

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	935
Land:	Afghanistan
Kilde:	US Department of State
Titel:	2019 Trafficking in Persons Report: Afghanistan
Udgivet:	20. juni 2019
Optaget på baggrundsmaterialet:	1. juli 2019

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[Students](#)[Travelers](#)

JUNE 20, 2019

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AFGHANISTAN: Tier 2 Watch List

The Government of Afghanistan does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. These efforts included investigating some allegations of official complicity in trafficking, establishing five new Child Protection Units (CPUs) to prevent the recruitment of children into the Afghan National Police (ANP), and partnering with an international organization to finalize and publish standard operating procedures (SOPs) for victim identification and referral to care. However, the government did not demonstrate overall increasing efforts compared to the previous reporting period. Afghan security forces continued to unlawfully recruit and use child soldiers and exploit boys in *bacha bazi* with impunity. Members of the Afghan National Army (ANA) and Afghan Local Police (ALP) reportedly recruited boys specifically for *bacha bazi* by enticing them and by promising food and money. Authorities continued to refer the majority of trafficking cases to mediation in lieu of criminal prosecution and penalized sex trafficking victims for “moral crimes.” Sex trafficking victims reported

prosecutors and judges solicited sexual favors from them while investigating their cases. Officials conflated trafficking and smuggling, could not confidently identify trafficking victims, and relied on NGOs and foreign donors for nearly all victim assistance. Therefore Afghanistan was downgraded to Tier 2 Watch List.

PRIORITIZED RECOMMENDATIONS

Cease the unlawful recruitment and use of children by Afghan security forces and demobilize children from all armed groups with adequate protection and reintegration support. • Issue a directive to law enforcement to pursue criminal investigations in cases of human trafficking, including *bacha bazi*. • Increase criminal investigations and prosecutions of trafficking—especially of law enforcement and military officials allegedly complicit in trafficking—and convict and adequately sentence perpetrators. • Cease support to non-state armed groups that recruit and use child soldiers. • Cease penalization of victims for unlawful acts their traffickers forced them to commit, including “moral crimes.” • Significantly increase training for judicial officials on the anti-trafficking provisions in the new penal code, the prohibition on mediation to settle sex trafficking cases per the 2009 Elimination of Violence Against Women Act, and ensure judges have sufficient copies of the penal code. • Disseminate, and conduct widespread training on, the SOPs for victim identification and referral to services. • Strengthen law enforcement’s capacity to address trafficking, including increased training and resources for the Ministry of Interior (MOI)’s provincial anti-trafficking/smuggling units. • Dedicate resources for trafficking victim shelters and services, including for male victims. • Amend Chapter 5 of the penal code to increase the penalties for *bacha bazi* in line with penalties prescribed for other forms of trafficking. • Raise awareness of trafficking at the local level, including its definition, law enforcement and social service resources available, and community prevention efforts. • Ensure all ministries support the High Commission for Combating Crimes of Abduction and Human Trafficking/Smuggling (high commission) and its sub-committee and contribute to data collection efforts.

PROSECUTION

The government maintained minimal law enforcement efforts and overall efforts—especially prosecution of allegedly complicit officials—remained negligible, allowing traffickers to operate with impunity. The 2017 Law to Combat Crimes of Trafficking in Persons and Smuggling of Migrants criminalized sex trafficking and labor trafficking, including *bacha bazi*. The law prescribed penalties between five and eight years' imprisonment. These penalties were sufficiently stringent and, with respect to sex trafficking, commensurate with those for other serious crimes. Aggravating factors increased the maximum sentence to between 10 and 15 years and the imposition of the death penalty if exploitation for armed fighting resulted in the victim's death. Article 510 of the new 2018 criminal code criminalized sex trafficking and labor trafficking, including *bacha bazi*. Article 511 prescribed penalties of five to 10 years' imprisonment for trafficking offenses involving adult male victims, and 10 to 16 years' imprisonment if the victim was a woman or child, or exploited in *bacha bazi*. These penalties were sufficiently stringent and, with respect to sex trafficking, commensurate with those for other serious crimes, such as rape. Article 512 outlined aggravating factors and increased penalties to 16 to 20 years' imprisonment for sex trafficking or forced armed fighting and between 20 to 30 years if the victim forced to fight died while subjected to trafficking. While the 2018 penal code also specifically criminalized more crimes related to *bacha bazi*, some of which would constitute trafficking offenses, it also prescribed lower penalties for certain acts constituting *bacha bazi* than those prescribed under Article 510. Most of these penalties were not sufficiently stringent, nor commensurate with the penalties prescribed for other serious crimes, such as rape. The government also used the 2009 Law on the Elimination of Violence Against Women (EVAW) to prosecute and convict sex traffickers. NGOs continued to express concern over the limited enforcement of anti-trafficking laws, citing both lack of resources and lack of political will to hold perpetrators accountable. The absence of a strong judiciary disproportionately affected female trafficking victims' access to justice; in rural areas outside of the formal legal system, male community leaders often settled both criminal and civil disputes, which often penalized female sex trafficking victims for "moral crimes." In urban areas, if judges or prosecutors assessed that no clearly defined legal statute applied or they were unaware of the statutory law, then they

