

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, or distributed in any form or by any means, whether electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the Managing Editor of the *International Journal for Legal Research & Analysis (IJLRA)*.

The views, opinions, interpretations, and conclusions expressed in the articles published in this journal are solely those of the respective authors. They do not necessarily reflect the views of the Editorial Board, Editors, Reviewers, Advisors, or the Publisher of IJLRA.

Although every reasonable effort has been made to ensure the accuracy, authenticity, and proper citation of the content published in this journal, neither the Editorial Board nor IJLRA shall be held liable or responsible, in any manner whatsoever, for any loss, damage, or consequence arising from the use, reliance upon, or interpretation of the information contained in this publication.

The content published herein is intended solely for academic and informational purposes and shall not be construed as legal advice or professional opinion.

**Copyright © International Journal for Legal Research & Analysis.
All rights reserved.**

ABOUT US

The *International Journal for Legal Research & Analysis (IJLRA)* (ISSN: 2582-6433) is a peer-reviewed, academic, online journal published on a monthly basis. The journal aims to provide a comprehensive and interactive platform for the publication of original and high-quality legal research.

IJLRA publishes Short Articles, Long Articles, Research Papers, Case Comments, Book Reviews, Essays, and interdisciplinary studies in the field of law and allied disciplines. The journal seeks to promote critical analysis and informed discourse on contemporary legal, social, and policy issues.

The primary objective of IJLRA is to enhance academic engagement and scholarly dialogue among law students, researchers, academicians, legal professionals, and members of the Bar and Bench. The journal endeavours to establish itself as a credible and widely cited academic publication through the publication of original, well-researched, and analytically sound contributions.

IJLRA welcomes submissions from all branches of law, provided the work is original, unpublished, and submitted in accordance with the prescribed submission guidelines. All manuscripts are subject to a rigorous peer-review process to ensure academic quality, originality, and relevance.

Through its publications, the *International Journal for Legal Research & Analysis* aspires to contribute meaningfully to legal scholarship and the development of law as an instrument of justice and social progress.

PUBLICATION ETHICS, COPYRIGHT & AUTHOR RESPONSIBILITY STATEMENT

The *International Journal for Legal Research and Analysis (IJLRA)* is committed to upholding the highest standards of publication ethics and academic integrity. All manuscripts submitted to the journal must be original, unpublished, and free from plagiarism, data fabrication, falsification, or any form of unethical research or publication practice. Authors are solely responsible for the accuracy, originality, legality, and ethical compliance of their work and must ensure that all sources are properly cited and that necessary permissions for any third-party copyrighted material have been duly obtained prior to submission. Copyright in all published articles vests with IJLRA, unless otherwise expressly stated, and authors grant the journal the irrevocable right to publish, reproduce, distribute, and archive their work in print and electronic formats. The views and opinions expressed in the articles are those of the authors alone and do not reflect the views of the Editors, Editorial Board, Reviewers, or Publisher. IJLRA shall not be liable for any loss, damage, claim, or legal consequence arising from the use, reliance upon, or interpretation of the content published. By submitting a manuscript, the author(s) agree to fully indemnify and hold harmless the journal, its Editor-in-Chief, Editors, Editorial Board, Reviewers, Advisors, Publisher, and Management against any claims, liabilities, or legal proceedings arising out of plagiarism, copyright infringement, defamation, breach of confidentiality, or violation of third-party rights. The journal reserves the absolute right to reject, withdraw, retract, or remove any manuscript or published article in case of ethical or legal violations, without incurring any liability.

FORCED MARRIAGE AND REFUGEE STATUS: ANALYSING THE INTERSECTION OF GENDER- BASED VIOLENCE AND THE CONVENTION GROUNDS

AUTHORED BY - SHREYA LENIN HALINGALI (B24215)

3rd year B.A.,LL.B (Hons.)

Abstract and Introduction

Forced marriage is one of the most severe forms of gender-based violence recognised in international law. It takes away a person's control over her own body, her physical freedom, and her right to choose a spouse.¹ Despite this consensus, national asylum systems have struggled to give consistent protection to victims of forced marriage seeking refugee status under the 1951 Convention Relating to the Status of Refugees.² The difficulty comes from a structural gap in the Convention itself. The Convention defines a refugee through five grounds, and gender is not one of them.³ This absence has shaped refugee law for decades. Courts have often treated forced marriage as a private, domestic matter, or have demanded proof of extra physical violence before they would call it persecution.⁴

This paper addresses two questions through close analysis of recent case law and current conditions in Afghanistan. First, does the 2024 ruling of the Court of Justice of the European Union in *Bundesamt für Fremdenwesen und Asyl v AH and FN* mark a genuine structural shift in how persecution is assessed for Afghan women, or does it simply apply an existing legal test to new facts?⁵ Second, can forced marriage count as an independent act of persecution on its own, or must courts always link it to another recognised harm, such as domestic violence or

¹ Amanda R Fell, 'From Family, They Flee: Asylum for Victims of Forced Marriage' (2019) 84(3) Brooklyn Law Review 1027.

