage remained widespread but mainly occurred in rural areas<sup>104</sup>. UNICEF noted in 2015 that 'according to a joint 2010 UNAMA/ OHCHR report on harmful traditional practices, underage marriage is "common across Afghanistan, in all regions and all ethnic groups".'<sup>105</sup>
- 7.8.4 HRW noted 'The consequences of child marriage are deeply harmful, and they include girls dropping out or being excluded from education. Other harms from child marriage include serious health risks – including death – to girls and their babies due to early pregnancy. Girls who marry as children are also more likely to be victims of domestic violence than women who marry later.'<sup>106</sup>

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<sup>98</sup> USSD, '2017 Trafficking in Persons Report', (page 57), 27 June 2017, [url](#).

<sup>99</sup> Civil Law of the Republic of Afghanistan, (Articles 70-71), 5 January 1977, [url](#).

<sup>100</sup> HRW, 'Girls' Access to Education in Afghanistan', (page 12), 17 October 2017, [url](#).

<sup>101</sup> UNICEF, 'Child Notice Afghanistan', (page 31), 2015, [url](#).

<sup>102</sup> CSO, 'Afghanistan Demographic and Health Survey 2015', (page 69), January 2017, [url](#).

<sup>103</sup> Save the Children, 'A Baseline Study', (page 9), August 2017, [url](#).

<sup>104</sup> EASO, 'Afghanistan: Individuals targeted under societal and legal norms', (page 40), December 2017, [url](#).

<sup>105</sup> UNICEF, 'Child Notice Afghanistan', (page 74), 2015, [url](#).

<sup>106</sup> HRW, 'Girls' Access to Education in Afghanistan', (page 12), 17 October 2017, [url](#).

- 7.8.5 Girls Not Brides, a global partnership of civil society organisations committed to ending child marriage, noted in regard to child marriage in Afghanistan, that ‘Cultural practices such as bride price, child engagements (where children are engaged before birth), exchange marriages (between girls from two separate families) and giving girls in baad (to solve a communal dispute), contribute to the high prevalence of child marriage and low value assigned to girls in Afghan society. Child marriage has also been linked to the trafficking of girls.’<sup>107</sup>
- 7.8.6 In April 2017, the government announced the launch of a national action plan to end child marriage<sup>108 109</sup>, however further information on implementation could not be found (see [Bibliography](#) for sources consulted).

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## 7.9 Street children

- 7.9.1 The USSD HR Report for 2016 stated ‘The Ministry of Labor, Social Affairs, Martyrs, and Disabled and the AIHRC continued to estimate the number of street children in the country at six million, but the National Census Directorate had not conducted a recent survey. Street children had little or no access to government services, although several NGOs provided access to basic needs, such as shelter and food.’<sup>110</sup>
- 7.9.2 As reported by the Institute for War and Peace Reporting (IWPR) in December 2016, UNICEF estimated that about 60,000 children were working in the streets of Kabul; however, the Afghanistan Independent Human Rights Commission (AIHRC) estimated this to have exceeded 100,000. The IWPR noted children begging or selling goods were a familiar sight in cities across the country, adding that not all street children were orphans; some were sent out to earn money by their families as they had no other means of support<sup>111</sup>. (See also [Child labour](#)).
- 7.9.3 According to Sadiq Sadiqi, spokesman for the Ministry of Interior Affairs, ‘street children faced a constant threat of violence’. Sadiqi told IWPR “‘We have police departments responsible for dealing with such children, which have not done enough. But we are cooperating with various organisations and care homes, and have enrolled those children in grave need in homes where they will be both given training and helped financially”.’<sup>112</sup>
- 7.9.4 EASO reported that most street children were boys, adding ‘In the cities, street children in particular face a lot of threats: risk of trafficking, sexual abuse, kidnapping, drug addiction and recruitment by insurgents or as drug runners’ and that urban displaced youth in Kabul were ‘... vulnerable to being targeted for recruitment and pressured to engage in criminality or gangs.’<sup>113</sup>

See also [Orphans and orphanages](#).

<sup>107</sup> Girls Not Brides, ‘Child marriage around the world: Afghanistan’, undated, [url](#).

<sup>108</sup> UNFPA, ‘Together We Can End Child Marriage’, 18 April 2017, [url](#).

<sup>109</sup> Girls not Brides, ‘Afghanistan launches national action plan’, 19 April 2017, [url](#).

<sup>110</sup> USSD, ‘Country Report 2016’, (Section 6.), 3 March 2017, [url](#).

<sup>111</sup> IWPR, ‘No Respite for Kabul’s Street Children’, 9 December 2016, [url](#).