enforced customary law, which often resulted in outcomes that discriminated against women. While the EAW law expressly prohibited the use of mediation and other Afghan laws neither permit nor prescribe mediation in criminal cases, police and judges often referred trafficking victims to mediation.

The government did not provide comprehensive data on anti-trafficking law enforcement efforts. While some ministries provided data, the statistics appeared to contradict one another in some areas, making it difficult to draw conclusions and compare to previous years. Data demonstrated investigation of 138 alleged traffickers, prosecution of 64 suspects, and conviction of 34 traffickers under the anti-trafficking and EAW laws, including six convictions for attempted human trafficking. This is compared to investigation of 132 alleged traffickers, prosecution of 73, and conviction of 33, including four for attempted trafficking, in the previous reporting period. The 138 investigations included investigations initiated by the ANA into 13 officers for *bacha bazi*, including witnessing and failure to report *bacha bazi*. Military authorities sentenced one perpetrator of *bacha bazi* to four months' imprisonment; the government did not report the status of the other 12 *bacha bazi* investigations.

Law enforcement and judicial officials continued to have a limited understanding of trafficking. While the 2017 law used separate terms and definitions for trafficking and smuggling, Dari, the most widely spoken language in Afghanistan, historically used the same word for human trafficking and migrant smuggling. Training to ensure officials understood the distinction was limited, especially at the local and provincial levels. MOI continued to operate dedicated trafficking/smuggling units in each of the 34 provinces and in Kabul, with two officers in each province. The National Directorate of Security (NDS) and the Afghan Border Police (ABP) also had mandates to address human trafficking. While ABP's anti-trafficking unit had the lead for transnational trafficking cases, the unit did not receive training on trafficking. During the reporting period, the government and INTERPOL established an additional anti-trafficking unit within MOI, funded by international donors, with nationwide jurisdiction. Officials acknowledged personnel, resources, and knowledge of trafficking remained inadequate in all units. NGOs and international organizations, with in-kind assistance from the government, conducted 91 capacity-

building workshops in 2018 for more than 1,850 members of the public, government officials, and civil society, including religious leaders and lawyers.

Widespread disregard for the rule of law and official impunity for trafficking remained serious concerns. While the government reportedly initiated some investigations into *bacha bazi* and sentenced one perpetrator, the government did not consistently or effectively prosecute officials for this crime and acknowledged the pervasive lack of accountability. Afghan security forces, in particular the ANP and ALP, reportedly exploited boys in *bacha bazi* in every province of the country, and NGOs reported Afghan security forces and pro-government militias—some of whom may have received direct financial support from the government—recruited boys specifically for use in *bacha bazi*. In some instances, ANA officials reportedly used promises of food and money to entice boys into *bacha bazi*. Despite these credible reports, the government did not take action to investigate the alleged perpetrators or execute arrest warrants in the vast majority of cases. Observers noted perpetrators of *bacha bazi* often paid bribes to, or had relationships with, law enforcement, prosecutors, or judges that protected them from prosecution. During the reporting period, an international organization verified three cases of *bacha bazi* by the ANP and ALP and reported three additional credible allegations, involving a total of 10 suspected perpetrators from ANP and ALP. Police did not arrest any of the 10 alleged sex traffickers by the close of the reporting period. In February 2017, police arrested a district chief of police and six members of the security forces for allegedly participating in a *bacha bazi* gathering; the district chief of police was fired from his position in early 2018, and the investigation remained pending at the close of the reporting period. A public health official who conducted forensic exams for criminal cases reported state prosecutors pressured him not to report confirmed evidence of abuse, including in cases of *bacha bazi*.