² Convention Relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137, art 1A (2).

³ Convention (n 2).

⁴ Kimberly Gauderman and M Gabriela Torres, 'The Fragility of Particular Social Groups: The Differential Weight of Rape in Gender-Based Violence and LGBTQ+ Asylum Cases' in Kimberly Gauderman (ed), *Practicing Asylum: A Handbook for Expert Witnesses in Latin American Gender- and Sexuality-Based Asylum Cases* (University of California Press 2023).

⁵ *Bundesamt für Fremdenwesen und Asyl v AH and FN*, Joined Cases C-608/22 and C-609/22, ECLI:EU:C:2024:838, paras 43-44.

female genital mutilation, before it qualifies for protection?⁶ These questions matter because they determine whether victims of forced marriage can access refugee status without proving additional physical harm, or demonstrating a risk beyond their membership in a systematically oppressed group.⁷

The argument advanced here is that AH and FN marks a genuine shift in how gender-based persecution is assessed under the Convention framework.⁸ By holding that the accumulation of Taliban measures against women amounts to persecution, the Court established a group-based approach to protection that does not require individualised proof beyond establishing gender and nationality as an Afghan woman.⁹ The Court also treated forced marriage as a standalone act of persecution in its own right, without requiring proof of accompanying physical violence or individual targeting.¹⁰ This resolves years of fragmented domestic case law that treated forced marriage as an ancillary harm, and it offers a workable model for group-based protection more broadly.¹¹

The contribution of this paper lies in testing how far the Court's reasoning can travel beyond Afghanistan.¹² While AH and FN succeeded where earlier US and UK decisions did not, its reach into cases involving non-state actors, or regimes without systematic legal discrimination, remains uncertain.¹³ This paper tests these limits against the Taliban's May 2026 Code on Judicial Separation of Spouses, which further entrenches gender-based restriction and narrows the avenues available to women seeking to leave forced marriages.¹⁴ The analysis shows that the Court's approach holds up well against this newer development, though its extension to contexts where harm comes from private actors rather than state policy calls for real caution.¹⁵

The Doctrinal Gap and Pre-AH and FN Jurisprudence

The absence of gender from the 1951 Convention created a doctrinal gap that shaped refugee jurisprudence for decades and produced uneven protection for women fleeing gender-based

⁶ Fell (n 1).

⁷ Amnesty International, 'Afghanistan: New Code Enabling Child Marriage Compounds Dismal Situation for Women's and Girls' Rights' (10 June 2026).

⁸ AH and FN (n 5).

⁹ AH and FN (n 5).

¹⁰ AH and FN (n 5).

¹¹ Nikolas Feith Tan and Meltem Ineli-Ciger, 'Group-Based Protection of Afghan Women and Girls Under the 1951 Refugee Convention' (2023) 72(3) *International & Comparative Law Quarterly* 793.

¹² Gauderman and Torres (n 4).

¹³ NS (Social Group - Women - Forced Marriage) Afghanistan CG [2004] UKIAT 328.

¹⁴ Amnesty International (n 7).

¹⁵ Gauderman and Torres (n 4).

violence across different legal systems.¹⁶ The Convention defines a refugee as a person who, owing to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside their country of nationality and unable or unwilling to seek that country's protection.¹⁷ This definition was drafted after the Second World War, for a particular geographic problem at a particular time, and it did not anticipate the forms of persecution that would later affect women disproportionately.¹⁸ Because gender was left out, women fleeing gender-based harm have always had to fit their experience into a ground designed for something else, almost always "particular social group" (PSG).¹⁹

Most decision-makers test a PSG against three requirements: (i) an immutable characteristic, (ii) enough particularity to have legal meaning, and (iii) recognition as distinct by the surrounding society. Amanda Fell explains why these requirements are especially hard to meet in forced marriage claims, because a PSG cannot be defined by the very harm it exists to explain.²⁰ If an applicant defines her group as "women who have been forced into marriage," a decision-maker may treat this as circular, where the harm and the group collapse into the same thing.