<sup>112</sup> IWPR, ‘No Respite for Kabul’s Street Children’, 9 December 2016, [url](#).

<sup>113</sup> EASO, ‘Key socio-economic indicators’, (pages 116, 120 and 121), August 2017, [url](#).

## 8. Child soldiers

For the additional information on recruitment of children by armed forces and insurgents, see the [EASO Country of Origin Information Report Afghanistan – Recruitment by armed groups](#), dated September 2016 and [Landinfo's Report Afghanistan: Recruitment to Taliban](#), dated 29 June 2017.

### 8.1 Afghan national forces

- 8.1.1 There was no compulsory military conscription in Afghanistan and the minimum age for recruitment into the armed forces is 18<sup>114</sup>. The US Department of Labor noted, however, that 'Low birth registration and falsified identity documents contribute to the problem [of recruitment into the security forces] because it makes the determination of a recruit's age difficult. Observers reported that some officials accepted bribes to produce identity documents for boys stating their age was above 18 years old.'<sup>115</sup> (See [Birth registration and certificates](#)).
- 8.1.2 The 2017 annual report of the Secretary-General on Children and armed conflict noted 11 verified cases of recruitment and use of children into the Afghan National Defence and Security Forces between January and December 2016: 7 were attributed to the Afghan National Police (ANP); 2 to the Afghan Local Police (ALP); 1 to the ANP and ALP at a joint checkpoint; and 1 to the Afghan National Army (ANA)<sup>116</sup>.
- 8.1.3 The USSD TiP Report 2017 noted 'The Afghan Local and National Police use children in combat and non-combat roles, including as personal servants, support staff, and body guards. The ANA also recruits children, although to a lesser extent. There were reports that some members of the Afghan security forces, including members of the ANA, and other groups of non-state actors sexually abuse and exploit young girls and boys.'<sup>117</sup> (see [Bacha bazi](#)).
- 8.1.4 The USSD TiP Report 2017 added 'During the reporting period, the government opened 15 child protection units (CPUs) to prevent the recruitment of children into the security forces. According to an international organization, the CPUs prevented the recruitment of 315 boys and three girls from January through November 2016. Separately, MOI [Ministry of Interior] reported it prevented the recruitment of 63 children into the police forces in 2016.'<sup>118</sup>
- 8.1.5 Speakers at an Institute of War and Peace Reporting (IWPR) debate in Paktika in July 2017 stated 'Many boys aged under 18 are still seen in the military and security departments of Paktika province, especially in the national and local police forces'. In response, the director of the rights office

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<sup>114</sup> US Department of Labor, '2016 Findings on the Worst Forms of Child Labor', (page 4), 30 September 2017, [url](#).

<sup>115</sup> US Department of Labor, '2016 Findings on the Worst Forms of Child Labor', (pages 2-3), 30 September 2017, [url](#).

<sup>116</sup> UNSG, 'Children and armed conflict', (paragraph 22), 24 August 2017, [url](#).

<sup>117</sup> USSD, '2017 Trafficking in Persons Report', (page 58), 27 June 2017, [url](#).

<sup>118</sup> USSD, '2017 Trafficking in Persons Report', (page 58), 27 June 2017, [url](#).

at Paktika police headquarters acknowledged that under-age boys were sometimes recruited, whilst adding that work was ongoing to regulate such recruitment. The director added that boys found to be underage were dismissed<sup>119</sup>.

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## 8.2 Anti-government elements

- 8.2.1 The UN Secretary-General on Children and armed conflict reported that during 2015 ‘The Taliban continued to recruit children for combat and suicide attacks. There is continuing concern about allegations of cross-border recruitment of children and of use of religious schools in Afghanistan and Pakistan for child recruitment and military training by the Taliban and other armed groups.’<sup>120</sup> The Report of the Secretary-General covering 2016 events reported 69 verified cases of recruitment of children to the Taliban during 2016 (triple the number recorded in 2015): 10 to ISIL-Khorasan Province; the remaining 5 could not be attributed. There were unverified reports of more than 3,000 children being affected by recruitment to armed groups<sup>121</sup>.
- 8.2.2 The USSD TiP Report 2017 noted:  
‘Armed non-state groups, mostly the Taliban, but also including other non-state groups like the Islamic State in Khorasan Province, account for most child recruitment and use. Insurgent groups forcibly recruit and use children as suicide bombers. The Taliban indoctrinate children using religious and military education and teach children to use small arms and deploy improvised explosive devices. Some families receive cash payments or protection in exchange for sending their children to the Taliban-run schools. Children from impoverished and rural areas, particularly those under Taliban control, are especially vulnerable to recruitment.’<sup>122</sup>
- 8.2.3 In a Save the Children study, published August 2016 ‘18% of children reported that children are vulnerable for recruitment into Armed Opposition Groups in their community (with the highest percentage reported in Jawzjan, followed by Sari Pul, Balkh, and Nangarhar) with 13% of adults sharing the same concern.’<sup>123</sup>
- 8.2.4 A June 2017 report on recruitment to the Taliban by Landinfo, the Norwegian Country of Origin Information Centre, indicated that circumstances (for example, poverty, unemployment), cultural, religious and social constraints, collective decisions, and a lack of confidence in the state-building process, may put pressure on an individual to join the Taliban. The Taliban did not, however, systematically practice forced recruitment. The report noted direct forced recruitment occurred only in exceptional cases and to no great extent, adding that the Taliban had ‘sufficient access to volunteer recruits.’<sup>124</sup>