The UN verified the continued use of children in combat and non-combat roles by the Afghan security forces, including at least two verified cases of recruitment by the ANP, five by the ALP, and credible allegations of one by the NDS. ANA soldiers as young as thirteen were killed, wounded, and captured by Taliban insurgents. Pro-government militias that may have received direct financial support from the Afghan government reportedly recruited and used child soldiers, primarily in non-combat roles. Some officials accepted bribes to produce identity documents for boys stating

they were at least 18 years old. Many female sex trafficking victims detained during the judicial process alleged prosecutors and judicial officials sought sexual favors while investigating their cases. During the reporting period, a religious official allegedly coerced into sex trafficking women who sought his spiritual advice; one police officer allegedly facilitated the sex trafficking and a second officer allegedly obtained sexual services from the victim. Authorities arrested both officers.

PROTECTION

The government decreased victim identification and protection efforts and continued to penalize sex trafficking victims. The government did not compile comprehensive victim identification, referral, and assistance statistics. The high commission reported identifying 434 potential trafficking victims in 2018, compared to 476 identified in 2017; NGOs expressed concern about the accuracy of those figures. The government did not use systematic victim identification procedures during the reporting period. District and provincial-level officials continued to conflate trafficking and smuggling, and the vast majority of officials could not confidently identify or protect trafficking victims. In partnership with an international organization, the high commission published a training manual for law enforcement, NGOs, and community leaders on trafficking victim identification. With international assistance, the high commission also finalized and published a national referral mechanism for victim care and began to implement an online database to register trafficking victims for assistance. The organization began training officials and NGO staff on the manual, referral mechanism, and database.

NGOs operated, and international donors funded, approximately 27 women's shelters in 20 provinces that provided protection, legal, medical, and social services to female victims of violence, including trafficking. A few women's shelters closed during the reporting period due primarily to security challenges and a lack of donor funds. The shelters did not report how many trafficking victims they assisted during the reporting period. The Ministry of Women's Affairs monitored all women's shelters for compliance with national regulations. Family guidance centers in 19 provinces provided non-residential legal and social services for women and children, including trafficking victims. The government acknowledged the dearth of shelters

and government resources impeded victim protection. Police referred trafficking victims to shelters on an ad hoc basis. The Child Protection Action Network (CPAN), a conglomerate of NGOs, civil society, and government entities overseen by the Ministry of Labor and Social Affairs (MoLSA), remained active in 151 districts and could provide shelter and some services to child victims of crime; in the previous reporting period, CPAN operated in all 185 districts. CPAN was the only entity that addressed child protection issues, including child trafficking, outside of Kabul. NGOs operated two shelters for boy victims of crime that could assist boy trafficking victims younger than 18. No government or NGO shelter could accommodate adult male trafficking victims. At times, the government placed child trafficking victims in orphanages, and some orphanages subjected children to trafficking. Afghans continued to both voluntarily return and be deported from Iran and Pakistan, and traffickers had exploited some of the returnees in Iran and Pakistan. While international organizations noted that traffickers specifically targeted these returnees for forced labor upon return to Afghanistan, the government did not screen returnees for trafficking or refer them to services. In cases of parental complicity in child trafficking, authorities often returned children to their parents without sufficient efforts to ensure parents would not subject their children to trafficking again. The government did not encourage victims to participate in investigations; it did not provide adequate support or security for victims to safely do so. Afghan law allows trafficking victims to seek restitution; there were no reports any victims did so. Afghan law allows foreign victims to remain in Afghanistan for at least six months. Authorities reportedly identified some foreign victims in Afghanistan but did not report if they received this benefit.

The penal code provides that authorities shall not prosecute trafficking victims for unlawful acts their traffickers compelled them to commit, including “moral crimes” and the possession or use of fraudulent travel documents. Nonetheless, officials continued to arrest, imprison, or otherwise punish sex trafficking victims for prostitution or sex outside of marriage. Authorities referred some male sex trafficking victims to juvenile rehabilitation centers on criminal charges. Officials sometimes prosecuted victims for possessing forged identity documents. The government did not demobilize child soldiers associated with governmental or nongovernmental armed groups or refer such children to reintegration support. It arrested, detained, and prosecuted for terrorism-related crimes some children

younger than 12 years old that non-state armed groups had forcibly recruited. Authorities sometimes placed male and female victims in prison if they could not accommodate them in shelters. NGOs reported authorities housed some child trafficking victims in juvenile detention centers, sometimes for several years. NGOs reported authorities within the MOI, MoLSA, and the Ministry of Justice (MOJ) demonstrated reluctance to pursue justice and provide care for victims of *bacha bazi*. In some cases, police sexually abused *bacha bazi* victims who tried to report their exploitation and then treated them as criminals. Fear of law enforcement, threats of retaliation from traffickers and one's community, and the stigma associated with trafficking prevented many victims from bringing cases forward to law enforcement or seeking care, especially those involving *bacha bazi*.

