Max Planck Institute
for Social Anthropology
Department 'Law & Anthropology'

Refugee Status and Women in Afghanistan as Members of a 'Particular Social Group'

Question(s) at stake:

1. Whether women in Afghanistan can form a "particular social group" (PSG) under the 1951 Refugee Convention. 2. Whether the appellant, a woman without a male family member or tribal support, would face a real risk of persecution under the Refugee Convention upon return to Afghanistan. 3. Whether internal relocation is possible for them.

Outcome of the ruling:

The Immigration Appeal Tribunal held that women in Afghanistan are capable of forming a "particular social group" within the meaning of the Refugee Convention.

The Tribunal found that, generally, women in Afghanistan without male protection or tribal support are at significant risk of persecution or serious harm, including severe discrimination, gender-based violence, sexual assault, and forced marriage. They are unlikely to enjoy access to sufficient protection from the authorities. However, whether internal relocation is unduly harsh depends on the individual circumstances of each case.

In light of the Country Guidance, the appeal was allowed. Internal relocation to Kabul would be 'unduly harsh' for the appellant, as a single mother "without male protection", with deteriorating mental health, and with "two young daughters" who would themselves be at risk of sexual assault and forced marriage (paras. 91 and 96).

Topic(s):

- Immigration and Asylum

Keywords:

- Forced marriage
- Gender based persecution
- Grounds/Reasons of persecution
- Membership of a particular social group
- Refugee status
- Right to asylum
- Well-founded fear

Tag(s):

- Customary Law

Author(s):

- Mirzac, Iulia (Birmingham Law School, University of Birmingham)

Country:

United Kingdom

Official citation:

NS (Social Group – Women - Forced Marriage) Afghanistan CG [2004] UKIAT 00328

Link to the decision:

https://www.bailii.org/uk/cases/UKIAT/2004/00328.html

ECLI:

No ECLI number / ECLI number unknown

Date:

30 December 2004

Jurisdiction / Court / Chamber:

Immigration Appeal Tribunal (IAT)

Remedy / Procedural stage:

Appeal against the Immigration Adjudicator’s decision

Previous stages:

- On 16 June 2003, the Immigration Adjudicator dismissed NS’s appeal against the decision of the Home Office (HO).
- On 28 November 2002, NS lodged a Notice of Appeal to the Immigration Adjudicator against the HO’s decision to refuse her and her children asylum.
- On 1 July 2002, the HO refused NS’s application for asylum and granted NS “exceptional leave to remain in the UK until 1 July 2003” (para. 1).

No official citations of the previous stages are available.

Subsequent stages:

- No information found.

Branches / Areas of law:

Administrative law; Asylum law

Facts:

The appellant, NS, “was born on 5 June 1968 in Badakshan, Afghanistan”, to a Sunni Muslim family whose country of origin is Uzbekistan (para. 23). Her father worked as an engineer in Kabul for 22 years and then as the chief of a construction department. He remained in the post “until the Najibullah government was overthrown in 1992”. (paras. 23-24)

In 1987, the appellant married a man, also an ethnic Uzbek and Sunni Muslim. The couple had three children and a home in Kabul. NS graduated from Kabul University in 1989 with a degree in Persian literature. She “worked as a teacher in Kabul for over two years until the [civil] war started”, after which schools were closed down and women were no longer allowed to work. (paras. 23-24)

NS’ husband was educated in the USSR and “worked as an economist for the Bank of Afghanistan” (para. 24). His family had strong connections to the Najibullah government. “His father was chief of the counsel of elders in Takhar during the time of Najibullah, and a nephew was Chief of the Intelligence Service during that period”. (para. 24)

The family’s home in Kabul was destroyed by a rocket attack within a year of the overthrowing of Najibullah’s communist regim in 1992. The family moved to Takhar in northern Afghanistan where they managed the estate of NS’s father-in-law and lived on the income they were receiving from the estate tenants. (para. 25)

