



THE HUMAN RIGHTS SITUATION OF CHILDREN IN AFGHANISTAN:

Violations of Civil and Political Rights

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Rawadari is an Afghan human rights organisation that aims to deepen and grow the human rights culture of Afghanistan, ultimately reducing the suffering of all Afghans, especially women and girls. Rawadari helps build an Afghan human rights movement, monitors human rights violations, and pursues justice and accountability for violations. Rawadari works with individuals and collectives inside and outside Afghanistan.

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INTRODUCTION

On 15th August 2021, the Taliban returned to power and as one of their decisions, they declared the annulment of most previous laws, including the laws that provided specific protection to the children, such as the Law on Prevention and Prohibition of Harassment against Women and Children. Since then, for over two years now, the Taliban have taken no action to ensure the basic rights of children, nor have they adhered to their legal obligations based on international human rights principles. In fact, Taliban had imposed a set of policies of systemic discrimination against women and girls that deprives girls of the right to secondary and higher education, freedom of movement, protection from domestic violence and freedom of assembly and association. Additionally, the dire economic and humanitarian situation in Afghanistan has put children further at risk of poverty, forced labour and forced and early marriages. In all these areas, girls are more vulnerable due to the existing social norms as well as Taliban's discriminatory policies.

The findings of this report, which focuses on the violations of civil and political rights of children in the period from 15th August 2021, to October 2023, indicate that due to the absence of laws and legal mechanisms, violations of children's fundamental rights, including forced and early marriages, sexual abuse, and other forms of violence and mistreatment, have increased in various parts of the country. Girls in particular face widespread and systematic discrimination due to their gender. Additionally, reports from several provinces illustrate that the Taliban treat children from ethnic and religious groups other than their own with more discrimination. There are also reports of discrimination against children whose parents or close relatives worked with the previous government.

The Taliban's failure to adhere to principles and standards of fair trial, and the resulting lack of necessary legal capacities and support, have led to violations of the human rights of children accused of breaking the law. According to the evidence and documentation available, the Taliban often handle the cases of child suspects through non-judicial mechanisms.

The report contains findings and recommendations that are relevant to the international community, human rights organizations particularly those focused on child protection and the de-facto authorities in Afghanistan.

DATA COLLECTION METHODOLOGY:

Rawadari interviewed a total of 181 individuals across Afghanistan in the period of 16th August to 16th October 2023 to compile data and information for this report. The interviewees and respondents included 139 males, 30 females, and 12 children. The interviews were conducted with defence lawyers, judicial and legal personnel, victims, survivors and their family members, staff of healthcare and education centres, human rights defenders, journalists, and cultural activists in 25 provinces of the country¹. Rawadari's research and documentation team additionally analysed relevant decrees, laws, media reports and other public information pertaining to children's rights in Afghanistan in this period.

Data gathering for this report was challenging due to the environment of threat and intimidation imposed by the Taliban. Taliban have imposed stricter and more severe restrictions on access to information, especially incidents related to human rights violations. Survivors and their family members have been prevented from expressing their views in the media or speaking with human rights organizations. Therefore, the collection and documentation of the information included in this report have been challenging and difficult, on the one hand, due to the stringent restrictions imposed by the Taliban, and on the other hand, because of the cultural and social sensitivities in Afghan society around some issues such as underage marriages, suicide attempts by children and incidents of sexual abuse. Another significant challenge is the increased restrictions on the work and movement of women by the Taliban, which hinders monitoring the human rights situation of women and girl children. Hence, what is presented in this report cannot represent all the human rights violations cases facing children in Afghanistan. Rawadari believes that the actual cases of child rights violations are much more extensive than what is described in this report.

Due to the security concerns, details about the identities of the victims, as well as the exact dates and locations of some human rights violations have been deliberately withheld in this report.

1 Kabul, Ghazni, Herat, Kandahar, Uruzgan, Helmand, Badakhshan, Takhar, Faryab, Bamian, Daikundi, Chhor, Panjshir, Kunduz, Maidan Wardak, Paktia, Paktika, Khost, Nimroz, Farah, Sar-e-pol, Balkh, Nangarhar, Jawzjan and Samangan.