This gap produced what can be called an ancillary harm model. Courts recognised forced marriage mainly when it came bundled with other physical harm, rather than as persecution on its own.²¹ This approach failed to recognise the inherent severity of forced marriage as a violation of bodily autonomy and human dignity, and it required victims to prove additional physical violence before they could qualify for protection.²² It placed heavy evidentiary burdens on already vulnerable applicants, and it produced protection that varied significantly by jurisdiction and by individual adjudicator.²³

United States case law shows this instability clearly. In *Gao v Gonzales*, the Second Circuit recognised a particular social group of women sold into marriage in parts of China where such marriages are treated as valid and enforceable, holding that this alone was enough to found a claim.²⁴ Sara von Struensee described the decision as an important recognition that forced

¹⁶ Convention (n 2).

¹⁷ Convention (n 2).

¹⁸ Convention (n 2).

¹⁹ Fell (n 1).

²⁰ Fell (n 1).

²¹ *Matter of Kasinga* 21 I&N Dec 357 (BIA 1996).

²² Fell (n 1).

²³ *Gauderman and Torres* (n 4).

²⁴ *Gao v Gonzales* 440 F3d 62 (2d Cir 2006).

marriage, without any other accompanying harm, could constitute persecution.²⁵ This precedent proved short-lived. The Supreme Court vacated the ruling in *Keisler v Hong Yin Gao* on procedural grounds, because the Second Circuit had decided a social-group question that should first have gone to the Board of Immigration Appeals.²⁶ The claim was undone on a question of which body should rule first, not because the reasoning on forced marriage was wrong, but the practical protection Gao had won did not survive.

Later decisions confirmed how fragile these claims remained. In *Matter of A-B-*, the Attorney General limited protection for women fleeing private and domestic violence, reasoning that such violence generally stems from personal animosity rather than persecution on a protected ground.²⁷ Although that decision was later vacated, it showed how easily gender-based claims could be narrowed by a shift in executive policy, in a way other protected grounds are not.²⁸

A similar limitation appears in cases involving other harmful practices. In *Matter of Kasinga*, the Board of Immigration Appeals granted asylum to a young woman from Togo fleeing a forced, polygamous marriage, but the Board's reasoning centred on the threat of female genital mutilation she faced within that marriage, not on the forced marriage itself.²⁹ Forced marriage was the setting for the harm, not the harm the Board actually protected against, reinforcing the rule that forced marriage needed accompanying physical harm before it would meet the threshold of persecution.³⁰

United Kingdom case law recognised forced marriage on Afghan facts earlier than most jurisdictions, but its impact stayed limited. *NS (Afghanistan)* held that Afghan women facing forced marriage shared a characteristic they could not change, and that this made them a particular social group.³¹ While *NS* protected the individual applicant, it did not create a wider shift in how forced marriage was assessed elsewhere; it remained a country guidance case requiring each applicant to submit detailed proof of her own family dynamics and personal risk.³² Kimberly Gauderman and M Gabriela Torres help explain why decisions like *NS* and *Gao*, despite strong reasoning, never produced a broader change. They show that courts have been reluctant to accept "women" as the defining feature of a social group, even where they

²⁵ Sara von Struensee, 'Forced Marriage as a Basis for Asylum: *Gao v Gonzales* Recognizes Persecution Based on Member of a Social Group Consisting of Women Sold into Marriage Where Forced Marriages Are Considered Valid and Enforceable' (SSRN Scholarly Paper No 888938, 13 March 2006).

²⁶ *Keisler v Hong Yin Gao* 552 US 801 (2007).

²⁷ *Matter of A-B-* 27 I&N Dec 316 (AG 2018).

²⁸ *A-B-* (n 27).

²⁹ *Kasinga* (n 21).

³⁰ *Kasinga* (n 21).

³¹ *NS* (n 13).

³² *NS* (n 13).

accept sexual orientation as such a feature, and that gender-based claims are treated as private matters requiring extra context that sexuality-based claims do not.³³ Carolina Zamora Gómez calls this a bifurcated approach: each restriction, whether marriage, education, or movement, is judged on its own, rather than asked what these restrictions add up to together.³⁴ This bifurcated, individualised model is exactly what AH and FN moves away from.