Three years after NS and her family moved to Takhar, the uncle of NS’s husband was killed at the orders of warlords Mamoor Hassan and Ahmed Shah Masood who perceived her husband’s uncle as a supporter of Najibullah’s communist regime and, therefore, as an enemy. From there onwards, the warlords would regularly send their men to NS’ home to “harass the family, demand money”, and look for relatives of NS’s husband. (paras. 26-27)

The appellant and her husband were beaten up on one occasion in 1999 when they told the warlords’ men that they did not have the sum of money that was demanded of them. The appellant sustained a broken arm during the incident. Afterwards, NS’ husband was imprisoned by the Jamiat-e-Islami militia. The appellant and her children remained in their house but were joined by NS’ parents to ensure they were not alone. NS’ sister “worked as a doctor with a Swedish medical organization” and also lived with the appellant (para. 28). NS was able to stay in touch with her imprisoned husband for about six months. She was told he had been moved to another prison. From this point onwards, she had no information about his whereabouts despite her inquiries. (para. 28)

On 28 June 2000, two of the warlords’ militiamen arrived at NS’ houses and demanded her sister marry one of them. She was shot dead in the presence of the appellant after refusing to do so. Her distressed parents moved out of the house and a frail uncle moved in with the appellant and her children. A few

months later, a nephew of one of the warlords asked the appellant to marry him. She was deeply offended and upset by the marriage proposal because she considered herself to be a married woman whose husband was solely detained and not dead. In 2002, the warlord asked the appellant again to marry him. When NS refused, he and his men killed her frail uncle, and beat and raped the appellant. Upon leaving, the warlord told NS that she is either to marry him or be killed by his men no matter where she went. The appellant suffered injuries from the beatings and the rape. She attempted suicide later that day but was stopped by her neighbours who urged her to remain alive for the sake of her children. (paras. 29-31)

Shortly after the incident, the appellant left the country at the advice of a friend. She paid an agent who arranged for her and her three children to travel to the UK. “The appellant’s uncle, who worked for the Najibullah government” resided in the UK where he was granted refugee status (para. 33). NS and her two daughters arrived in the UK “clandestinely, by lorry, on 1 May 2002” (para. 2). They journeyed from Afghanistan to the UK by different types of transportation over two and a half months. The appellant’s older third child, a 15-year-old son, was separated from the appellant during the journey and she was awaiting information from the Red Cross as to his possible whereabouts. (paras. 2-3, 32-33)

NS claimed asylum on 7 May 2002. Her two daughters, seven and nine years old, were included in NS’ asylum application as her dependents. NS claimed asylum on the basis that as a single woman with no male protection, she was at risk of serious harm in Afghanistan. She would also be targeted for being perceived as having connections to Afghanistan’s Communist Party. Moreover, because rape was perceived as a disgrace and equated with having committed adultery, NS feared she would be stoned to death upon return to Afghanistan. She maintained that her fear was objective because she had known other single Afghani women with children who had been accused of adultery and stoned to death as punishment.

The Home Office (HO) rejected NS's asylum application in July 2002 and granted her "exceptional leave to remain in the United Kingdom (UK) until July 2003" instead (para. 1). NS appealed against HO's decision to an immigration adjudicator. (paras. 1-2)

Immigration adjudicator: submissions and summary of the ruling

The appellant's case before the adjudicator was based on two separate Convention grounds. Firstly, NS argued that she had been persecuted, and would be at risk of further persecution, "by the Jamiat-e-Islami [militia], who had already killed other members of her family, by reason of a political opinion imputed to her because her family was viewed as Communists" (para. 5). Alternatively, the appellant argued that she was a member of a "particular social group" (PSG) within the remit of the Refugee Convention. Namely, "lone Afghan women who have suffered sexual assault, have female children, and are without social or family protection" (para. 6). Lastly, NS argued that removing her and her daughters from Britain would be in breach of the UK's obligations under Articles 2, 3, and 5 of the European Convention on Human Rights (ECHR), which were written into UK law by the Human Rights Act 1998. (paras. 4-6)