Part One

NULLIFICATION OF NATIONAL LAWS AND ITS IMPACT ON THE HUMAN RIGHTS SITUATION OF CHILDREN



Under the previous laws in Afghanistan, all forms of violence and criminal behaviour against children were prohibited and considered criminal offenses. However, after returning to power, the Taliban have repealed most of the national laws, including the Constitution, the Law on Prevention of Harassment against Women and Children, the Law on Juvenile Offenses, and the Law on Elimination of Violence against Women. Currently, there is no law for punishing offenders of crimes against children, and the Taliban have not fulfilled their obligations and responsibilities resulting from Afghanistan's accession to international human rights documents over the past two years.²

INCREASE IN VARIOUS FORMS OF VIOLENCE AGAINST CHILDREN

International human rights treaties emphasize the protection of the physical and mental integrity of children and the prohibition of any form of violent behaviour towards them. Based on these treaties, governments are obliged to take legal, executive, social, and educational measures to prevent the violation of the human dignity of children and acts of violence against them. However, the de-facto authorities, over the past two years, have not adhered to any of the provisions outlined in international documents for the protection of children's fundamental rights. Instead, by annulling previous laws, they have contributed to the expansion of the scope of various forms of violence and criminal behaviour against children.

INCREASE IN FORCED AND EARLY MARRIAGES OF CHILDREN

The International Covenant on Civil and Political Rights emphasizes the prohibition of forced marriages of children and recognizes the validity of a marriage contract subject to both parties reaching the legal age for marriage.³The realization of this principle requires its guarantee through domestic laws, which unfortunately, in Afghanistan, there is currently no law to determine the conditions for marriage contracts and prevent forced child marriages. For this reason and due to the spread of poverty and economic hardship as well as prevalent social norms, the number of forced and early marriages of girls has increased across the country, especially in rural and remote areas, over the past two years.

Rawadari came across and was able to verify several cases of underage and forced marriages of young girls with older men in exchange for money. From Ghor province as well, local sources have reported that forced marriages of girls below the legal age have increased in an unprecedented manner in this province, and in some cases, it has led to the death by suicide of the victims. For instance, on 22nd October 2022, a 17-year-old girl, who had been

² Afghanistan has acceded to multiple international human rights treaties and has signed the Convention on the Rights of the Child in 1994. The Taliban, as the de-facto authorities, are obligated to uphold the commitments and provisions outlined in these treaties

³ The United Nations General Assembly, International Covenant on Civil and Political Rights, adopted in 1966, Article 23.

Rawadari documented cases in the provinces of Kandahar and Helmand where girls aged 14 and 15 have been forced into marriage with men over the age of 50. In this regard, an official from the judicial and legal authorities in Kandahar province mentioned that the number of forced and early marriages of girls has significantly increased compared to previous years. Additionally, another source from Farah province stated that the sale of girls under the pretext of marriage is now more widespread as there is no legal prohibition and perpetrators are not punished. For example, in one year, three girls from a single family in this province were coerced into marriage.



coerced into marriage died by suicide. A source close to the victim mentioned that she did not consent to this marriage and, before the marriage ceremony could take place, she ended her life with a gunshot.

Currently, early child marriages are not officially prohibited in Afghanistan, and there are no penalties in place for those involved. Therefore, over the past two years, not a single case of individuals involved in forced child marriages has been held accountable in Taliban's courts. Judicial and legal authorities primarily resolve complaints related to forced child marriages through reconciliation and informal mechanisms, often without considering the consent of the girls and women involved.

Furthermore, deliberate deprivation of women and girls from the right to education is another factor that plays a significant role in the increase of forced and early child marriages. For example, a young woman from Ghor province, who was a seventh-grade student before the fall of the Islamic Republic of Afghanistan, was forced into marriage.

She stated that with the closure of schools and universities to girls and women, she lost hope in her future and was compelled to get married. In another similar case, a 15-year-old girl from Ghazni province told Rawadari that she had aspirations to go to university and study law after completing school. However, with schools and universities closed to girls, she saw no options but to get married.

TALIBAN MEMBERS' INVOLVEMENT IN CHILD MARRIAGE

The findings of this report have shown that, after seizing power in Afghanistan, some Taliban members have forcibly married underage girls. Although the Taliban leader Haibatullah Akhundzada had issued orders prohibiting underage marriages by their forces, these orders are not being followed in practice. Rawadari received reports of child marriages and forced marriages of underage girls by local Taliban authorities in various parts of the country. For instance, in Nimroz province, a local Taliban official forcibly married a 13-year-old girl. Due to economic difficulties and security reasons, the victim's family could not protest against this forced marriage. In another case in Maidan Wardak province, a girl was forcibly married to a Taliban fighter for 600,000 Afghanis (equivalent of 8190 USD) before reaching the legal marriage age.