The Structural Shift in AH and FN

The CJEU altered this legal landscape in *Bundesamt für Fremdenwesen und Asyl v AH and FN*, a ruling handed down in October 2024 that marks a genuine shift in how gender-based persecution is assessed under EU refugee law.³⁵ The reference arose from Austrian proceedings involving two Afghan women who had fled after the Taliban regained power in August 2021.³⁶ Austrian authorities granted the women subsidiary protection but refused full refugee status, reasoning that neither had proved she was personally targeted by the Taliban, or that an adopted Western lifestyle was so essential to her identity that she could not simply give it up to avoid persecution.³⁷ The case reached the CJEU through a preliminary reference on the meaning of Article 9(1) of the Qualification Directive, which defines an act of persecution for the purposes of EU asylum law.³⁸

The Court's analysis runs along two tracks, matching the two limbs of Article 9(1).³⁹ Under Article 9(1)(a), an act is persecutory if it is sufficiently serious to amount to a severe violation of basic human rights. The Court held that forced marriage, together with the state's total failure to protect women from domestic and gender-based violence, meets this standard on its own, without any need for accompanying physical violence or proof of individual targeting.⁴⁰ Under Article 9(1)(b), a set of measures that would not individually count as persecution can still cross the threshold once their cumulative effect is severe enough. The Court held that restrictions on healthcare, education, work, movement, and dress, while perhaps not severe in isolation, together deny Afghan women a dignified life to a degree that meets that threshold.⁴¹

³³ NS (n 13).

³⁴ Carolina Milena Zamora Gómez, 'Forced Marriage of Afghan Girls and the Bifurcated Approach for Defining Persecution' (Völkerrechtsblog, 9 March 2023).

³⁵ AH and FN (n 5).

³⁶ AH and FN (n 5).

³⁷ Shima Esmailian, 'Is the European Court of Justice (ECJ) Ruling on Granting Asylum to Afghan Women an Implication of Qualification of Gender Apartheid in Afghanistan?' (EJIL:Talk!, 20 November 2024).

³⁸ Council Directive 2011/95/EU of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection [2011] OJ L337/9, art 9(1)(a)-(b).

³⁹ Qualification Directive (n 38).

⁴⁰ AH and FN (n 5).

⁴¹ AH and FN (n 5).

The judgment states that these measures reflect the establishment of a social structure based on a regime of segregation and oppression, one that excludes women from civil society and denies them a dignified daily life in their own country.⁴² This is the language of a group-level finding, not an individual one. On the question of risk assessment, the Court ruled that national authorities need not require individualised proof of personal risk when evaluating claims from Afghan women.⁴³ Because Taliban restrictions target Afghan women as a demographic group, membership in that group, defined by gender and nationality, is enough to establish a well-founded fear of persecution.⁴⁴ This finding tracks the position UNHCR had already taken, arguing that where gender-based violence and discrimination are pervasive and the state condones or fails to prevent them, protection may need to rest on gender alone.⁴⁵ It is also consistent with the argument Nikolas Feith Tan and Meltem Ineli-Ciger had made before the ruling, that Afghan women and girls should be recognised as refugees on a group basis rather than case by case.⁴⁶

The most significant part of the ruling is what it removes as a requirement. The Court did not ask whether either applicant had been personally singled out by the Taliban. It was enough that she belonged to the group of Afghan women and girls affected by these combined measures.⁴⁷ This lowers the evidentiary burden in a real way: an applicant needs only to show that the general policy exists, and that she belongs to the group it targets, which objective country evidence can establish far more easily than proof of an individual threat.⁴⁸

Shima Esmailian argues that this reasoning comes close to, though it stops short of, recognising a form of gender apartheid in Afghanistan. The judgment never uses that word, but its finding that there is an institutionalised system of segregation and discrimination that denies women their fundamental rights because of their gender tracks the definition closely.⁴⁹ AH and FN breaks decisively from decisions like *Kasinga*, which required proof of an accompanying physical harm, and *Gao*, which tied forced marriage to a specific regional enforcement practice.⁵⁰ It recognises the inherent severity of forced marriage as a violation of bodily autonomy and human dignity, not merely as the setting for some other harm.⁵¹

⁴² AH and FN (n 5).

⁴³ AH and FN (n 5).

⁴⁴ AH and FN (n 5).

⁴⁵ UNHCR, 'Statement on the Concept of Persecution on Cumulative Grounds in Light of the Current Situation for Women and Girls in Afghanistan' (25 May 2023).

⁴⁶ Tan and Ineli-Ciger (n 11).

⁴⁷ AH and FN (n 5).

⁴⁸ Esmailian (n 37).

⁴⁹ Esmailian (n 37).

⁵⁰ *Kasinga* (n 21).