Medical evidence submitted before the immigration adjudicator included a report by a consultant obstetrician and gynaecologist, which noted that NS was to undergo surgery following the injuries she sustained during the rape. Additionally, a report by a consultant psychiatrist stated that NS was "suffering from chronic Post Traumatic Stress Disorder (PTSD)" (para. 36). A long period was needed to treat it and the medication required to do so was most likely unavailable in Afghanistan. It also stated that the lack of information about the whereabouts of her son was a contributing factor to NS's deteriorating mental health. (paras. 35-36)

The adjudicator accepted the appellant as a credible witness and found that, as a single woman without male or family protection, she was at risk of further ill-treatment at the hands of non-state agents if returned to Takhar, Afghanistan. Because the non-state actors in question "were in *de facto* control of the

Province", the authorities were not able to offer sufficient protection to her (para. 7). However, the adjudicator did not accept that the ill-treatment suffered by the appellant was on the Convention ground of imputed political opinion. Rather, the warlord found her attractive but was upset because she refused to marry him. Additionally, it was not accepted that the appellant belonged to a PSG because NS failed to prove that all of the characteristics shared by the appellant and the other women in the group were identical and that there were no different characteristics in addition to the shared ones. Therefore, NS' well-founded fear of persecution upon return to Afghanistan was not under a Convention groud In any event, a sufficient level of protection and relocation to Kabul were available. Therefore, NS's appeal was dismissed. (paras. 7-8, 16 and 39-40)

The current appeal

The appellant's case before the Immigration Appeal Tribunal (IAT) was that the adjudicator erred in her assessment of the risk of harm to NS in Kabul and did not consider factors that would render internal relocation unduly harsh. The background evidence indicated that women in the appellant's position, as a single women with two young daughters, who relocate to Kabul, are subjected to serious risk of harm by way of sexual assault. Therefore, the adjudicator failed to correctly apply the test to internal relocation laid down by the Court of Appeal in *Robinson v SSHD* [1997] Imm AR 554. (paras. 11-12, 49)

The appellant also argued that she was at risk of being forced into marriage on return to Afghanistan that she should not be expected to enter a marriage against her will for the sole purpose of gaining male protection and thereby avoiding further ill-treatment. The appellant's pre-adolescent daughters would themselves be vulnerable to sexual assault and forced marriage. Moreover, the adjudicator erred in law in finding that NS did not belong to a PSG, "having misinterpreted the Appellant's case when applying the principles laid down by the House of Lords in *Islam and Shah* [1999]" (para. 12). That ruling held that a PSG is formed where the group shares a common immutable characteristic they cannot change or that is fundamental to their identities such that they ought not to be asked to change. The appellant submitted that the PSG she was a member of "women in

Afghanistan without male family or tribal support". (paras. 41-45, 49)

In contrast, the respondent submitted that it was right for the adjudicator to find that NS was sexually assaulted in Takhar for reasons personal to her rather than for one of the grounds stipulated by the 1951 Refugee Convention. Although conceding that the appellant had a well-founded fear of persecution by non-state agents in Takhar and that a male support network was essential for women such as NS to live safely in Kabul, the respondent argued that the discrimination and harassment NS would experience in Kabul would not reach the high threshold of persecution. Therefore, internal relocation was an available option for her and her children. (paras. 47-48)

Ruling:

The Immigration Appeal Tribunal heard an extensive amount of country background information, medical reports, and expert evidence in oral and written form. The ruling can be divided into two main parts. The first is concerned with giving Country Guidance on the risk of persecution faced by lone women with no male protection or tribal support in Afghanistan. The second is concerned with determining the appeal of NS.

Country Guidance

The most important conclusions are the following:

1. "Women in Afghanistan" can form a PSG within the meaning of the 1951 Refugee Convention. (paras. 79 and 100)

   The harm they are at risk of – including sexual violence, societal and legal discrimination, forced and child marriage, and harassment – is sufficiently serious to amount to persecution. However, whether an individual applicant is at risk of persecution on account of such membership and whether they will be able to access 'sufficient protection' from the authorities, within the meaning of the 1951 Refugee Convention, is to be decided on a case by case basis (*Islam and Shah*; *Montaya* relied upon by the tribunal).

