

AFGHANISTAN

Briefing to the Committee on the Rights of the Child on Conflict-Related Sexual Violence against Boys in Afghanistan 85th session, September 2020

August 2020

1. Introduction

In this briefing for the 85th session of the Committee on the Rights of the Child, All Survivors Project (ASP) and the Youth Health and Development Organisation (YHDO) outline their concerns about the safety and well-being of boy victims of conflict-related sexual violence (CRSV) and of other grave violations in Afghanistan. This briefing develops and updates ASP preliminary submission to the Committee on the Rights of the Child (September 2019).¹

ASP is an independent, impartial, international organisation that conducts research and advocacy to ensure that CRSV is prevented and that the rights of all victims/survivors, including men and boys, are fulfilled, and the dignity of all survivors is respected and protected.

YHDO is a national NGO which delivers research, capacity building and services including medical, protection and other services to children, youth and marginalised populations across 22 provinces in Afghanistan.

In 2019, ASP undertook field research in partnership with YHDO to document the human rights abuses perpetrated against boys in the practice of *bacha bazi*. The information contained in this briefing reflects the main findings of that research as well as updated information. The organisations trust that this information will be useful in advance of the Committee's consideration of the periodic report of Afghanistan at the 85th session.

2. The ongoing practice of *bacha bazi* and sexual violence against boys

Two years on from being officially outlawed in the Afghan penal code, there is little sign that *bacha bazi* has ended or even significantly reduced in scale. *Bacha bazi* is the practice in which boys, including transgender individuals, are exploited for entertainment and gratification, particularly dancing and sexual abuse, typically by older, powerful men. It is a practice associated with multiple human rights violations, including sexual abuse and exploitation of children, forced labour and slavery.

¹ See

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCRC%2fNGO%2fAEG%2f37238&Lang=en

While there is no accurate data on how widespread the practice is, ASP and YHDO field research in 2019 found that *bacha bazi* remains prevalent across the four provinces of Afghanistan where research was conducted (Kabul, Herat, Balkh and Kandahar), although it may be less visible at least in Kabul because of increased awareness of its criminalisation has driven it underground.²

Although the penal code describes the crime of *bacha bazi* (literally ‘boy play’) as keeping boys and transgender children for purposes of dancing or for sexual gratification, the term is often used in Afghanistan to describe broader practices and behaviours.³ During the course of its research, ASP found that the term was often used even more widely to describe sexual violence against boys, young men, including those with diverse sexual orientations, gender identities and or expressions and sex characteristics (SOGIESC) more generally.

The broader use of the term *bacha bazi* to encompass a multiplicity of different human rights abuses and criminal acts should not mask the fact that there continues to exist in Afghanistan a specific practice that involves the keeping or using of boys and young men, including of diverse SOGIESC among them, for entertainment and other tasks and which frequently involves sexual violence.

There is no fixed age at which a child is made to become a *bacha*, and much depends on the circumstances of the specific child. Existing literature⁴ indicates that boys are generally vulnerable to becoming *bachas* from around the age of 11, but some boys become *bachas* at a younger age (and several of the survivors interviewed by ASP described becoming a *bacha* when they were in their 20s or continuing into their 20s or 30).

The practices associated with *bacha bazi* entail a range of grave violations against children. These include rape and other forms of sexual violence, abduction and trafficking, deprivation of liberty and being held in slavery like conditions, as well as physical violence, including severe beatings.

The experience of being a *bacha* can take many different forms. Some survivors described being abducted from the street or other public places, and being taken to a private home, military facility or other venue, forced to dance and/or being subjected to sexual violence over the course of a few hours, several days or, in some cases, many months. Others spoke of

² ASP interviews with YHDO representatives in Herat, Kabul, Kandahar and Mazar-e-Sharif, between May and October 2019.

³ For example, in a 2014 report on *bacha bazi*, the AIHRC defined it as the keeping of boys by rich individuals as “bodyguards, apprentices, servants at home, shop, bakery, workshop, hotels, restaurants and other paid jobs or through coercion, threat, trickery, intimidation and enticement.” The AIHRC’s definition noted that in some parts of the country this involves the children being dressed in female clothes and dancing at wedding and other parties, and that the practice was “generally associated with sexual exploitation and other forms of sexual harassment.” See: AIHRC, *Causes and Consequences of Bacha Bazi in Afghanistan. National Inquiry Report*, 18 August 2014, www.refworld.org/docid/5694c3db4.html