PREVENTION

The government maintained modest efforts to prevent trafficking. The high commission, an autonomous government office under MOJ scheduled to meet quarterly, only met once in 2018 with limited attendance, compared to three meetings in 2017. The commission's working-level technical committee, held 11 meetings in 2018, compared to eight meetings in 2017. NGOs reported the high commission did not devote significant attention or political will to anti-trafficking efforts, especially data collection; members continued to conflate trafficking with smuggling; and activities relied on individual members' commitment. The sub-committee lacked resources and influence over member ministries and relied heavily on NGOs for funding and technical assistance to implement the commission's policies. The high commission had 33 provincial commissions to implement national anti-trafficking policy at the local level, although the majority of commissions did not meet or conduct activities. The government's anti-trafficking national action plan expired in April 2018, and the high commission reportedly extended the action plan to cover 2018-2021. During the previous reporting period, the high commission, in partnership with an international organization, published its first annual national report on human trafficking. The government disputed the report's findings, however, and did not produce a second iteration during the reporting period. The high commission, in partnership with international

organizations and NGOs, continued public awareness programs. The government attended a regional forum that promoted the use of a common trafficking victim referral mechanism and signed a memorandum of understanding with three countries to address transnational trafficking.

MOI opened five new CPUs throughout the country, for a total of 27, to prevent the recruitment of children into the ANP. According to an international organization, the CPUs prevented the recruitment of 30 children from October through December 2018. In addition, some of the high commission's awareness raising events addressed child recruitment by armed groups. Nevertheless, recruitment of children continued, and contacts noted the CPUs did not oversee ALP recruitment centers, which also recruited children. The government did not have a sufficient referral pathway for children identified by CPUs and prevented from joining the security forces to provide shelter, services, and family reintegration; thus, the children remained highly vulnerable to other forms of forced labor. The government utilized a policy and action plan for the reintegration of Afghan returnees and internally displaced persons (IDPs), in partnership with the UN; however, the government's ability to assist vulnerable persons, including more than 820,000 new returnees from Iran and Pakistan in 2018, remained limited, and it relied on the international community for assistance. The government made efforts to reduce the demand for commercial sex acts. The government did not provide anti-trafficking training for diplomatic personnel.

TRAFFICKING PROFILE

As reported over the past five years, human traffickers exploit domestic and foreign victims in Afghanistan, and traffickers exploit victims from Afghanistan abroad. Internal trafficking is more prevalent than transnational trafficking. NGOs report an increase in human trafficking within Afghanistan. Traffickers exploit men, women, and children in bonded labor—a form of forced labor by which the traffickers offer loans to vulnerable people and manipulate the debts to coerce the workers into continued employment. At times, traffickers exploit one worker's initial debt to entrap other family members, sometimes for multiple generations. There are entire Afghan families trapped in bonded labor in the brick-making industry,

predominately in eastern Afghanistan and in carpet weaving countrywide. Most Afghan trafficking victims are children exploited in carpet making, brick kilns, domestic servitude, commercial sex, begging, poppy cultivation and harvesting, salt mining, transnational drug smuggling, and assistant truck driving. NGOs assessed significant internal displacement exacerbated organized criminal groups' exploitation of children in forced begging. Some members of the *Shia Hazara* minority group are victims of forced labor. Some Afghan families force their children into labor with physical violence or knowingly sell their children into sex trafficking, including *bacha bazi*. Opium-farming families sometimes sell their children to settle debts with opium traffickers, and some drug-addicted parents subject their children to sex trafficking or force them into labor, including begging. There were allegations some orphanages run by NGOs and overseen by the government subjected children to trafficking. Police and education officials acknowledged some teachers coerce male students to perform commercial sex acts to pass exams. During the reporting period, authorities reported a religious official and two police officers coerced women seeking spiritual advice into sex trafficking. Members of the Afghan national women's soccer team reported Afghan Football Federation officials forced them to have sex in exchange for a spot on the team.

