

AFGHANISTAN

Updated information for the Committee on the Rights of the Child on conflict-related sexual violence against boys in Afghanistan, 88th Session, September 2021

August 2021

1. Introduction

The following provides updated information to the Committee on the Rights of the Child (CRC) for its forthcoming review of the combined second to fifth reports of the Government of Afghanistan on its implementation of the Convention on the Rights of the Child and its Optional Protocols on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, and on the Involvement of Children in Armed Conflict. It should be read in conjunction with the August 2020 briefing to the CRC by All Survivors Project (ASP) and the Youth Health and Development Organisation (YHDO) on conflict-related sexual violence (CRSV) against boys in Afghanistan.¹

This update is written in the context of an upsurge in cases of COVID-19 cases across all 34 provinces of Afghanistan, and the rapidly deteriorating security situation as international forces withdraw from the country.² These developments are further exacerbating the already high-levels of vulnerability of girls and boys in Afghanistan to human rights violations, including CRSV, and underscore the need for accelerated action to strengthen protection for children, and for immediate action to end impunity for perpetrators of violations against them.

2. Developments in relation to CRSV and the practice of *bacha bazi*³

2.1 Policy developments

On 15 February 2021, the National Commission on Protection of Child Rights endorsed a national child protection policy, applicable to all elements of the Afghan National Defence and Security Forces (ANDSF), including the Ministry of Defence (MoD), Ministry of Interior (MoI), the National Directorate of Security (NDS), and their subordinate units. The policy includes commitments to

¹ ASP is an independent, impartial, international organisation that supports global efforts to eradicate CRSV and strengthen national and international responses to it through research and action on CRSV against men and boys, including those with diverse sexual orientation, gender identity, gender expression and sex characteristics (SOGIESC), as well as other people with diverse SOGIESC. YHDO is a national NGO which provides research, capacity building and services including medical, protection and other services to children, youth and marginalised populations across 22 provinces in Afghanistan. ASP/YHDO's August 2020 briefing is available at: https://allsurvivorsproject.org/wp-content/uploads/2020/08/ASP.submission.Afghanistan.CRC_.85thSession.2020.pdf

² World Health Organization (WHO), [COVID-19 Epidemiological Bulletin, Afghanistan - Epidemiological Week 27, 2021 \(4–10 July 2021\)](#).

³ The term "bacha bazi" refers to a practice in which boys and young men are exploited including for dancing and other forms of entertainment during which they are frequently subjected to sexual violence and other abuse, typically by older, often powerful men.

respect provisions contained in the Convention on the Rights of the Child, as well as relevant UN resolutions and political commitments on protecting children in situations of armed conflict. It also contains prohibitions on specific violations of child rights, including all forms of sexual abuse against children and the use of children for personal and sexual purposes, although does not explicitly prohibit *bacha bazi*.

A child protection policy was also launched by the MoI in November 2020. This policy, which is applicable to all MoI employees, including the Afghan National Police (ANP), also includes provisions prohibiting the recruitment and use of children in police ranks, sexual violence against children and participation in *bacha bazi* events, and requires the police to take all necessary measures from preventing their occurrence.⁴

These new policies add to existing national legal and policy protections for children against the practice of *bacha bazi*, and against sexual violence more generally. These include: the Law on the Protection of Child Rights (adopted March 2019), which explicitly prohibits *bacha bazi*, as well as all forms of “sexual exploitation and misuse of children”; the revised Penal Code (dated 3 March 2017 and entered into force 14 February 2018) under which *bacha bazi* was criminalised for the first time;⁵ and the MoD, Policy on the Protection of Children in Armed Conflict (adopted December 2017) which prohibits grave violations against children, including “rape, attempted rape, sexual violence, or any other form of aggression directed against a child,” by members of the Afghan National Army (ANA), MoD employees and civilian contractors working for the MoD.⁶

Provisions relating to sexual violence in these laws and policies use gender-inclusive language (employing terminology including “children”, “a child” or “persons”) thereby ensuring prohibitions and protections afforded by them are applicable to both girls and boys.

2.2 Enforcement of laws and policies prohibiting *bacha bazi*/CRSV

Despite some progress in investigating and prosecuting individual cases of *bacha bazi* and/or CRSV against boys, implementation of relevant laws and policies remains weak and the majority of perpetrators of these and other human rights violations against children continue to enjoy impunity. According to credible sources, the Afghan authorities have not investigated or prosecuted many high-level government officials or members of the security forces despite continuing reports of complicity in *bacha bazi*.⁷ In the meantime, human rights defenders and others involved in gathering information on violations and/or providing protection and support to child victims/survivors have been subjected to harassment, threats and other human rights violations. Lack of adequate protection, including an effective victims/witness protection program, means that victims/survivors cannot safely report their experience to the authorities.