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<sup>119</sup> IWPR, Afghanistan: Insurgents Prey on Teenage Boys, 31 July 2017, [url](#).

<sup>120</sup> UN, ‘Secretary-General on Children and armed conflict’, (paragraph 22), 20 April 2016, [url](#).

<sup>121</sup> UNSG, ‘Children and armed conflict’, (paragraph 21), 24 August 2017, [url](#).

<sup>122</sup> USSD, ‘2017 Trafficking in Persons Report’, (page 58), 27 June 2017, [url](#).

<sup>123</sup> Save the Children, ‘A Baseline Study’, (page 3), August 2017, [url](#).

<sup>124</sup> Landinfo, ‘Afghanistan – Recruitment to Taliban’, (pages 19-20), 29 June 2017, [url](#).

- 8.2.5 The Landinfo report noted that whilst it was difficult to measure the extent to which recruitment of minors by the Taliban occurred, and major local variations were likely, 'As the Taliban emphasises military experience and expertise more than previously, there is reason to believe that the extent of minors being recruited may be declining.'<sup>125</sup>
- 8.2.6 It was Landinfo's understanding that the Taliban was predominantly a Pashtun movement, although non-Pashtun recruitment had increased over the last decade including recruitment of Tajiks in the northeast and Tajiks, Uzbeks and Turkmen in the north and northwest. However, the report added support of the Taliban amongst Hazaras was nominal and forced recruitment of Hazaras was unlikely<sup>126</sup>.
- 8.2.7 Describing the Taliban's attitude of recruitment of minors, the Landinfo report stated:
- 'In article 69 of the Taliban regulations, the Layha, it is stated that "Youngsters (whose beards are not visible because of their age) are not allowed to be kept by Mujahedin in residential or military centres". Although Taliban periodically denies that the organisation uses minors ("children and adolescents") in connection with so-called jihadic operations, it is obvious that the guidelines are discretionary... In practice, the local standard for when a person is considered mature and independent will be decisive, rather than actual age.'<sup>127</sup>
- 8.2.8 Speakers at an IWPR debate in July 2017 stated 'Insurgent groups continue to use radical propaganda and exploit local poverty to recruit teenage boys to their ranks...', adding that some boys were sexually exploited<sup>128</sup>. (See [Bacha bazi](#)).

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## 9. Child labour

### 9.1 Forced and bonded labour

- 9.1.1 The Labour Law sets the minimum age for work at 15, and the minimum age for hazardous work at 18<sup>129</sup>.
- 9.1.2 According to the US Department of Labor, reporting on 2016, Afghanistan made '... a moderate advancement in efforts to eliminate the worst forms of child labor...' although '... research found no evidence of an overall mechanism to combat child labor, including all its worst forms.'<sup>130</sup> According to the Afghanistan Public Policy Research Organization (APPRO) 'Working children can also face abuse by the police who ask them for money or restrict their access to certain areas.'<sup>131</sup>

<sup>125</sup> Landinfo, 'Afghanistan – Recruitment to Taliban', (page 21), 29 June 2017, [url](#).

<sup>126</sup> Landinfo, 'Afghanistan – Recruitment to Taliban', (pages 3 and 11), 29 June 2017, [url](#).

<sup>127</sup> Landinfo, 'Afghanistan – Recruitment to Taliban', (page 21), 29 June 2017, [url](#).

<sup>128</sup> IWPR, Afghanistan: Insurgents Prey on Teenage Boys, 31 July 2017, [url](#).

<sup>129</sup> US Department of Labor, '2016 Findings on the Worst Forms of Child Labor', (page 3), 30 September 2017, [url](#).

<sup>130</sup> US Department of Labor, '2016 Findings on the Worst Forms of Child Labor', (page 6), 30 September 2017, [url](#).