In another case, on 5th August 2023, the district governor in Dawlat Abad district of Faryab province, faced local public protest when he attempted to forcibly marry a young woman to his guard, who was also his nephew. Due to public opposition, the marriage did not take place. However, the local government and Taliban judicial authorities did not take any action to prevent the marriage or hold the district governor accountable.

In another case, a local Taliban commander in Imam Sahib district of Kunduz province, who had previously been married twice, forcibly married a 15-year-old girl as his third wife.

Likewise, on 24th August 2022, the district governor in Darqad district of Takhar province, who was married with two wives, forcibly married a young girl. In another incident in Maidan Wardak province, a local Taliban commander was involved in an underaged forced marriage. The victim's family does not consent to this marriage but is currently not pursuing the case due to security concerns and threats from the Taliban. In Daikundi province, a local Taliban commander forcibly married a young girl. The victim's father was a former soldier who had been killed in the war against the Taliban.

Additionally, there are reports of dozens of forced marriages and early marriages involving Taliban officials in east Afghanistan. However, due to security concerns and cultural sensitivities, these cases are less publicized and disclosed. The Taliban have threatened the families of the victims not to provide any information to organizations and individuals documenting these cases.

INCREASE IN SUICIDE ATTEMPTS AMONG CHILDREN

The results of the investigation indicate that in the reporting period, suicide attempts among children and adolescents have increased for various reasons, with poverty and economic hardship being among the most significant factors. Multiple reports have been published about the worsening economic conditions of families and the spread of poverty and hunger in Afghanistan under the Taliban's control. Based on an assessment by the United Nations Development Programme, the number of people living below the poverty line in Afghanistan has doubled.⁴ This situation directly impacts the lives of children, with suicide attempts being one of its consequences. Additionally, restrictions on the rights of girls of women have led to widespread hopelessness among women, contributing to a mental health crisis, and increased in reported suicides of women⁵.

Local sources from Ghor province have told Rawadari that the number of suicide cases among children in this province has significantly increased, with the majority of the victims being girls. Likewise, based on information obtained from health service centres in Bamiyan province, fifty percent of the total registered suicide cases are related to those under the age of 18. In Badakhshan province, at least 35 children, both girls and boys, have died by suicide in this reporting period. In the southern and eastern regions of the country, according to data from health service centres, the statistics of child suicide cases have risen in comparison to previous years.

4 UNDP, Afghanistan Socio-Economic outlook, 2023. <https://www.undp.org/afghanistan/publications/afghanistan-socio-economic-outlook-2023>

5 'Despair is settling in' female suicides on rise in Taliban's Afghanistan. Zahra Nader and Zan Times Reporters. <https://www.theguardian.com/world/2023/aug/28/despair-is-settling-in-female-suicides-on-rise-in-talibans-afghanistan> retrieved on 26 October 2023

Domestic violence and abuse, forced and early marriages, deprivation of the right to education, mental health issues, and a sense of hopelessness about the future are among the other factors contributing to the increase in child suicides.

VIOLENCE AND MISTREATMENT OF CHILDREN IN SCHOOLS

In the past two years, the Taliban have employed a considerable number of individuals, mainly graduates of religious madrassas, as school administrators, officials, and teachers. These individuals often lack proper educational methods and they are more likely to engage in mistreatment and violence against children.



Beating, flogging, whipping, and monetary fines are among the punishments imposed on children by the district police station and departments of Promotion of Virtue and Prevention of Vice.

An official from the Department of Education in Kandahar Province told Rawadari that violence against children in schools has increased, and the main reason for this is the employment of school principals, officers, and teachers by the Taliban, who use violence and mistreatment with students. These individuals are unaware of the psychological consequences of violence and mistreatment against children and believe that physically punishing students is necessary and useful for their upbringing. Additionally, a student

from Badakhshan Province stated that they have been mostly subjected to violence and mistreatment by new teachers who have been hired by the Taliban over the past two years. They mentioned that these new teachers resort to methods such as hitting with fists and sticks, placing pencils between fingers, drowning in water, and forcing students to perform physical tasks as a form of punishment.

The Ministry of Education of the Taliban government has not conducted any educational programs or awareness initiatives for the new teachers over the past two years, nor have they taken any action to address violence and mistreatment of students. For instance, in July 2023, a child in one of the schools in Kandahar Province was subjected to severe beating by the school principal to the extent that the child had to be transferred to a hospital for treatment. However, the Ministry of Education did not take any action to address this case.