⁵¹ Esmailian (n 37).

Transferability and Empirical Validation

The group-based approach in AH and FN raises the question of whether its logic can extend to gender-based claims outside Afghanistan, or whether it is a response specific to Taliban rule.⁵²

The Court's reasoning rests on two conditions: (i) the governing regime must systematically enforce discriminatory rules through public policy rather than merely tolerate private wrongdoing, and (ii) those rules must, taken together, strip an entire demographic group of basic agency across several areas of life at once.⁵³ Where both conditions hold, such as under other state-sanctioned systems of gender segregation, the logic developed in AH and FN can apply with similar force, because the framework recognises that persecution can attach to a person by virtue of her membership in a systematically oppressed group.⁵⁴ A regime that mandates similar restrictions through official policy would present the same profile as Afghanistan under the Taliban. No comparable ruling yet exists outside Afghanistan, so this remains a template rather than settled doctrine.

A further question is whether this reasoning can reach British courts. The United Kingdom left the jurisdiction of the CJEU when the Brexit transition period ended on 31 December 2020, so a ruling handed down in 2024 has no binding force in UK tribunals and forms no part of retained EU case law.⁵⁵ The UK has also replaced the Qualification Directive with its own domestic framework for interpreting persecution under the Refugee Convention.⁵⁶ Even so, NS (Afghanistan) already gives British decision-makers a home-grown basis for treating Afghan women facing forced marriage as a particular social group, so UK tribunals do not need AH and FN to reach the same outcome on the same facts.⁵⁷ What AH and FN could still offer is persuasive, rather than binding, authority for a fuller cumulative method that UK tribunals remain free to draw on when interpreting their own, structurally similar test.

Clear limits exist, however, once the harm comes mainly from non-state actors, or from a state that does not systematically enforce discriminatory laws.⁵⁸ In many parts of the world, forced marriage and domestic abuse remain widespread because of social norms and weak law enforcement, rather than official state policy. In those settings, the harm comes from private actors and social practice, which raises different questions than harm flowing from a public,

⁵² AH and FN (n 5).

⁵³ AH and FN (n 5).

⁵⁴ AH and FN (n 5).

⁵⁵ European Union (Withdrawal) Act 2018, s 6.

⁵⁶ Nationality and Borders Act 2022, ss 31-35 (Interpretation of Refugee Convention).

⁵⁷ NS (n 13).

⁵⁸ Gauderman and Torres (n 4).

state-run system.⁵⁹ Kimberly Gauderman and M Gabriela Torres' account of how gender-based violence claims are treated across the Americas illustrates this well: where a husband or in-laws are the source of harm, and no public decree stands behind it, courts still lean toward treating the violence as private.⁶⁰ AH and FN creates a strong precedent for regime-level oppression, but it does not remove the need for individualised proof where harm stems from private actors or social norms the state has failed, rather than chosen, to prevent.⁶¹

The empirical strength of the Court's reasoning can be tested against the Taliban's newest legislation. In May 2026, the Taliban published Decree No. 18, the Code on Judicial Separation of Spouses.⁶² Amnesty International's analysis explains that the decree codifies the narrow circumstances in which women and girls may seek separation from a marriage, upholds unions arranged during childhood, and restricts the ability of women and girls to challenge or leave them.⁶³ Isabelle Lassée of Amnesty International states that the decree strips women of autonomy, removes any requirement of consent, gives male relatives control over marital decisions, and leaves very few paths to challenge a forced union.⁶⁴ This decree fits comfortably inside the reasoning of AH and FN. The Court's cumulative approach does not require each new Taliban measure to be assessed on its own before it can count; it asks whether the measure adds to an existing pattern that, taken as a whole, denies women a dignified life.⁶⁵ The May 2026 Code plainly does this.

Conclusion

This paper set out two questions. On the first, AH and FN does mark a genuine structural shift. It moves beyond asking whether one applicant was individually targeted, and instead asks whether the state runs a system that persecutes women as a group.⁶⁶ This is different from the case-by-case reasoning in Gao and NS, and it responds directly to the doctrinal gap identified by Fell, and by Tan and Ineli-Ciger.⁶⁷ On the second question, the Court's answer is layered. Forced marriage is severe enough, on its own, to count as persecution. But in the Afghan context, it need not stand alone. It is one part of a wider, cumulative pattern that includes restrictions on education, healthcare, and movement, and now, under the May 2026 Code,

⁵⁹ Gauderman and Torres (n 4).

⁶⁰ Gauderman and Torres (n 4).