<sup>131</sup> APPRO, 'Baseline Report', (page 58), April 2016, [url](#).

### 9.1.3 Human Rights Watch reported in October 2017 that:

‘At least a quarter of Afghan children between ages 5 and 14 work for a living or to help their families, including 27 percent of 5 to 11-year-olds. Girls are most likely to work in carpet weaving or tailoring, but a significant number also engage in street work such as begging or selling small items on the street. Many more do house work in their family’s home. Many children, including girls, are employed in jobs that can result in illness, injury, or even death due to hazardous working conditions and poor enforcement of safety and health standards. Children in Afghanistan generally work long hours for little – or sometimes no – pay. Work forces children to combine the burdens of a job with education or forces them out of school altogether. Only half of Afghanistan’s child laborers attend school.’<sup>132</sup> (See also [Street children](#) and [Education](#)).

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## 10. Childcare and protection

### 10.1 Government support

#### 10.1.1 The 2014 UNICEF situational analysis of women and children in Afghanistan stated:

‘There is inadequate attention afforded to child protection in the national planning strategies of Afghanistan and a consistent, holistic and multi-sectoral approach to child protection is lacking. The absence of a coordinated policy, financial resources and lack of will among senior policy-makers and officials are serious impediments to protecting children from violence, abuse and exploitation.’<sup>133</sup>

#### 10.1.2 UNICEF noted in 2015 that there was ‘no unit or ministry responsible for coordinating the implementation of the CRC [Convention on the Rights of the Child].’ The report added:

‘The Child Protection Action Network (CPAN) is an inclusive network of government, nongovernmental and Civil Society Organisations (CSO) with a mandate to intervene in the area of child protection. It operates at both a provincial and national level. Centralized monthly meetings occur in Kabul and provincial and district levels report monthly to the national group. The national CPAN is based in Kabul, with 32 provincial offices and 67 district offices. Statistics on child protection issues are shared by CPAN on a monthly basis.’<sup>134</sup>

#### 10.1.3 UNICEF also noted ‘In 2015, the CPAN coordinator stated that 41 social workers are working nationwide, nine based in Kabul and the others located in provincial offices. UNICEF recorded 46 social workers nationwide, with 10 located in Kabul. According to UNICEF, 124 social workers were trained by MoLSAMD [Ministry of Labour, Social Affairs, Martyrs & Disabled] from

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<sup>132</sup> HRW, ‘Girls’ Access to Education in Afghanistan’, (page 13), 17 October 2017, [url](#).

<sup>133</sup> UNICEF, ‘Children and Women in Afghanistan’, (page 44), November 2014, [url](#).

<sup>134</sup> UNICEF, ‘Child Notice Afghanistan’, (page 27), 2015, [url](#).

2013-2104, with support of UNICEF in six provinces. NGO's also employ social workers, but on project base. Their exact number is not available.<sup>135</sup>

10.1.4 However, the report added 'Although the Afghanistan government, particularly the Ministry of Labour, Social Affairs, Martyrs & Disabled (MoLSAMD) is obliged to provide social services for all children and youth focusing on vulnerable groups, so far there is no report to show activities of MoLSAMD to facilitate equal access of children to social services.'<sup>136</sup>

10.1.5 In an August 2017 report EASO noted:

'The Ministry of Labour, Social Affairs, Martyrs and Disabled (MoLSAMD) set up a number of programmes to help children they had identified as being at risk. Some of them are aimed at children with no family and support and are implemented through an orphanage network, others involve children who have families but still have to work on the streets. The ministry can provide small and larger loans in cooperation with non-governmental organisations; however, it admits that it is impossible to provide the aid to everyone who needs it because of scarce financial resources.'<sup>137</sup> (see also [Street children](#)).

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## 10.2 Independent and non-governmental support

10.2.1 UNICEF noted that:

'Children are able to make independent requests for help and protection from AIHRC [Afghanistan Independent Human Rights Commission]. According to AIHRC staff working in the Child Rights Desk, the most common way of hearing independent requests from children is during monitoring visits into orphanages, Juvenile Rehabilitation Centres, and shelters/centers for children, since child rights AIHRC representatives always facilitate meetings with children separately from the adults. Numbers on requests during these monitoring visits were not available. The second option available for children to make independent requests is to directly come to the nearest AIHRC office and request assistance. This option is not as common since it is difficult for children to come alone. From 2013-2015, the child rights desk recorded 10 cases where children came alone to request protection.'<sup>138</sup>

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## 10.3 Adoption

10.3.1 The UN CRC noted with concern that Afghanistan did not practice adoption or kafalah (Islamic guardianship model), stating that there was no system to provide special protection and assistance to children deprived of a family environment<sup>139</sup>.