2. “[T]he rule of law [was] yet to be effectively re-established in Afghanistan” (para. 60). “Many women [were] able to enjoy greater freedoms since the fall of the Taliban regime” (para. 61). For instance, they were able to attend school and secure certain types of employment. However, although Afghanistan signed several international instruments committed to achieving gender equality and protecting human rights, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), those commitments were yet to be written into domestic legislation. For example, the country’s penal code did not criminalize sexual assault and forced marriage. (paras. 60-63, 96)

3. There were high levels of societal and institutional discrimination against women, including discrimination within the legal system. The authorities were not willing or unable to provide sufficient protection against it (*ZN Iran CG* [2003] followed). (paras. 63-65)

Determination of the appellant’s case

The appeal was allowed and the decision of the adjudicator was set aside for having contained material errors of law. Errors included erroneously applying the principles set out by the House of Lords in *Islam and Shah* regarding what counts as a PSG, which led to the finding that the appellant did not belong to a PSG and the conclusion, without evidence, that the rape of the appellant was for purely personal reasons rather than imputed political opinion. (paras. 16-17)

The main findings concerning the appellant are:

1. NS is a member of the PSG, “women in Afghanistan”. She was persecuted in the past, and has a well-founded fear of future persecution on return to Takhar, Afghanistan, because of two Convention grounds: imputed political opinion and membership to a PSG (*Islam and Shah* followed). (paras. 74-75, 79, 81, 100)

2. The appellant had shown she had been persecuted in the past and continued to have “a well-founded fear of persecution in Takhar and elsewhere in Afghanistan outside of Kabul city, at the hands of warlords and their militia of the Jamiat-e-Islami, against whom the authorities” were unable or unwilling to protect her (paras 68-69 and 100). The appellant’s evidence was supported by expert opinion, which also noted that the appellant may be subjected to forced marriage upon return as it would be “unusual for an adult woman to live without a husband”. (para. 82)

The evidence suggested that the risk of persecution did not extend to Kabul city. However, internal relocation to Kabul would be “unduly harsh” because, as a “single woman without male protection” and with deteriorating mental health, the appellant would not be in a position to live safely and re-establish her teaching or any other career in Kabul without exposing herself to a real risk of threats, harassment, and sexual assault (para. 91). Moreover, NS would be unable to protect her two daughters who would themselves be at risk of sexual violence and forced marriage given their pre-adolescent age. (*Robinson* followed; *K (Risk, Sikh, Women) Afghanistan CG* [2003] considered). (paras. 84, 90-94, 96-99, 100-101)

Main quotations on cultural or religious diversity:

- “Further, the evidence also shows that women in Afghanistan are exposed to serious levels of societal discrimination which is condoned by the authorities or which the authorities do nothing to protect them from. Restrictions on freedom of movement, education, employment and generally in relation to participation in public life, for women and girls continue to be imposed by members of the population, in general by adult males, but also by some local officials, such as [the] enforcement of particular dress codes. Whilst some women are enjoying greater levels of freedom to participate more fully in society than they did under what has been called the apartheid regime of the Taliban, these benefits are not available to all women. Even where some women find paid employment outside the home, they are able to do so only

when they have the support of at least one adult male. Even in Kabul, women do not walk the streets alone. To do so would be to bring themselves into disrepute, lay themselves open to threats, accusation, assault including sexual assault, and even being charged with an offence or imprisoned 'for their own safety'. It is also the case that although some officials do take some steps to seek to prevent forced marriages of women or girl children, where the families in question persist, then the officials do not prevent the forced marriage from taking place." (para. 64)

- "In light of all the evidence, we find that the discrimination experienced by women in Afghanistan does include discrimination in law, despite the constitution which has recently come into force, not least through a lack of protective legislation and discrimination in access to an impartial, fair, independent police and judicial service. We further find that the discrimination also includes societal discrimination by members of the population, from which the authorities either cannot or will not provide protection." (para. 65)
- "[T]he Adjudicator then went on to make a judgment, again not evidence based, that the rape was perpetrated in order to intimidate or shame her into becoming his wife. Or, in the alternative, to punish her for refusing him, or for personal gratification. Whilst it is possible that all or any of these other motives may have played a part in the totality of the motivation of Qasim, it cannot be said to be reasonably likely that the rape would have occurred had it not been for the harassment and persecution of the family by reason of its connections to the former communist regime, including the detention of the Appellant's husband, thereby exposing her to further persecutory harm as a woman without effective male or tribal protection. To take as a wife, by force, the wife of one's enemy, after first imprisoning him, is not an uncommon act in the course of war or other conflict, as an act of aggression against the enemy." (para. 69)