⁴ See for instance: AIHRC, *Causes and Consequences of Bacha Bazi in Afghanistan. National Inquiry Report*, 18 August 2014, www.refworld.org/docid/5694c3db4.html; Naz Foundation International, *Everybody knows, but nobody knows*. Desk review of current literature on HIV and male-male sexualities, behaviours and sexual exploitation in Afghanistan, September 2008, www.aidsdatahub.org/sites/default/files/documents/Everybody_knows_but_nobody_knows_Afghan_Review.pdf.pdf

being present at parties where they were forced to dance and were sexually assaulted, in some cases by many different men. Some were “kept” by a single person as a “private *bacha*” sometimes for a few months and sometimes for years. For several survivors, this involved living with their “keeper,” who subjected them to sexual abuse. For others it meant being available to accompany him to parties or to visit the abuser in his home, although some were also held captive. While some of the survivors said that their keeper was their only abuser, others described being “pimped” to earn money for their keeper by dancing and/or being assaulted by other men.

Many different forms of coercion are used to force boys into becoming *bachas* and continuing in the role, and to compel them to engage in sexual intercourse.

Violence or the threat of violence is commonly used to force boys into becoming *bachas* and/or being sexually abused by perpetrators. Survivors described how they were abducted off the streets by armed men or “gangs” and taken to parties or to private residences where they were forced, often under the threat of violence or under the influence of alcohol or drugs, to perform and were raped by one or, in some cases, many of the men present.

The use of blackmail was also often reported by survivors interviewed by ASP. They spoke about having been blackmailed, generally in the form of threats that their families would be told of their sexual abuse or that video recordings of the encounter would be released.

In some cases, *bachas* are bought and sold. In Balkh province, YHDO has documented since 2018, 108 cases of trafficked children who have been subjected to sexual violence including 38 of whom were used as *bachas*.

Sexual violence is often accompanied by other physical violence. Key informants told ASP and YHDO that “violent cases of gang rape” and “severe beatings” were common. Survivors described being blindfolded, tied up, beaten, having their hair cut or shaved, and having money and other possessions such as jewellery stolen. Drugs and alcohol also appear to be widely used. Information gathered by ASP and YHDO suggests that *bachas* use substances to numb themselves and to reduce their inhibitions when dancing, and that they are sometimes forced to use drugs and alcohol before being subjected to rape and other forms of sexual violence while under the influence.⁵

3. The involvement of state security forces and non-state armed groups in *bacha bazi*

Perpetrators of sexual violence and other abuses against *bachas* vary but were generally described by survivors interviewed as either being armed or powerful. Survivors frequently spoke of being taken under force to the residences of “commanders”, “warlords” and other

⁵ Around one third of survivors interviewed by ASP were made to take “a type of opium”, “Tablet K” (a synthetic drug smuggled into Afghanistan) or other pills, to smoke hashish or drink alcohol. Several referred to having been raped while intoxicated or of not having any memory of what had happened to them when they woke up in the morning. In some cases, drug use as a *bacha* had led to addiction.

“powerful people” or “rich people”, including government officials, members of the military or police, members of parliament, business people, elders/community leaders.

The protracted armed conflict in Afghanistan has contributed to increased levels of sexual violence against children.⁶ The organisations found that the practice of *bacha bazi* and the sexual violence associated with it both directly and indirectly relates to the armed conflict. In some cases, the relationship between sexual violence and the conflict is direct with incidents directly attributed to the security forces or to non-state armed groups, including by members of the Afghan National Defence and Security Forces (ANDSF), pro-government militias and by the Taliban. In other cases, the connection is less direct but relates to conditions resulting from or exacerbated by years of fighting, including poverty, forced displacement, and family separation, which have created extremely high levels of vulnerability. Such conditions, combined with weak protection mechanisms and the absence of the rule of law, creates an environment in which human rights abuses, including sexual violence can be committed with widespread impunity.

Decades of insecurity in Afghanistan has created conditions in which the practice of *bacha bazi* has flourished and expanded and, although not only committed by parties to the conflict, is often associated with them.⁷ Among the conditions identified in ASP and YHDO research were the weak rule of law and widespread impunity for human rights abuses in general.