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<sup>135</sup> UNICEF, 'Child Notice Afghanistan', (page 55), 2015, [url](#).

<sup>136</sup> UNICEF, 'Child Notice Afghanistan', (page 56), 2015, [url](#).

<sup>137</sup> EASO, 'Key socio-economic indicators', (page 118), August 2017, [url](#).

<sup>138</sup> UNICEF, 'Child Notice Afghanistan', (page 42), 2015, [url](#).

<sup>139</sup> UN CRC, 'Convention on the Rights of the Child', (paragraph 45), 8 April 2011, [url](#).

10.3.2 UNICEF noted in 2015 that the Afghan legal system did not allow for adoption of Afghan children in Afghanistan. The Child Guardianship Law 2012 allowed for guardianship through the Afghan Family Court. There was no foster care policy<sup>140</sup>.

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## 10.4 Orphans and orphanages

10.4.1 In 2011, the UN CRC expressed concern that ‘... children who have lost their father are often considered as orphans and may be separated from their mother, especially if she does not accept to marry a male member of her deceased husband’s family.’<sup>141</sup> The same source was concerned at the ‘... continuous increase in the institutionalization of children in the State party, especially children from poor families. The Committee notes with concern that other alternative care options, such as foster care, remain underdeveloped which leads to excessive institutionalization of children. The Committee is also concerned that most alternative care facilities are unregistered and are not adequately regulated and monitored.’<sup>142</sup>

10.4.2 The 2015 Demographic and Health Survey indicated only 4% of children under 18 were orphaned (with one or both parents dead)<sup>143</sup>. As reported by the Institute for War and Peace Reporting (IWPR) in December 2016 ‘According to the ministry of labour and social affairs, there are 42 government-run care homes and training centres for vulnerable children around the country. Private charities run another 45.’ The number of organisations and charities was insufficient to provide homes for all children in need<sup>144</sup>.

10.4.3 The USSD HR Report 2016 stated:

‘Living conditions for children in orphanages were poor. The social affairs ministry oversaw 84 Child Protection Action Network centers and 78 residential orphanages, which were designed to provide vocational training to children from destitute families. Of these, 30 were privately funded orphanages and 48 were government-funded centers operated by NGOs by agreement with the ministry. NGOs reported up to 80 percent of children between ages four and 18 years in the orphanages were not orphans but came from families that could not provide food, shelter, or schooling. Children in orphanages reported mental, physical, and sexual abuse and occasionally were subjected to trafficking. They did not have regular access to running water, heating in winter, indoor plumbing, health services, recreational facilities, or education.’<sup>145</sup>

10.4.4 As cited in an August 2017 report by EASO:

‘The overall number of orphans is unknown in Kabul but it is estimated that 0.75 % of children below 5 lost at least one parent and 0.05% lost both of

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<sup>140</sup> UNICEF, ‘Child Notice Afghanistan’, (pages 53-54), 2015, [url](#).

<sup>141</sup> UN CRC, ‘Convention on the Rights of the Child’, (paragraph 41), 8 April 2011, [url](#).

<sup>142</sup> UN CRC, ‘Convention on the Rights of the Child’, (paragraph 43), 8 April 2011, [url](#).

<sup>143</sup> CSO, ‘Afghanistan Demographic and Health Survey 2015’, (page 12), January 2017, [url](#).

<sup>144</sup> IWPR, ‘No Respite for Kabul’s Street Children’, 9 December 2016, [url](#).

<sup>145</sup> USSD, ‘Country Report 2016’, (Section 6), 3 March 2017, [url](#).



them. The number is lower than in other Afghan provinces. According to a children's rights organisation in Kabul City, interviewed by the Associated Press, there are 20 shelters for children for the city's 4.5 million residents, and these shelters lack expertise and capacity to support traumatised minors. Almost all are based on foreign aid and highly depend on them. There is a constant threat of lack of continuity.<sup>146</sup>