- “It follows that to a significant degree, the attempt to force the Appellant into marriage against her will, including the attendant abuse, can properly be regarded as having been motivated by circumstances demonstrating a nexus to both an imputed political opinion, as the wife of a man who was regarded as a political enemy of the persecutors [...] and to the Appellant’s status as a woman, and therefore a member of a particular social group.” (para. 77)

Regarding the expert opinion before the Tribunal:

- “Dr Lau in his report of September 2004, noted at paragraph 8 that the Appellant may be treated as being available for marriage. This would be so even though she continues to regard herself as married, committed to her husband, whom she still believes to be alive, and even though she does not wish to marry another man. As Dr Lau explains, this would be because it is unusual for an adult woman to live without her husband. The customary practice of polygamous marriage endorsed by Islam is justified on the ground that in times of war, widows need to be looked after by a new husband, who however, may already be married. Further, Islamic law regards the abandonment of a wife as a termination of her marriage which enables her to re-marry.” (para. 82)
- “However, Dr Lau goes on to express the opinion, which is supported by the other generic background evidence that is before us, and to which we have referred above, that the fact that the Appellant is a single woman, without male protection, would expose her to considerable risks including a real risk of serious physical harm from which she would be unable to seek or obtain protection. Whilst the security situation in Afghanistan is such that no reliable statistics on the position of women in society and incidents of harassment are available, he is of the opinion that there is little doubt that the state is unable to protect women, and that the task of protection of women falls to the male members of her family, especially their husbands. Women who find themselves without the effective protection of their families

are in a very vulnerable and dangerous position. It is most unusual for a woman to leave the house unaccompanied by a close male relative, and a woman who has not such protection of close male relatives is likely to be threatened and harassed." (para. 91)

Main legal texts quoted in the decision:

International Law

- Convention on the Elimination of all Forms of Discrimination against Women (adopted 18 December 1979, entered into force 6 December 1984) (CEDAW)
- Convention Relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137 (Refugee Convention)
- European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14 (adopted 4 November 1950, entered into force 3 September 1953) ETS 5 (ECHR)

UK Domestic Law

- Human Rights Act 1998

Cases cited in the decision:

UK cases

Particular Social Group:

- *Islam and Shah* [1999] UKHL 20
- *Montoya v SSHD* [2002] EWCA Civ 620
- *SSHD v Skenderaj* [2002] EWCA Civ 567
- *Ward v Canada* [1993] 2 SCR 689
- *ZH (Women as a Particular Social Group) Iran CG* [2003] UKIAT 207

Risk on return and internal relocation:

- *Demirkaya v Secretary of State for the Home Department* [1999] INLR 441

- *K (Risk, Sikh, Women) Afghanistan CG* [2003] UKIAT 57
- *Robinson v SSHD* [1997] Imm AR 554

Internal relocation

- *AK (Article 15(c) Afghanistan) CG* [2012] UKUT 163
- *AS (Safety of Kabul) Afghanistan CG* [2018] UKUT 118
- *L (Risk, Kabul, Women) Afghanistan CG* [2003] UKIAT 92
- *TG and others (Afghan Sikhs persecuted) CG* [2015] UKUT 595

Commentary

Refugee Status and Women in Afghanistan as Members of a 'Particular Social Group'

This is a Country Guidance (CG) case on the risk of persecution faced by lone women with neither male protection nor family support in Afghanistan. CG cases include a vast amount of background information and expert evidence on the general political conditions of a country as well as cultural norms and societal perceptions towards a common group of applicants seeking asylum in the UK. They have important ramifications for subsequent cases concerning similar issues and factual evidence because they have a binding effect on lower courts and are referred to by the Home Office when issuing "Operational Guidance Notes" (CPIN), which instruct case workers in assessing initial asylum claims (Clayton and Firth 2018; Thomas 2008).