The UN has verified 25 to 30 cases in recent years in which boys have been subjected to CRSV, including as *bachas*, and which it has attributed to the ANDSF, the ANP and the ALP. In 2018, the UN also reported having received credible data on an additional 78 cases of *bacha bazi* which it was unable to verify because of the “sensitivities involved”.⁸ In her 2019 report to the UN Human Rights Council, the Special Representative of the Secretary-General on Children and Armed Conflict, noted: “*Bacha bazi* continued to be underreported and verification was challenging because of the sensitivities involved, as well as security and protection concerns for survivors.”⁹

Within the Afghan National Defence and Security Forces (ANDSF), the Afghan Local Police (ALP) and to a lesser extent, the Afghan National Police (ANP) are most associated with *bacha bazi*. According to the 2019 US Department of State (US DoS) Trafficking in Persons

⁶ The UN Secretary-General report on children and armed conflict documented “3,410 grave violations against 3,245 children” in 2019, and specifically noted that “sexual violence affecting 18 children (13 boys, 5 girls) was attributed to the Taliban (14), Afghan National Police (3) and one incident was jointly attributed to Afghan Local Police and pro-government militia. Two boys were used as *bacha bazi*.”, UN Doc. S/2020/525, para 21.

⁷ AIHRC, *Causes and Consequences of Bacha Bazi in Afghanistan*. National Inquiry Report, 18 August 2014, www.refworld.org/docid/5694c3db4.html

⁸ See UN Secretary-General Annual Reports on Children and armed conflict and on Sexual violence in conflict, 2015-2018 inclusive, available at <https://childrenandarmedconflict.un.org/> and www.un.org/sexualviolenceinconflict/digital-library/reports/sg-reports/

⁹ Report of the Special Representative of the Secretary-General for Children and Armed Conflict, UN. Doc. A/HRC/43/38, 24 December 2019, para 28, <https://undocs.org/A/HRC/43/38>

Report, the “Afghan security forces, in particular the ANP and ALP, reportedly exploited boys in *bacha bazi* in every province of the country”.¹⁰

Particular concern was raised by informants about the presence of young boys at police checkpoints and their vulnerability to sexual violence there. A YHDO outreach worker in Kandahar described regularly seeing boys of around 13-14 years old sitting at checkpoints. A senior government official also from Kandahar acknowledged that children were often present at checkpoints there – in his words “the commander of a checkpoint will keep children and sexually abuse them. Commanders can keep 2-3 boys as *bacha* boys/for sexual gratification.” UN officials also spoke of receiving reports of sexual violence by the ANP and ALP at checkpoints but which they have not been able to verify.

There is even less information available on the degree to which non-state armed groups are involved in *bacha bazi*, in large part because of the challenges in accessing areas under their control. However, according to the UN, non-state armed groups are responsible for the majority of cases of child recruitment.¹¹ Incidents of rape and other forms of sexual violence by the Taliban have been verified by the UN.¹²

4. Stigma associated with being a *bacha* and male sexual violence

During the research conducted in 2019, fourteen of the 24 interviewed survivors, all of whom were assigned male at birth, identified as being of diverse SOGIESC, spoke of having had consensual relationships with other men, having an attraction to men, of having more “female hormones”, of having “womanly traits” or “womanly gestures”, and/or liking to dress in women’s clothes and to wear makeup.

Many of them spoke about the daily harassment and discrimination they face due to their sexual orientation or gender expression, including being called derogatory names, being bullied at school and harassed in the street and in other public places, in some cases preventing them from leaving home; having difficulties in finding employment. Some survivors with diverse SOGIESC believe that they were targeted for *bacha bazi* due to their sexual orientation or gender expression.

Nevertheless, once any boy (or man) has been subjected to sexual violence by another male, including as a *bacha*, he is likely to be labelled as homosexual whether he identifies as such or not. This has extremely serious consequences in Afghanistan where sodomy, and therefore consensual same-sex relationships between males, is criminalised. National law provides no

¹⁰ US Department of State, *Trafficking in Persons Report*, June 2019, page 59, www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf

¹¹ See UN Secretary-General Report on Children and Armed Conflict in Afghanistan, UN Doc. S/2019/727, 10 September 2019, para 23, undocs.org/en/S/2019/727

¹² See for example, UN Secretary-General Annual Reports on children and armed conflict for 2016, 2017 and 2018.

protection against discrimination or harassment on the basis of sexual orientation or gender identity; and homosexuality is widely considered to be taboo and indecent.¹³

The criminalisation of homosexuality combined with the stigma attached to it results in enormous shame among male survivors of sexual violence.

As noted by some survivors interviewed, shame is not only personal but can also stigmatise the whole family.

Stigma, shame, fear and guilt have other knock-on effects, including on the mental health of victims/survivors. Over half of the survivors interviewed by ASP spoke about struggling with mental health problems, which included feeling desperate, depressed or sad, being in mental and emotional pain, being unable to concentrate, crying uncontrollably, or shutting themselves away and not eating. Four of the survivors told ASP that they had attempted suicide as a direct result of their experiences as a *bacha* or a survivor of sexual violence more generally, and another four said that they had had or continue to have suicidal thoughts.