Following initial denial by the Afghan authorities of allegations of widespread sexual abuse of boys in schools in Logar Province that emerged in late 2019, and the detention by the NDS of human rights defenders involved in documenting the cases, investigations were subsequently initiated by

⁴ See UN Secretary-General, Annual Report on children and armed conflict, UN Doc. A/75/873–S/2021/437 (2021).

⁵ Articles 653-667 of the Revised Penal Code proscribe *bacha bazi* and associated crimes.

⁶ Islamic Republic of Afghanistan, Ministry of Defence, Policy for Protection of Children in Armed Conflict, 2017. Unofficial English translation on file with ASP.

⁷ US DoS, [Trafficking in Persons Report](#), June 2021.

the Attorney General's Office (AGO).⁸ A number of perpetrators were identified as a result, of which nine had been convicted of "child sexual assault" and sentenced to between five and 22 years' imprisonment by early 2021. According to some reports an additional four men, including a high school headmaster, were indicted in relation to this case but it is not known if trials took place. A further 10 suspects are reported to have fled the country.⁹

According to secondary information, investigations and prosecutions have taken place in other cases of CRSV involving boys, including where it occurred in the context of *bacha bazi*. However, it is unclear how many cases have been investigated/prosecuted and whether provisions under the Penal Code relating to *bacha bazi* have been applied. According to one source, the MoI reported having referred 237 cases of *bacha bazi* to the AGO between 1 April 2020 and 31 March 2021. Of these 185 were reported to be under police investigation, and prosecutions had been initiated against 19 people in relation to four separate *bacha bazi*-related cases.¹⁰ In addition to the Logar case, these included a case in which seven ANP officers were convicted of the rape and murder of a 13-year-old boy from Kandahar Province in September 2020. All seven officers were found guilty and six were sentenced to prison terms of between 24 and 30 years. Notwithstanding the seriousness of this crime, it is of concern that the seventh has been sentenced to death.¹¹

There are also reports that two ANA officers were sentenced to 18 months imprisonment for incidents relating to *bacha bazi* and/or sexual violence in 2020/2021, but it is unclear precisely when these trials took place or what incidents they relate to.¹² According to the Government of Afghanistan, cases of sexual violence and other human rights violations against children involving military personnel are tried in military courts.¹³ Although ASP and YHDO welcome any progress in holding perpetrators of *bacha bazi* and/or CRSV to account, it is of concern that crimes involving human rights violations against children are tried in military courts which should be limited to trials of members of the military for breaches of military discipline.¹⁴

2.3 Continuing concerns about the vulnerability of boys to *bacha bazi* and CRSV

Continued impunity for perpetrators and lack of other effective measures to enforce laws and policies prohibiting *bacha bazi* means that the practice is still believed to be widespread, exposing boys to the risk of sexual violence and other human rights violations.¹⁵ The pandemic-related

⁸ A High-Level Committee was established in the AGO to investigate the cases to which UNAMA/OHCHR provided technical assistance on child-friendly investigatory approaches to cases of sexual violence against children. See UN Secretary-General, The situation in Afghanistan and its implications for international peace and security, UN Doc. A/74/993-S/2020/809, 18 August 2020.

⁹ US Department of State (DoS), Bureau of Democracy, Human Rights and Labour, Country Reports on Human Rights Practices, Afghanistan, 30 March 2021.

¹⁰ US DoS, [Trafficking in Persons Report](#), June 2021.

¹¹ US DoS, [Trafficking in Persons Report](#), June 2021.

¹² US DoS, [Trafficking in Persons Report](#), June 2021.

¹³ See Replies of Afghanistan to the list of issues in relation to its combined second to fifth periodic reports, UN Doc. CRC/C/AFG/RQ/2-5 (2021), and MoD, Policy for the Protection of Children in Armed Conflict, 2017.

¹⁴ Updated set of principles for the protection and promotion of human rights through action to combat impunity, Principle 29 "The jurisdiction of military tribunals must be restricted solely to specifically military offences committed by military personnel, to the exclusion of human rights violations, which shall come under the jurisdiction of the ordinary domestic courts or, where appropriate, in the case of serious crimes under international law, of an international or internationalized criminal court."