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## 11. Documentation

### 11.1 Birth registration and certificates

- 11.1.1 At the time of the 2015 Demographic and Health Survey, 42% of children under the age of 5 had their births registered, though birth registration varied across provinces<sup>147</sup>. The UN CRC, in its concluding observations in 2011, expressed concern '... at the situation of children born out of wedlock, who may be deprived of their right to birth registration', and urged the Afghan government to ensure such children were properly registered at birth<sup>148</sup>. (See also [Illegitimate children](#)). The Government of Afghanistan announced that it was 'revitalising' the birth registration process so that a 'birth certificate will be a requirement to accessing basic services such as education, immunisation and health.'<sup>149</sup> It was not clear to CPIT when this requirement would be implemented. (See also [Education](#) and [Health and welfare](#)).
- 11.1.2 DFAT noted 'Reporting of birth dates is unreliable, and reported dates likely to be approximate. Birth certificates were not historically issued, and remain far from common. DFAT understands that the Ministry of Public Health issues birth certificates through a small number of maternity hospitals. However, parents can obtain a taskira for their newborn child by registering the birth with the Ministry of the Interior's population registration office.'<sup>150</sup>
- 11.1.3 Reuters noted in July 2017 that 'According to Afghan law a mother's name should not be recorded on a birth certificate.'<sup>151</sup> The USSD HR Report 2016 stated 'A citizen father transmits citizenship to his child. Birth in the country or to a citizen mother alone is not sufficient.'<sup>152</sup>

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### 11.2 Identity documents and passports

- 11.2.1 UNICEF noted 'Both identity documents and passports are issued for children starting from age 0 but only with the consent of a male relative (father, brother, brother of the father). After 18 years old, Afghans are able to access passports and identity documents independently, however they must have the tazkira (national ID) of their father or other male relative to show as proof of nationality.'<sup>153</sup>

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<sup>146</sup> EASO, 'Key socio-economic indicators', (page 121), August 2017, [url](#).

<sup>147</sup> CSO, 'Afghanistan Demographic and Health Survey 2015', (page 11), January 2017, [url](#).

<sup>148</sup> UN CRC, 'Convention on the Rights of the Child', (paragraph 33), 8 April 2011, [url](#).

<sup>149</sup> Ministry of Interior Affairs, 'Newborn Registration Service', undated, [url](#).

<sup>150</sup> DFAT, 'Country Information Report Afghanistan', (paragraph 5.25), 18 September 2017, [url](#).

<sup>151</sup> Reuters, 'Where is my name? Afghan women fight for their own identity', 28 July 2017, [url](#).

<sup>152</sup> USSD, 'Country Report 2016', (Section 6), 3 March 2017, [url](#).

<sup>153</sup> UNICEF, 'Child Notice Afghanistan', (page 32), 2015, [url](#).

### 11.2.2 According to sources cited in the UNICEF report:

‘Although all Afghan returnees are, by law, entitled to have access to all rights and privileges, in practice, it is very difficult for them to prove their identities as Afghan and retrieve their identity and legal documentation, in part because they have been out of the country for a long time. The case for child returnees, particularly girls, is worse because they are much less similar – from a cultural point of view – to local population and have less connections and personal relations with authorities.

‘The process to obtain identity cards in Afghanistan is complicated. Returning women and girls faced increased challenges in attending school, accessing ID cards, participating in local decision-making structures and a lack of psychological and social support for survivors of sexual and gender based violence (SGBV). To prove that they are Afghan, Afghan returned need to be recognized by at least three persons including some elders from his/her own community. Especially when they have been out of the country, as a refugee, it can be difficult for them to succeed.’<sup>154</sup>

### 11.2.3 DFAT reported:

‘The most common and important form of identification is a taskira certificate. In addition to being required for employment, and admission to schools and universities, to obtain approval to run a business, and to buy, rent and sell property, taskiras act as the primary document necessary to obtain other forms of identification. Taskiras are printed on plain paper, and include the names of the bearer, his/her father and grandfather; date and place of birth; place of residency; type of occupation; and military service status. Other than stamped seals, they do not include any security features, and the information on them is often incomplete. The Population Registration Department (PRD) of the MOI [Ministry of Interior] is responsible for issuing taskiras...

‘The PRD had been in the process of developing an e-Taskira biometric ID card containing fingerprints, iris scans and digital images of the bearer. However, DFAT understands that this project is on hold indefinitely, and that a new paper taskira will instead be introduced in early 2017 as an interim measure. The new paper taskira will include a watermark security feature, and dry seal across a photograph to reduce the risk of substitution. It will be printed rather than hand-written, and will be double-sided, with Dari on the front and an English translation on the reverse. The new taskira will be issued to all new registrants, and there will be a period (unspecified) whereby Afghans both in the country and outside will have an opportunity to upgrade their old taskira for the new version.’<sup>155</sup>

### 11.2.4 DFAT stated regarding to passports:

‘The MOI’s Passport Directorate in Kabul is responsible for the issuance of passports, which are machine-readable. Requirements for adult passport applicants are a valid taskira and a number of passport photographs. The applicant’s fingerprints are digitally recorded, and entered into a database. Provincial passport offices located throughout the country print and issue

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<sup>154</sup> UNICEF, ‘Child Notice Afghanistan’, (page 88), 2015, [url](#).