While all survivors interviewed have received or are currently receiving care and support from YHDO, limited availability of health services represents a major barrier to appropriate care and support, stigma and shame can also act as a deterrent.¹⁴

5. Criminalisation of *bacha bazi* and child protection policies

The Government of Afghanistan has taken steps including by strengthening legal prohibitions against *bacha bazi*, but only one prosecution had taken place under the *bacha bazi* provisions in the revised penal code. There are few indications that the practice has become notably less common.

The reasons for the limited impact of legal change lie in part in the weak rule of law in Afghanistan and a weak and corrupt justice system, and also in the complex web of political, social, cultural and economic factors that must be tackled simultaneously if the practice of *bacha bazi* is to be eradicated.

¹³ See for example, Human Rights Watch, “Afghan LGBT Asylum Seekers in UK Among Most Vulnerable. At Risk of Imprisonment, Violence if Deported to Afghanistan,” 26 February 2017, www.hrw.org/news/2017/02/26/afghan-lgbt-asylum-seekers-uk-among-most-vulnerable and US Department of State, *Country Reports on Human Rights Practices for 2018*, Afghanistan, <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/afghanistan/>

¹⁴ About one third of the population (mostly those living in hard-to-reach areas) does not have access to a functional health centre within two hours of home. Insecurity and conflict also mean that health care, even where it exists, is often interrupted and inaccessible, and high costs make it unavailable for many. For further details see, *Humanitarian Needs Overview for Afghanistan 2020*, December 2019, reliefweb.int/sites/reliefweb.int/files/resources/afg_humanitarian_needs_overview_2020.pdf

The Penal Code

Explicit prohibitions on *bacha bazi* are contained in the revised penal code and in a recently enacted Law on the Protection of Children's Rights.

The revised penal code, which entered into force in February 2018, includes a dedicated chapter on *bacha bazi*. It punishes with terms of imprisonment from six months to three years the keeping of a child for dancing or for the purpose of training them to dance, forcing a child to dance at public or private events, and holding or participating in a *bacha bazi* event (articles 654, 655, 656 and 658). Another article proscribes forcing a child to dance at public or private events with a "medium prison term of more than three years" (article 657).¹⁵ The chapter also addresses related crimes, including forced drug addiction, buying and selling a child for the purpose of *bacha bazi*, raping a child, and sexual harassment (articles 659 and 662-664).

The act of photographing, filming or otherwise recording a child being forced to dance or being subjected to sexual violence including for the purposes of blackmail is explicitly prohibited and carries a punishment of "more than seven years' imprisonment" (article 665). Aggravating circumstances trigger the maximum allowed punishment. These include acts committed against a child under the age of 12 years old, by someone with legal authority over the child or by someone using their official authority, or where the crime results in the physical or psychological harm to the child (article 666).

Significantly, the commission of *bacha bazi* by military personnel or the failure of a member of the military who is aware of a subordinate committing the crime to take measures to prevent it, are specifically referenced and carry "medium" (one to five years) and "short" (under one year) sentences of imprisonment respectively (articles 660 and 661).

A person who buys or sells a child for the purposes of *bacha bazi* is punishable under provisions of the penal code relating to human trafficking. The definition of trafficking includes the domination of a child "for the purpose of exploitation" which includes sexual exploitation, being forced to dance, and forced labour (article 510(2&3)). The trafficking provisions address some of the same criminal conducts as those in the chapter on *bacha bazi*, but carry harsher penalties: up to 10 years imprisonment for the act of trafficking and more than 10 years if the victim (defined as women or child) has been exploited in the act of dancing (articles 511), versus up to three years imprisonment for keeping a child for the purpose of sexual gratification or dancing under article 654 relating to *bacha bazi*.

There is also some overlap between trafficking provisions in the penal code and the 2017 Law to Combat Crimes of Trafficking of Persons and Smuggling of Migrants. However, following its entry into force, the crimes contained in the revised penal code apply over the 2017 Law.¹⁶

¹⁵ Under article 147 of the penal code on the duration of imprisonment, medium term refers to sentences of between one and five years.

¹⁶ The Anti-Trafficking Law previously contained specific provisions relating to *bacha bazi*, but these are repealed under article 916(2)9(31) of the new Penal Code.