¹⁵ Because of the sensitivity of the issue, it is not possible to establish the extent of the practice. In 2020 the UN verified sexual violence against 13 children (9 boys and 4 girls). This included 5 boys used as *bacha bazi* by the ANP, as well as incidents of CRSV by the Taliban (3), ANA (1) Afghan Local Police (1), pro-government militia (1) and ANA Territorial Force (1). However, these figures are acknowledged not to reflect the extent of incidents country-wide. See UN Secretary-General, Annual Report on children and armed conflict, UN Doc. A/75/873-

health crisis and deteriorating security situation in Afghanistan has further exacerbated these risks including because of higher numbers of out-of-school children due to school closures;¹⁶ lost incomes resulting in greater socio-economic pressures on families;¹⁷ intensified conflict driving increased levels of forced displacement;¹⁸ and the further weakening of child protection mechanisms and associated activities as a result of the increasingly hostile operating environment and health concerns.

According to some survivors interviewed for a rapid assessment of the impact of the pandemic on male survivors of sexual violence in Afghanistan conducted by ASP and YHDO in June 2020, sexually abusive practices, including in the context of gatherings in which *bacha bazi* takes place, may have declined due to the closure of locations typically used for these practices as a result of lockdown and social distancing measures. However, others reported that *bacha bazi* events had merely been displaced to new, often private or more remote locations, where protections are even weaker.¹⁹

An upward trend in child military recruitment and use, a practice that is closely associated with *bacha bazi* and/or CRSV, may also be attributable to the dual health and security crisis (the number of UN-verified incidents of child recruitment and use increased from 64 in 2019 to 197 in 2020).²⁰ Although the Taliban was responsible for the majority of cases, child recruitment and use by the ANA, ALP and other elements of the ANDSF continue to be documented. The difficult security environment in many rural areas is reported to be hampering oversight of recruitment practices at district level which may lead to further increases in child recruitment and use.²¹ The mobilisation of unofficial militia to combat Taliban advances may likewise increase the risk of military recruitment and use of children and associated violations of child rights.²²

Children also remain at high risk of CRSV in other settings, in particular in situations of deprivation of liberty, including when detained on security-related charges.²³ According to the UN, as of 31

S/2021/437 (2021).

¹⁶ Schools in Afghanistan were closed during much of 2020 and a new nationwide closure of all educational institutions, including schools, was announced on 6 June 2021 amid surging coronavirus infections and deaths. See, Human Rights Watch (HRW), "[School Closures Hurt Even More in Afghanistan](#)", 18 June 2020 and Anadolu Agency, "[Afghanistan shuts all schools amid surging COVID-19 infections, deaths](#)", 12 June 2021. In addition, attacks on schools continue, with a total of 62 attacks verified by the UN monitoring and reporting mechanism in 2020. See UN Secretary-General, Annual Report on children and armed conflict, UN Doc. A/75/873–S/2021/437 (2021).

¹⁷ As of December 2020, 7.4 million children in Afghanistan were in need of humanitarian assistance, an increase of 45 per cent from December 2019 figures. See UNICEF, "[Humanitarian Action for Children 2021 - Afghanistan](#)", 15 December 2020.

¹⁸ According to United Nations High Commission for Refugees (UNHCR), the worsening security situation across Afghanistan in the wake of foreign troop withdrawal and Taliban advances has forced an estimated 270,000 from their homes since January, bringing the total internally displaced to more than 3.5 million. See UNHCR, "[Afghanistan: 270,000 newly displaced this year](#)", warns UNHCR, 13 July 2021.

¹⁹ ASP and YHDO, "[Rapid assessment of the impact of the COVID-19 pandemic on male survivors of sexual violence in Afghanistan](#)", 19 June 2021. All those interviewed for the assessment were over 18 years old, but it is thought that their observations are also relevant to boys, including those who are already *bacha* or otherwise engaged in sex work.

²⁰ UN Secretary-General, Annual reports on children and armed conflict 2020 and 2021.

²¹ US DoS, Country Reports on Human Rights Practices, Afghanistan, 30 March 2021.

²² See for example, Foreign Policy, "[The Taliban Have Not and Will Not Ever Change' Ismail Khan, fabled warlord and former governor, is back again on the front lines to fend off the Taliban advance](#)", 3 August 2021.

²³ UNAMA estimated that more than half of the children originally held in juvenile rehabilitation centres were released by August 2020 to limit the impact of COVID-19. However, release orders excluded individuals charged

December 2020, 165 children (164 boys and one girl) were detained on national security-related charges in juvenile rehabilitation centres. In addition, 318 children, most of them foreigners, were in prison with their mothers who were detained for alleged or actual association with the Taliban and Islamic State in Iraq and the Levant-Khorasan Province (ISIL-KP).²⁴ As of May 2021, at least 189 children were reported to be living in NDS detention centres with mothers accused of links with ISIL-KP.²⁵