<sup>155</sup> DFAT, ‘Country Information Report Afghanistan’, (paragraphs 5.23-5.24), 18 September 2017, [url](#).

passports. Passports contain information on the bearer's first name, surname (or father's name), occupation, photograph, date and place of birth, date of issue, and validity. They do not contain information about the bearer's religion or ethnicity. It is unclear how many Afghans are in possession of passports.<sup>156</sup>

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### 11.3 Document fraud

#### 11.3.1 DFAT reported:

'Document fraud is a major issue in Afghanistan. Because the process for obtaining some documents is decentralised to the provincial level, and because the documentation itself generally does not contain robust security features, the system is vulnerable to fraud. Genuine documents can be issued on the basis of false information, with supporting forms of documentation such as school, academic, or banking records easily forged. This is particularly problematic in the case of taskiras given they are the primary document used to obtain other forms of identification. There is a risk that genuine, but fraudulently obtained, taskiras can be used to obtain passports.'<sup>157</sup>

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## 12. Internally displaced persons (IDPs)

#### 12.1.1 The UN OCHA noted in its Humanitarian Needs Overview 2018 that:

'In the past 18 months nearly a million Afghans were internally displaced, fleeing their homes to escape fighting, and in 2016 Afghans comprised the second-largest group of asylum-seekers in Europe. On average 1,100 people each day – two thirds of them women and children – have been forcibly displaced by violence in 2017. A further 900,000 IDPs currently live in informal settlements characterised by inhuman living conditions and high levels of food insecurity. Affected communities are exposed to an array of protection risks, including family separation, forced recruitment of children, and early marriage – sometimes of girls as young as nine – as well as the loss of civil documentation.'<sup>158</sup>

#### 12.1.2 Further information on IDPs can also be found in the [Country Policy and Information Note Afghanistan: Security and humanitarian situation](#), and [EASO, Afghanistan: Key socio-economic indicators, state protection, and mobility in Kabul City, Mazar-e Sharif, and Herat City](#), August 2017.

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## 13. Return and reintegration

The following reports may be useful to gain an insight into the possible issues that returnees, including unaccompanied children, might face upon return:

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<sup>156</sup> DFAT, 'Country Information Report Afghanistan', (paragraph 5.26), 18 September 2017, [url](#).

<sup>157</sup> DFAT, 'Country Information Report Afghanistan', (paragraph 5.27), 18 September 2017, [url](#).

<sup>158</sup> UN OCHA, 'Humanitarian Needs Overview 2018: Afghanistan', (page 8), December 2017, [url](#).

- EASO, [Afghanistan: Networks](#), January 2018, Section 4 ‘Possibility of settling in urban centres without a network’;
- EASO, [Afghanistan: Key socio-economic indicators, state protection, and mobility in Kabul City, Mazar-e Sharif, and Herat City](#), August 2017, Section 4.4. ‘Children – daily life in big cities’ and Section 5. ‘Travel into the cities’;
- UNICEF, [Child Notice: Afghanistan](#), 2015, Section 8 ‘Returning separated or unaccompanied children and families’.

### 13.1 Returnees

#### 13.1.1 The UN OCHA report noted:

‘More than 151,000 people have returned to Afghanistan from Pakistan in 2017, as well as 395,000 from Iran. Returning populations are almost entirely dependent on extended family networks and internationally funded assistance upon arrival, as well as being exposed to many protection risks both pre, and post, flight. About 58 percent of returnees are under 18 years old with as many as 142,000 returnee children expected to arrive and require education in 2018. Especially vulnerable are the unaccompanied migrant children from Iran – of which more than 2,000 have arrived in 2017 – as well as single females and deportees. All of whom are at risk of trafficking, exploitative labour, and recruitment into armed groups.’<sup>159</sup>

#### 13.1.2 In August 2015, Abdul Ghafoor, director of the Afghanistan Migrants Advice and Support Organisation, told UNICEF ‘There are no specific reintegration programs designed for returning unaccompanied minors to Afghanistan. Due to the vast numbers of returnees the governmental and nongovernmental supporting bodies mainly focus on providing the returnees with some basic assistance such as shelter, food, and transport.’<sup>160</sup>

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### 13.2 Family contacts and networks

#### 13.2.1 The EASO report on Afghanistan Networks, authored by Landinfo, published January 2018, stated that Afghans abroad usually maintain close contact with relatives in Afghanistan, adding that ‘... very few of those who return from Europe have lost contact with their family. The quality of the contact with the family may still depend on how long the person has been abroad, and if they lived in Afghanistan before they left the region.’<sup>161</sup>

#### 13.2.2 As cited in the EASO report:

‘Analyst Martine van Bijlert of the AAN conducted a series in-depth interviews with 12 families in Afghanistan who all had a family member who had left for Europe in 2015. All the families have contact with the migrant, are well informed as to where the person is and of how the family member’s

<sup>159</sup> UN OCHA, ‘Humanitarian Needs Overview 2018: Afghanistan’, (page 8), December 2017, [url](#).