Bacha bazi is also prohibited in the recently enacted (11 March 2019) Law on the Protection of Child Rights (article 99), along with all forms of “sexual exploitation and misuse of children” (article 96), and “violent actions including physical or mental, harming or exploitation, negligence, bad behavior or abuse, including purchase and sale and sexual misuse, against a child,” (article 94).¹⁷ Under this law, children are also protected from forced labour, defined as “work or service imposed on a child causing harm to his well-being, education, physical or mental health, and/or sentimental or social development of the child,” and their rights to health and education guaranteed.¹⁸ The child protection law additionally prohibits any form of discrimination against children (article 6).¹⁹

Child protection policies

A child protection policy drafted by the Ministry of Interior (MoI) Affairs’ Directorate of Gender, Children and Human Rights, could address, if adequately implemented, some of the concerns highlighted above.

While still in draft form, the policy would apply *inter alia* to all MoI employees including the ANP and the ALP. It prohibits grave violations against children, including the recruitment or use of children in police ranks and sexual violence against children. In relation to the latter, police personnel are strictly prohibited “from committing, permitting, tolerating and condoning any sexual violence or abuse against a child” and “abducting or deceiving a child for the purpose of using them for sexual exploitation or any other illicit capacity...” Police personnel are also prohibited from participating in *bacha bazi* events and are required to take all necessary measures to prevent *bacha bazi* gatherings.²⁰

The draft policy also sets out procedures for reporting and investigating allegations of grave violations against children by the police. A degree of independent oversight of investigations is built into the draft policy through a requirement that all reports of incidents involving police officers must be submitted to the Afghanistan Independent Human Rights Commission (AIHRC) within 24 hours of having occurred. However, according to the draft policy, investigation of allegations against police officers is to be carried out by their commander with the support and oversight of the MoI’s Gender, Children and Human Rights Department and Criminal Investigation Division. This would appear not to guarantee the level of independence or impartiality required to ensure effective investigations.

¹⁷ Under the Child Protection Law, *bacha bazi* is defined as the “keeping a male or she-male child for sexual pleasure, dancing in public or private parties, singing, clothing with female clothes, pederasty, rape, intercourse, touching, pornography, and sleeping with,” and provides that “any person committing it, privately or publicly, individually or collectively, shall be punished in accordance with the provisions of law”. Exploitation and sexual misuse includes “persuasion or coercion of a child to engage in every kind of sexual activity or usage in prostitution or other illegal sexual activities or/and in pornographic images and videos.”

¹⁸ The right to education is enshrined in articles 48-56 of the Child Protection Law. Article 51 explicitly references the role of others in ensuring that children can access education: “No one including parents, guardian or employer has the right to hinder education and learning of a child.” The right to health is addressed in articles 28 and 29.

¹⁹ Article 6 states that “Any form of discrimination, on the basis of race, color, sex, language, tribe, religion, views, political beliefs, or origin and place of birth and alike, that either related to the child herself/himself or her/his legal representative, is prohibited.”

²⁰ Islamic Republic of Afghanistan Ministry of Interior Gender, Children and Human Rights Directorate, Third draft child protection policy, on file with ASP.

Importantly, given concerns around confidentiality and reprisals by the police, the draft policy provides that the anonymity of the victim will be maintained and that “reasonable steps” will be taken to ensure the safety, privacy and confidentiality of the child victim/survivor. Reprisals, retaliation and threats against victims or those involved in investigating reports are prohibited. The draft policy also requires that appropriate training is provided to new recruits as part of initial training at the Police Academy, and to all police units every six months. In addition, regular refresher trainings are required at least annually.

A policy on the Protection of Children in Armed Conflict adopted by the Ministry of Defense (MoD) in 2017 and applicable to the ANA, MoD employees and civilian contractors working for the MoD, prohibits grave violations against children. Among the prohibited acts are the military recruitment and use of children under the age of 18 years and “rape, attempted rape, sexual violence, or any other form of aggression directed against a child.” Although there is no explicit reference to *bacha bazi* in the policy, the definition of “a child associated with the armed forces” is broad enough to include it and is also covered by the specific prohibition on “deceiving or enticing a child to exploit them in any capacity.”²¹

The MoD child protection policy also sets out procedures for internal reporting and investigation of alleged violations. According to the policy, if a grave violation against a child is committed by a civilian employee of the MoD or a civilian contractor, they will be detained and transferred to the ANP for investigation. However, if a member of the ANA is alleged to have committed a violation, the investigation will be carried out by the MoD’s Criminal Investigation Division and the MoD will ensure “that commanders impose appropriate sanctions.” It is unfortunate that only in the case of a complaint being received from the AIHRC or CPAN is the MoD required to report to them on the progress of the investigations/action taken.

6. Impunity

The revised penal code, the Child Protection Law and the Child Protection policies of the MoD and the MoI provide a strong basis for the investigation and prosecution of those involved in *bacha bazi* and for the further elaboration of actions to protect children against all forms of sexual violence, including through the practice of *bacha bazi*.