As such, the CG case of *NS* is an authoritative precedent on the conditions faced by single Afghan women who enjoy no male protection or family support, have suffered sexual assault, and are accused of adultery for that reason. Although it was promulgated almost two decades ago, it continues to have a binding effect on similar cases as also acknowledged by the Home Office (2020) CPIN on Afghanistan.

NS paved the way for increased protection for women from Afghanistan seeking asylum in the UK because it confirmed that they form a PSG under the 1951 Refugee Convention. The AIT strengthened its reasoning by noting that its decision was consistent with the House of Lords' determination in *Shah and Islam*

[1999] and with the AIT's own Asylum Gender Guidelines, which accepted that rape can amount to torture and, therefore, of falling within a Convention reason.

The finding is also in line with the approach recommended by the *UNHCR Gender and PSG Guidelines*.

NS is part of a growing body of cases on what constitutes membership in a PSG (Christensen 2011; Querton 2012). Indeed, the AIT noted in the *NS* case that " *[m]embership of a social group is a concept that has been the subject of considerable litigation*." (para. 53) Almost two decades on, the statement is just as relevant today because the interpretation of what may constitute a PSG has been debated regularly in the courts and tribunals. Much-needed clarification was only issued by a recent 2020 judgement (*HD (Mental Health) Afghanistan*) CG [2020].

NS is an illustration of the human cost of having no consensus on the definition of a PSG. The appellant was found to be a credible witness, both in relation to her account of events in Afghanistan and her subjective and objective fear of future ill-treatment upon return (para. 22). However, because the immigration adjudicator was not clear as to the requirements of PSG formation, the appellant and her daughters spent an additional number of traumatic and uncertain years grappling with legal proceedings. The case highlights the problematic position of UK case law on what constitutes a PSG and the necessity of the recent clarifications provided in *HD* [2020].

Engaging with cultural and socio-legal evidence, the Immigration Appeal Tribunal (AIT) concluded that despite the fall of the Taliban, women were continuing to suffer from general oppression, societal and entrenched institutional discrimination, sexual violence, as well as the prevalence of traditional practices such as honour-based violence, polygamy, and forced marriage. Traditional forms of coerced marriage include practices such as selling female to pay off a family debt, offering a female for free to settle disputes, informal agreemenst between two families to exchange females in marriage to reduce costs and coercing widows to marry a males belonging to the extended family of her late husband

(World Bank, 2005).

Two decades later, the discrimination against Afghani women continues to be described as “endemic” by scholars and by international human rights organizations (UNHCR, 2018: 68; Wimpelmann, 2017). This is acknowledged by the Home Office in its latest CPIN (2020) which continues to be based on the guidance issued in *NS.*

Literature related to the main issue(s) at stake:

Guidelines and reports cited in the judgement:

- Immigration Appellate Authority UK ‘Asylum Gender Guidelines’ (IAA 2000), available at <https://www.refworld.org/docid/3ae6b3414.html> accessed 14 May 2021.
- U.S. Department of State, ‘Country Reports on Human Rights Practices 2004: Afghanistan’ (Bureau of Democracy, Human Rights and Labor 2004), available at <https://2009-2017.state.gov/j/drl/rls/hrrpt/2004/index.htm> accessed 14 May 2021.
- Human Rights Watch, ‘Losing the Peace in Afghanistan’ (Human Rights Watch 2004), available at <https://www.hrw.org/legacy/wr2k4/5.htm> accessed 14 May 2021.
- Afghanistan Independent Human Rights Commission (AIHRC), ‘Afghanistan Independent Human Rights Commission Annual Report 2002-2003’ (AIHRC 2004), available at <https://www.refworld.org/docid/4eb931af2.html> accessed 14 May 2021.