<sup>160</sup> UNICEF, ‘Child Notice Afghanistan’, (page 86), 2015, [url](#).

<sup>161</sup> EASO, ‘Afghanistan: Networks’, (page 23), January 2018, [url](#).

situation has been upon arrival in Europe. The analyst interviewed the families in the home country rather than the actual migrant, because:

“[...] it provides insight into the continued linkages with the home front – a factor that tends to be underplayed in asylum interviews. (Many migrants, in particular minors, are coached to claim they no longer have living relatives or that they have lost all contact)”.<sup>162</sup>

- 13.2.3 The EASO report noted that close contact between Afghan migrants and their families in Afghanistan was generally maintained, not least due to an obligation to support relatives and family in the home country. The report added:

‘A local UN employee that Landinfo spoke to said that single men who have been outside of the country’s borders for a shorter or longer period of time are most likely to have a family in Afghanistan to return to. The source pointed out that most of those who return from Europe are unaccompanied and thus have a family in Afghanistan that they can return to. The exception may be those who have family networks in the neighbouring areas, in Iran or Pakistan.

‘Those who have left Afghanistan together with their family network may lack their closest family members upon return. Refugee Support Network (RSN), a London-based charity that has conducted research on Afghan returnees, followed up on 25 Afghans who had a temporary residence permits in the UK until they turned 18, and were then deported to Afghanistan. Most of them (78 %) stayed in Britain for more than five years. The report, which followed the returnees for a period of 18 months, claims that eight of the youths had not been successful in getting in touch with their extended family. In half of the cases, the reason was that the person’s family had left Afghanistan. All the returnees ran into a series of problems and difficulties upon returning, according to the report.’<sup>163</sup>

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### 13.3 Family tracing

- 13.3.1 According to sources cited in the EASO report, ‘families are generally well informed about each other’ and, according to an NGO representative, were ‘amazing at networking and finding people’. Yet a representative of an international organisation stated ‘However, it does sometimes happen that contact is broken or that family members lose each other or are separated on their way to Europe’. The report also noted:

‘The village the family comes from is a natural place to start searching for those who want to trace family members. Local communities possess a lot of information about the families in the area and the elders have a good overview.

‘The International Committee of the Red Cross (ICRC) runs a project to track family members and also has an online platform where pictures of missing persons can be posted. ICRC works closely with the Red Crescent. ICRC

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<sup>162</sup> EASO, ‘Afghanistan: Networks’, (page 23), January 2018, [url](#).

<sup>163</sup> EASO, ‘Afghanistan: Networks’, (page 23), January 2018, [url](#).

cannot enter all areas of Afghanistan and that is when the Red Crescent is used.<sup>164</sup>

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<sup>164</sup> EASO, 'Afghanistan: Networks', (page 26), January 2018, [url](#).

# Terms of Reference

A 'Terms of Reference' (ToR) is a broad outline of what the CPIN seeks to cover. They form the basis for the [country information section](#). The Home Office's Country Policy and Information Team uses some standardised ToRs, depending on the subject, and these are then adapted depending on the country concerned.

For this particular CPIN, the following topics were identified prior to drafting as relevant and on which research was undertaken:

- **Demography**
  - Population and family structure
- **Legal context**
  - Legal rights – domestic and international legislation
- **Social and economic rights**
  - Education
  - Health and welfare, disabled children
  - Illegitimate children
- **Judicial and penal rights**
  - Juvenile justice
  - Arrest and detention
- **Violence against children**
  - Conflict-related violence
  - Children of interest to AGEs
  - Attacks on schools
  - Abduction and trafficking
  - Child abuse, including corporal punishment and sexual violence
  - Bacha bazi
  - Early and forced marriage
  - Street children
- **Child soldiers**
  - Afghan national forces
  - Anti-government elements
- **Child labour**
  - Forced and bonded labour
- **Childcare and protection**
  - Government/NGO support
  - Adoption

- Orphans and children's homes
- **Documentation**
  - Birth registration and certificates
  - Tazkira (identity documents)
  - Fraudulent documents
- **Return and reintegration**
  - Returnees, family contacts/networks
  - Family tracing

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# Version control

## Clearance

Below is information on when this note was cleared:

- version **1.0**
- valid from **5 April 2018**

## Changes from last version of this note

First version in CPIN format.

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