However, impunity for sexual violence, including in the context of *bacha bazi*, remains widespread. Notably, there are concerns about the lack of accountability for members of the state security forces, in particular the ANP and the ALP. According to information received by ASP, these agencies continue to be involved in the practice of *bacha bazi* but, for the most part, are able to evade prosecution and effectively operate outside of the law.

²¹ According to the policy the definition of recruitment/enlistment and use of children “...includes but is not limited to the use of children as informants, guides, couriers, messengers, guards, scouts, porters, cooks, healthcare workers, lookouts, spies, human shields, sexual slaves, decoys, saboteurs, or as assistants to the armed forces in any military activity or operation.” As such it is consistent with the expansive, open definition of children associated with armed forces and armed groups contained in the Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups, February 2007, available at www.unicef.org/emerg/files/ParisPrinciples310107English.pdf

Reforms of the justice and law enforcement sectors in Afghanistan are continuing but at a slow pace. Levels of corruption, although reportedly decreasing²², remain high, and insecurity, security threats and targeted attacks against civilians remain a major challenge to the provision of justice services throughout the country.

Specifically, in relation to *bacha bazi* a lack of awareness of the criminalisation of this practice significantly contributes to impunity. Judges, prosecutors and lawyers, particularly outside of Kabul, may not be aware of the revised penal code so that, even in the event the police were to investigate, relevant provisions on *bacha bazi* may not be applied.

Lack of confidence in the police, including because of police complicity in *bacha bazi*, was regarded as among the most significant obstacles to reporting, investigating and prosecuting the practice.

Other concerns include fear that the confidentiality of victims would not be respected, a lack of protection for witnesses and victims, and fear of re-victimisation among survivors. Several child protection experts told ASP that they find it difficult to convince victims/survivors to file criminal complaints because of deep-seated suspicion of the police and procedures used during investigation, social stigma and fear that they will be considered guilty and penalised under the law.

The revised penal code does include provisions prohibiting the prosecution of victims of *bacha bazi* (article 667) and of victims of rape (article 642). Measures to protect victims and witnesses are also provided for in the Criminal Procedure Code²³, which also includes provisions on the protection of vulnerable adults and children.²⁴ However, in practice there is no effective victim/witness protection in Afghanistan.

Organisations involved in documenting and supporting victims/survivors of *bacha bazi* can also face threats and intimidation. For example, a YHDO representative shared information about a *bacha bazi* case from 2018 involving a 16-year-old boy and “a very powerful man” in Mazar-e-Sharif. The case had been referred by the police to the prosecutor’s office for investigation, but it was eventually withdrawn following threats by the perpetrator. According to the informant, “after we referred the case to CPAN, they referred it to the police investigation, the police then referred it to the prosecution but in the middle, the perpetrator called YHDO and threatened us, then he called CPAN and threatened them as well. Finally, he succeeded in getting the case dismissed. Honestly, we couldn’t do anything.” Elsewhere it was reported that a public health official who had conducted forensic examinations for criminal cases including in cases of *bacha bazi*, had been pressured by state prosecutors not to report confirmed evidence of abuse.²⁵

²² See Transparency International, www.transparency.org/research/cpi/overview

²³ See articles 53 to 55 of the Criminal Procedure Code, 2014.

²⁴ See articles 39 and 65 of the Criminal Procedure Code, 2014.

²⁵ US DoS, Trafficking in Persons Report, June 2019, www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf. For further information on attacks on human rights defenders in Afghanistan

7. Wider institutional and public attitudes around sexual violence against boys

A baseline survey conducted in 2017 by Save the Children found that sexual violence against children, although underreported, was commonplace both within families and even more so outside of the home, with high numbers of children (18%) and adults (68%) reporting awareness of incidents of rape in the community and similarly large numbers reporting other forms of sexual abuse and violence against girls and boys.²⁶

Child protection experts and human rights monitors interviewed by ASP and YHDO spoke of the serious and widespread nature of sexual violence against children in Afghanistan both within communities as well as in specific contexts such as schools, workplaces²⁸ and on the street.

Wider institutional and public attitudes around sexual violence against males in Afghanistan result in victims being shamed, blamed, threatened and even killed while alleged perpetrators are protected.