⁶¹ Gauderman and Torres (n 4).

⁶² Amnesty International (n 7).

⁶³ Amnesty International (n 7).

⁶⁴ Amnesty International (n 7).

⁶⁵ AH and FN (n 5).

⁶⁶ AH and FN (n 5).

⁶⁷ Fell (n 1).

marriage and separation law itself.⁶⁸

The cumulative, group-based approach in AH and FN offers a stronger and more consistent form of protection than the older, individualised model that shaped decades of case law in the United States and the United Kingdom.⁶⁹ It asks only whether she belongs to the group the regime has chosen to persecute, and, as persuasive authority, could shape how domestic courts such as the UK's interpret their own tests, though its extension to claims involving private actors and social norms remains genuinely limited.⁷⁰ As a response to a doctrinal gap that has limited forced marriage claims for two decades, AH and FN is a significant and overdue development.

BIBLIOGRAPHY

CONVENTIONS AND INTERNATIONAL INSTRUMENTS

1. Convention Relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137
2. Council Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection [2011] OJ L337/9

LEGISLATION

3. European Union (Withdrawal) Act 2018, s 6
4. Nationality and Borders Act 2022, ss 31–35

CASES

5. Bundesamt für Fremdenwesen und Asyl v AH and FN, Joined Cases C-608/22 and C-609/22, ECLI:EU:C:2024:838
6. Gao v Gonzales 440 F3d 62 (2d Cir 2006)
7. Keisler v Hong Yin Gao 552 US 801 (2007)
8. Matter of A-B- 27 I&N Dec 316 (AG 2018)
9. Matter of Kasinga 21 I&N Dec 357 (BIA 1996)
10. NS (Social Group - Women - Forced Marriage) Afghanistan CG [2004] UKIAT 328

⁶⁸ Amnesty International (n 7).

⁶⁹ Gauderman and Torres (n 4).

⁷⁰ AH and FN (n 5).

BOOKS AND EDITED COLLECTIONS

11. Gauderman K and Torres MG, 'The Fragility of Particular Social Groups: The Differential Weight of Rape in Gender-Based Violence and LGBTQ+ Asylum Cases' in Gauderman K (ed), *Practicing Asylum: A Handbook for Expert Witnesses in Latin American Gender- and Sexuality-Based Asylum Cases* (University of California Press 2023)

JOURNAL ARTICLES

12. Fell AR, 'From Family, They Flee: Asylum for Victims of Forced Marriage' (2019) 84(3) *Brooklyn Law Review* 1027
13. Tan NF and Ineli-Ciger M, 'Group-Based Protection of Afghan Women and Girls Under the 1951 Refugee Convention' (2023) 72(3) *International & Comparative Law Quarterly* 793

REPORTS & BLOGS

14. Amnesty International, 'Afghanistan: New Code Enabling Child Marriage Compounds Dismal Situation for Women's and Girls' Rights' (10 June 2026) <https://www.amnesty.org/en/latest/news/2026/06/afghanistan-new-code-enabling-child-marriage-compounds-dismal-situation-for-womens-and-girls-rights/> accessed 27 July 2026
15. Esmailian S, 'Is the European Court of Justice (ECJ) Ruling on Granting Asylum to Afghan Women an Implication of Qualification of Gender Apartheid in Afghanistan?' (EJIL:Talk!, 20 November 2024) <https://www.ejiltalk.org/is-the-european-court-of-justice-ecj-ruling-on-granting-asylum-to-afghan-women-an-implication-of-qualification-of-gender-apartheid-in-afghanistan/> accessed 25 July 2026
16. UNHCR, 'Statement on the Concept of Persecution on Cumulative Grounds in Light of the Current Situation for Women and Girls in Afghanistan' (25 May 2023) <https://www.refworld.org> accessed 25 July 2026
17. von Struensee S, 'Forced Marriage as a Basis for Asylum: Gao v Gonzales Recognizes Persecution Based on Member of a Social Group Consisting of Women Sold into Marriage Where Forced Marriages Are Considered Valid and Enforceable' (SSRN Scholarly Paper No 888938, 13 March 2006)

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=888938 accessed 25 July 2026

18. Zamora Gómez CM, 'Forced Marriage of Afghan Girls and the Bifurcated Approach for Defining Persecution' (Völkerrechtsblog, 9 March 2023) <https://voelkerrechtsblog.org/forced-marriage-of-afghan-girls-and-the-bifurcated-approach-for-defining-persecution/> accessed 26 July 2026