UNAMA, which recorded 241 instances of detention of juveniles on security charges between 1 January 2019 and 31 March 2020, has found that children remain at risk of torture and ill-treatment, particularly in NDS custody, although credible allegations in ANP custody were also received. Sexual assault and threats of sexual violence are among the methods of torture or ill-treatment documented by UNAMA, although it is unclear if these related to adult or child detainees.²⁶

ASP and YHDO are concerned that the risks to children of CRSV and other human rights violations were further exacerbated by the suspension of independent monitoring of detention facilities in which children are held as a result of the pandemic, as well as by budget constraints leading to staff cuts, including teachers, vocational trainers and caregivers in juvenile rehabilitation centres, and lack of adequate services and support to ensure the release and reintegration of children associated with armed groups.²⁷

3. Medical care and other support to boy victims/survivors of CRSV

The COVID-19 pandemic has put additional strain on the already weak health system and added to underlying protection and gender-based vulnerabilities of children. In relation to boy victims/survivors of CRSV, who already faced significant obstacles to accessing and receiving safe, timely, quality, age-appropriate healthcare and support, fear of contracting the coronavirus and reduced availability of services has increased their difficulty in accessing care.

Recent research by ASP and YHDO on the healthcare needs of and barriers faced by male victims/survivors of CRSV in Afghanistan found that there are multiple obstacles including: lack of knowledge of availability of available services and how to access them, particularly among younger boys; stigma and shame; fear of reprisals including from armed actors; lack of specialised healthcare services that meet the needs of male victims/survivors of sexual violence; lack of capacity, expertise and knowledge about sexual violence involving male victims/survivors and of the differing needs of adults and children; stigmatising and other

with terrorism or national security offenses, including association with armed groups. See UN Secretary-General, The situation in Afghanistan and its implications for international peace and security, UN Doc. A/74/993–S/2020/809 (2020) and HRW, [“Forgotten Children” Children detained in Afghanistan for alleged association with armed groups](#), 22 June 2021.

²⁴ UN Secretary-General, Annual Report on children and armed conflict, UN Doc. A/75/873–S/2021/437 (2021). For further information on ISIL-KP in Afghanistan see, Twenty-fifth report of the Analytical Support and Sanctions Monitoring Team submitted pursuant to resolution 2368 (2017) concerning ISIL (Da’esh), Al-Qaida and associated individuals and entities, UN Doc. S/2020/53 (2020).

²⁵ HRW, “Forgotten Children” Children detained in Afghanistan for alleged association with armed groups, 22 June 2021.

²⁶ UNAMA and OHCHR, [Preventing Torture and Upholding Rights of Detainees in Afghanistan: A Factor for Peace](#), February 2021.

²⁷ See UN Secretary-General, The situation in Afghanistan and its implications for international peace and security, UN Doc. A/75/926–S/2021/570 (2021), and HRW, “Forgotten Children” Children detained in Afghanistan for alleged association with armed groups, 22 June 2021.

negative attitudes by health professionals; and legislative barriers in the form of laws that criminalise consensual same-sex relationships (see above).²⁸

According to interviews for the subsequent rapid assessment, access to healthcare for male survivors of sexual violence, including boys had diminished further in the context of the pandemic. In particular, HIV-positive men and boys, and those with other types of sexually transmitted infections (STIs), have reduced access to testing and treatment for HIV and other STIs and some reported deteriorating mental health.²⁹

Recommendations:

In addition to recommendations contained in their August 2020 briefing, ASP and YHDO encourage the CRC to make the following recommendations to the Government of Afghanistan:

- Take urgent measures to ensure the effective implementation of laws and policies prohibiting CRSV against girls and boys and the elimination of the practice of *bacha bazi*, including through enhanced training of national security forces, systematic investigation of all credible allegations of these and other human rights violations against children, and prosecution of all those responsible;
- All children, including those detained in relation to armed conflict, national security, or living with their parents in detention, should be urgently released and safely returned to their families where possible, or found an appropriate alternative in order to protect them from contracting the COVID-19;
- All allegations of torture or ill-treatment against girls or boys while in detention, including sexual violence or threats of sexual violence against them, should be investigated and perpetrators held to account;
- Take urgent measures to safeguard existing services for all child victims/survivors of CRSV, and accelerate action to ensure timely safe, quality, age-appropriate medical care and mental health and psychosocial support for boys who have been involved in the practice of *bacha bazi*, and/or who are survivors of sexual violence in this or other contexts.

²⁸ ASP and YHDO, [Enhancing Survivor-Centred Healthcare Response for Male Victims/Survivors of Sexual Violence in Afghanistan](#), March 2021.

²⁹ ASP and YHDO, Rapid assessment of the impact of the COVID-19 pandemic on male survivors of sexual violence in Afghanistan, 19 June 2021.