This was starkly illustrated following the publication by a UK-based newspaper, *The Guardian*, in late 2019 of a story about a criminal ring allegedly orchestrating the abuse of at least 546 boys from six schools in Logar province.²⁷ It has since emerged that the interviews were conducted with 546 children and the number of those abused was apparently lower but precise numbers of those abused are yet to be identified. The initial reaction by the authorities was one of denial – the National Directorate of Security (NDS), for example, was reported to have described the reports as “baseless” and “predicated on unfounded allegations.”²⁸ Rather than urgently putting measures in place to protect the children and investigating those allegedly responsible for their mistreatment, two human rights defenders involved in documenting the situation in Logar were detained by the NDS, although they were released after a few days following pressure from the AIHRC, the UN, US and other diplomatic missions, and INGOs.²⁹

see, Amnesty International, *Defenceless Defenders: Afghanistan's Human Rights Community Under Attack*, 28 August 2019, www.amnesty.org/en/documents/asa11/0844/2019/en/

²⁶ Save the Children International, *Knowledge, Attitudes and Practices on Violence and Harmful Practices Against Children in Afghanistan A Baseline Study*, August 2017, page 28, Chart 8, resourcecentre.savethechildren.net/node/12361/pdf/violence_against_children_kap_survey_afghanistan_2017.pdf. Types of sexual violence in the community identified by girls and boys participating in the Save the Children survey were: unwanted sex, *bacha bazi*, sexual harassment, rape, touching private parts, abduction, baad and child marriage.

²⁷ *The Guardian*, “Afghanistan paedophile ring may be responsible for abuse of over 500 boys”, 13 November 2019, <https://www.theguardian.com/global-development/2019/nov/13/afghanistan-paedophile-ring-that-abused-over-500-boys>

²⁸ *The Daily Star*, “Afghan spy agency dismisses reports of alleged paedophile ring”, 26 November 2019, www.dailystar.com.lb/News/Middle-East/2019/Nov-26/496295-afghan-spy-agency-dismisses-reports-of-alleged-pedophile-ring.ashx

²⁹ See for instance: “Statement from the Group of Friends of Children and Armed Conflict (CAAC) regarding allegations of sexual abuse of boys in Logar province”, 3 December 2019, unama.unmissions.org/sites/default/files/191203_statement_by_the_gof_caac_regarding_logar_province.pdf; Amnesty International, “Afghanistan: Intelligence agency must release human rights defenders who exposed paedophile ring”, 25 November 2019, www.amnesty.org/en/latest/news/2019/11/afghanistan-release-hrds-now/

An investigation by the Ministry of Education was initiated, but only following a public statement by the President expressing his concern about the case and instructing the Ministry to deliver a thorough report on it.³⁰ In addition, a high-level committee was established at the request of the President and criminal investigations were initiated by the Attorney General's Office, the status of which are currently unknown.³¹ Despite these actions, the safety of the victims, families and human rights defenders involved remains an ongoing concern and at the time of writing no one has yet been held to account.

8. Recommendations

In light of the above information, ASP and YHDO would like to encourage the Committee on the Rights of the Child to make the following recommendations to the government of Afghanistan.

Adopt a policy of zero tolerance of *bacha bazi*:

- Undertake the wide dissemination of and training on the revised Penal Code, including provisions relating to the banning of *bacha bazi* to all government national and local officials, members of the judiciary and the Attorney General's Office and state security forces, community and religious leaders, teachers and others in positions of authority or influence;
- Ensure that all members of the ANA, ANP, ALP and other branches of the state security forces are made aware of prohibitions on *bacha bazi*, CRSV and other grave violations against boys and girls in armed conflict. In accordance with the MoD child protection policy, prohibitions should be part of initial and ongoing training of ANA members;
- Adopt urgently the MoI policy on child protection policy along with an implementation plan. Pending adoption of the MoI policy, training of new and existing members of the ANP and the ALP should be accelerated;
- Support a nation-wide public information campaign on the illegality of *bacha bazi* and the harms resulting from it.

Counter impunity:

- The Attorney General's Office, with the public support of the President and other senior government representatives, should systematically investigate and, where there is sufficient evidence, prosecute all allegations of *bacha bazi* and related human rights abuses. Particular priority should be given to holding high-level perpetrators to account, in particular those who hold positions of power or influence or are members of the state security forces;

³⁰ "Cases as such must be dealt and investigated by the attorney general's office and the AIHRC. I have also instructed the Ministry of Education to provide thorough report from the areas of Logar where the alleged abuse took place. I expect the report sent to me ASAP" @ashrafghani, 26 November 2019, twitter.com/ashrafghani/status/1199340745770991622.