UNHCR Guidelines cited in the judgement:

- UNHCR ‘Guidelines on International Protection: Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees’ (Geneva 2002) (UNHCR Gender Guidelines)
- UNHCR ‘Guidelines on International Protection: “Membership of a Particular Social Group” within the context of Article 1A(2) of the 1951 Convention

and/or its 1967 Protocol relating to the Status of Refugees' (Geneva 2002) (UNHCR PSG Guidelines)

Guidelines and reports cited in the commentary:

- Home Office 'Country Policy and Information Notes Afghanistan: Women Fearing Gender-Based Harm/Violence' (Home Office 2020), available at < https://www.gov.uk/government/publications/afghanistan-country-policy-and-information-notes > accessed 20 May 2021.
- Home Office 'Gender Issues in the Asylum Claim' (Home Office 2018), available at < https://www.gov.uk/government/publications/gender-issue-in-the-asylum-claim-process> accessed 20 May 2021.
- UK Board Agency 'Operational Guidance Note: Afghanistan' (UKBA 2015).
- UNHCR 'Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan' (Geneva 2018), available at < https://www.refworld.org/docid/5b8900109.html> accessed 12 May 2021.
- World Bank 'Afghanistan National Reconstruction and Poverty Reduction: the Role of Women in Afghanistan's Future' (Washington D.C. 2005), available at <https://openknowledge.worldbank.org/handle/10986/8486> accessed 12 May 2021.

Academic literature cited in the template commentary:

- Christensen, Tyler Marie. 2011. *Trafficking for Sexual Exploitation: Victims Protection in International and Domestic Asylum Law* (UNHCR Research Paper No. 206).
- Clayton, Gina and Georgina Firth. 2018. *Immigration and Asylum Law*. Oxford: Oxford University Press.
- Querton, Christel. 2012. *The Interpretation of the Convention Ground of "Membership of a Particular Social Group" in the Context of Gender-related Claims for Asylum: A critical analysis of the Tribunal's approach in the UK* (Refugee Law Initiative Working Paper No. 3).

- Thomas, Robert. 2008. “Consistency in Asylum Adjudication: Country Guidance and the Asylum Process in the United Kingdom”. *International Journal of Refugee Law* 20(4): 489-532.
- Wimpelmann, Torunn. 2017. *The Pitfalls of Protection: Gender, Violence and Power in Afghanistan*. Oakland: University of California Press.

Other literature:

- Aleinikoff, Alexander. 2003. "Protected Characteristics and Social Perceptions: An Analysis of the Meaning of 'Membership of a Particular Social Group'". In Erica Feller, Volker Turk and Francs Nickolson (eds), *Refugee Protection in International Law: UNHCR’s Global Consultations on International Protection*. Cambridge: Cambridge University Press.
- Dowd, Rebecca. 2011. “Dissecting Discrimination in Refugee Law: an Analysis of its Meaning and its Cumulative Effect”. *International Journal of Refugee Law* 23(1): 28–53.
- Edwards, Alice. 2011. *Violence against women under international human rights law.* Cambridge: Cambridge University Press.
- Heath, Jennifer and Ashraf Zahedi. 2011. *Land of the unconquerable: the lives of contemporary Afghan women*. Berkeley: University of California Press.
- Pobjoy, Jason. 2015. “The best interests of the child principle as an independent source of international protection”. *International and Comparative Law Quarterly* 64(2): 327–363.
- Sevastik, Per. 2020. “Rule of Law, Human Rights and Impunity: The Case of Afghanistan”. *Hague Journal on the Rule of Law* 12(1): 93-145.

Disclaimer

Last edited on 21.05.2021

CC BY ND

This case-law comment is licensed under a Creative Commons Attribution-NoDerivatives 4.0 International License (CC BY-ND 4.0) .

You may share this material, provided that appropriate credit is given. No derivatives or adaptations of this material are permitted.

Suggested citation of this case-law comment:

Mirzac, Iulia (2023): Refugee Status and Women in Afghanistan as Members of a 'Particular Social Group', Department of Law and Anthropology, Max Planck Institute for Social Anthropology, Halle (Saale), Germany, CUREDI041UK015, https://doi.org/10.48509/CUREDI041UK015.