Afghan security forces and non-state armed groups continue to unlawfully recruit and use children in combat and non-combat roles with impunity. Non-state armed groups, primarily the Taliban and the Islamic State in Khorasan Province (ISIL-KP) account for most child recruitment and use and used children younger than age 12 during the reporting period. Insurgent groups increasingly use children as suicide bombers. Some families receive cash payments or protection in exchange for sending their children to the Taliban-run schools for military and religious indoctrination. Children from impoverished and rural areas, particularly those under Taliban control, are particularly vulnerable to recruitment. ANP and ALP use children in combat and non-combat roles, including as personal servants, support staff, and bodyguards. ANA, NDS, and ABP also recruit and use children in both combat and non-combat roles, although to a lesser extent. ANA soldiers as young as thirteen were killed, wounded, and captured by Taliban insurgents. Pro-government militias that may receive direct financial support from the government reportedly recruited and used child soldiers, primarily in support roles. Traffickers, including government and military officials, continued to exploit children in sex trafficking through *bacha*

bazi in every province of the country. An NGO interviewed many survivors of *bacha bazi* whose testimonies noted an “overwhelming understanding that *bacha bazi* is committed by the powerful,” including military commanders and community leaders. International organizations reported cases of *bacha bazi*, by nearly all groups, including the ANA, ANP, ALP, pro-government militias, and the Taliban, and stated cases are widely underreported. ALP officials and pro-government militias reportedly recruited children specifically for *bacha bazi*, and ANA officials reportedly lured boys into *bacha bazi* with promises of food and money. Some traffickers, including military officials, abduct children or promise fake jobs to lure them into *bacha bazi*. While the vast majority of *bacha bazi* cases involve boys and young men, government officials have exploited children as young as 12 years old in *bacha bazi* and at least one girl. Perpetrators of *bacha bazi* sometimes offer bribes or use their relationships with law enforcement officials, prosecutors, and judges to evade punishment.

Afghan returnees from Pakistan and Iran and internally displaced Afghans are vulnerable to labor and sex trafficking. During the reporting period, Afghanistan received more than 805,850 undocumented returnees from Iran and Pakistan, many of them unaccompanied minors. An international organization estimated it assisted only four percent of the more than 773,000 of the Afghans undocumented or deported from Iran, and traffickers specifically targeted the unassisted returnees in Herat, Nangarhar, Badakhshan, and Nimroz provinces for forced labor in agriculture, brick kilns, and carpet weaving. Afghans residing in Pakistan—including 1.4 million Afghan Proof of Registration card holders, 878,000 Afghan Citizen Card holders, and an unknown number of undocumented Afghans—continued, to varying degrees, to lack access to education, social services, and basic assistance, and be vulnerable to deportation, all of which increased vulnerability to trafficking. A severe drought and the continued internal conflict created more than 600,000 new IDPs within Afghanistan during the reporting period. International organizations documented an increase in IDPs selling their children to local shopkeepers in servitude to repay debts; between July and September 2018, one organization reported 161 cases of IDPs selling children into either marriage or servitude. NGOs reported some corrupt shopkeepers exploit IDPs’ debts by increasing their prices. Some traffickers targeted indebted IDPs and sold them into forced labor and sex trafficking.

Afghan men, women, and children pay intermediaries to assist them in finding employment, primarily in Iran, Pakistan, India, Europe, or North America; some intermediaries force Afghans into labor or sex trafficking. Afghan women and girls are subjected to sex trafficking and domestic servitude primarily in Afghanistan, Pakistan, Iran, and India, including through forced marriage. Afghan boys and men are subjected to forced labor and debt bondage in agriculture and construction, primarily in Iran, Pakistan, Greece, Turkey, and the Gulf states. Traffickers in Iran, including Iranian criminal groups, exploit Afghan children in forced labor as beggars and street vendors and forced criminality, including drug trafficking and smuggling of fuel and tobacco. The Iranian government and the Islamic Revolutionary Guards Corps continue to force and coerce Afghan migrants, including children as young as 12 years old, to fight in Iranian-led and -funded Shia militias deployed to Syria by threatening them with arrest and deportation to Afghanistan. Trafficking networks smuggle Afghan nationals living in Iran to Europe and force them to work in restaurants to pay off debts incurred by smuggling fees. Some Afghan boys are subjected to sex trafficking in Greece after paying high fees to be smuggled into the country. Some Afghan traffickers subjected Afghan boys to *bacha bazi* in Germany, Hungary, Macedonia, and Serbia. Traffickers have subjected women and girls from China, Iran, Pakistan, Philippines, Sri Lanka, and Tajikistan to sex trafficking in Afghanistan. Under the pretense of high-paying employment opportunities, some labor recruiting agencies lure foreign workers to Afghanistan, including from Sri Lanka, Nepal, India, Iran, Pakistan, and Tajikistan and subject them to forced labor after arrival.

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