³¹ *The Guardian*, "Investigation begins into alleged abuse of more than 500 boys in Afghanistan", 29 January 2020, www.theguardian.com/global-development/2020/jan/29/investigation-begins-into-alleged-abuse-of-more-than-500-boys-in-afghanistan?CMP=Share_iOSApp_Other

- Ensure transparency and to maximise the deterrent effect of prosecutions whether conducted by civilian or military authorities, by providing regular progress updates and making public court decisions, while at all times respecting the confidentiality of victims, including ensuring that their identities are not revealed.

Revise national legislation:

- Revise the penal code to include an expansive, non-exhaustive definition of sexual violence (other than rape) that is gender inclusive including, but not limited to, enforced sterilisation (including castration and other forms of sexual mutilation), genital violence (including blunt trauma, applying electric shocks to genitals, and forced circumcision), forced nudity, forced masturbation, other forms of sexual humiliation, sexual slavery, forced prostitution, and other forms of sexual violence of comparable gravity;
- Abolish the death penalty, in accordance with international human rights law and standards, for gang rape and human trafficking-related offences and consider complete abolition of capital punishment.

Strengthen protections against and for victims/survivors of *bacha bazi*:

- Establish a process for regular, unannounced visits by an independent, impartial body (outside of ANP, ALP and ANA structures) to all police and military facilities including police checkpoints and military barracks where children, including *bachas*, may be present, and establish processes for the safe removal, protection and rehabilitation of these children. This body should coordinate with and reinforce the monitoring on grave violations against children in armed conflict undertaken by the UN-led Country Task Force on Monitoring and Reporting;
- Using the support of key stakeholders (for example, UNAMA, AIHRC and CPAN) and participation of victims/survivors, conduct further research/consultations to clearly identify the full range of risks, vulnerabilities and impacts of involvement of children in *bacha bazi* and of other forms of CRSV against men and boys. This research should be used to inform the design of interventions and programs to identify and support at risk or vulnerable boys/young men;
- In accordance with prohibitions in the penal code that victims/survivors of *bacha bazi* should not be prosecuted, clear orders should be issued by the Ministry of Interior which oversees the ANP and ALP, and training provided to all serving police and new recruits that *bachas* should not be arrested or detained, but rather, should be provided with protection and referred to safe and confidential services for appropriate medical care and mental health and psychosocial support;
- Set up an effective victim and witness programme to enable survivors of sexual violence to safely report their treatment and pursue justice;
- The President and other senior government officials should publicly condemn all attacks, threats and intimidation of human rights defenders, and ministries and government departments should work with defenders, the AIHRC and the diplomatic community to strengthen protections including by setting up a system for monitoring and investigating attacks and supporting existing initiatives including through Amnesty International's strategy for the protection of human rights defenders.

Care and support for victims/survivors:

- The Ministry of Public Health, supported by international humanitarian stakeholders, should ensure that comprehensive, free, quality, confidential medical care and mental health and psychosocial support is available to and accessible by survivors of *bacha bazi* and of CRSV without discrimination including on the basis of sexual identity and gender orientation/ and or expression;
- The Ministry of Labour and Social Affairs in partnership with the Ministry of Public Health, CPAN and AIHRC should put in place effective protection mechanisms (including referral processes, safe houses, relocation away from risk) to ensure that anyone who is or is at risk of becoming a victim of *bacha bazi* can be protected, including being physically removed from the location where the risk exists if necessary.

Address stigma and discrimination:

- All stakeholders should work together, with the participation of victims/survivors and the communities, to develop and implement plans to reduce the stigma and shame suffered by boys who have been involved in *bacha bazi* and of male victims/survivors of sexual violence more generally. This should include the repeal of discriminatory laws, including laws that criminalise consensual same-sex relations, as well as measures to tackle broader inequalities, discrimination, harmful gender and social-norms and other root causes of CRSV.³²

Strengthen capacity of the Afghanistan Independent Human Rights Commission:

- Recognising the central role of the AIHRC in strengthening protections against human rights abuses, including through awareness raising, ensure that the national human rights bodies receives technical support to increase the sensitivity of procedures and guidelines for complaints and monitoring, as well as the capacity of staff to conduct interviews with male and child victims of sexual violence;
- ASP and YHDO further recommend the Committee to encourage donors to support and strengthen the capacity of the AIHRC to monitor sexual violence in Afghanistan and to respond to complaints, including by developing training for its staff to conduct interviews with male and child victims of sexual violence and document these abuses.

³² Efforts to reduce stigma should be guided by the Preventing Sexual Violence Initiative's (PSVI), Principles for Global Action: Preventing and addressing stigma associated with conflict-related sexual violence, September 2017, www.gov.uk/government/publications/launch-of-the-principles-for-global-action-on-tackling-the-stigma-of-sexual-violence-in-conflict