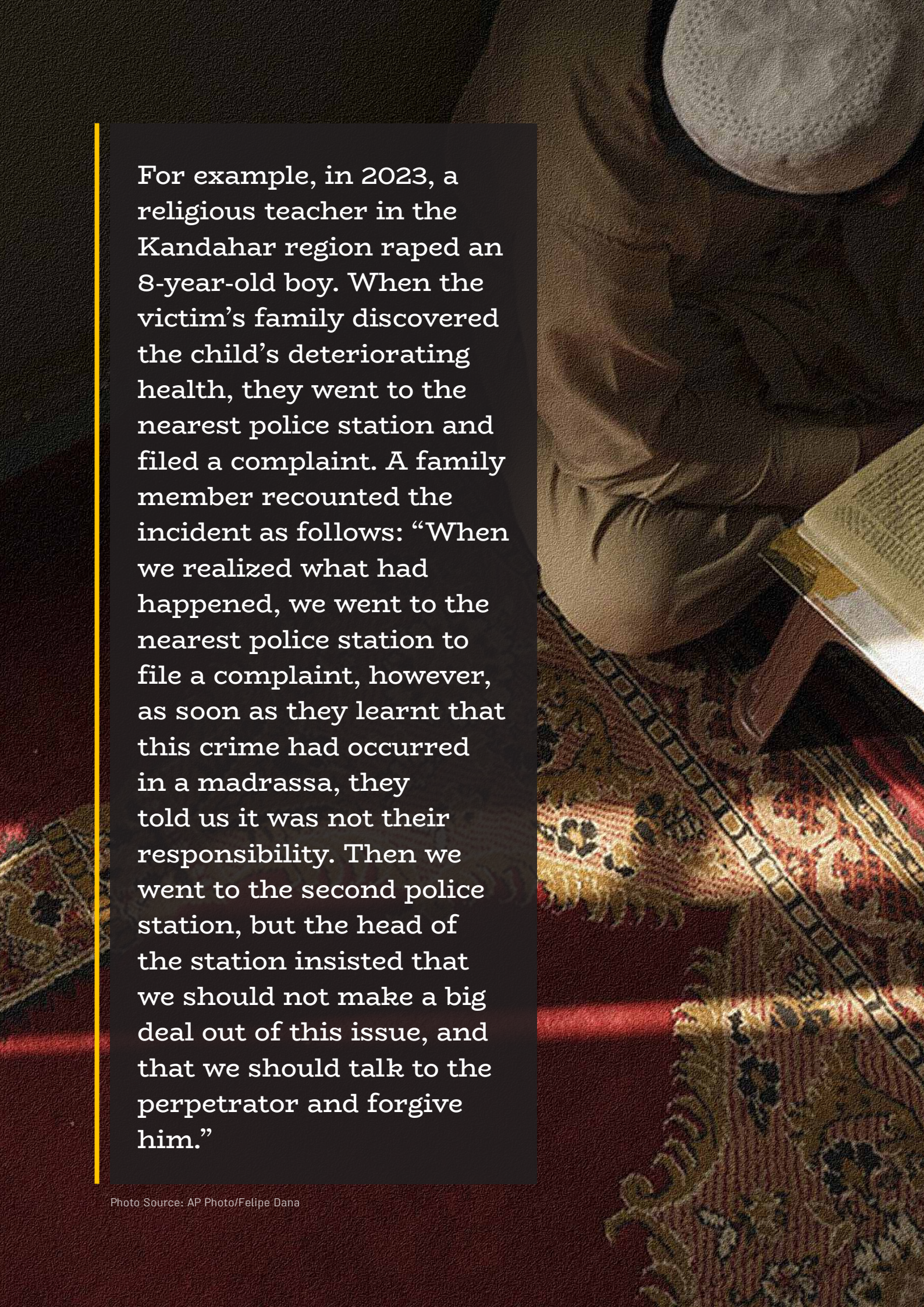
There are also reports from some provinces that the Taliban subject students to more violence and mistreatment if their fathers or relatives have served in the previous government. Sources from Ghor province have reported that some students in schools are subjected to violent treatment by their teachers because their relatives and next of kin were employees of the previous government.

SEXUAL ABUSE OF CHILDREN IN RELIGIOUS MADRASSAS

Rawadari has documented disturbing incidents of child sexual abuse in religious madrassas that have occurred in the reporting period, perpetrated by the instructors at these institutions. Due to stigma as well as security risks for the families of victims, only a small portion of sexual abuse crimes against children in religious madrassas are disclosed and made public. The child survivors lack the space and opportunity to talk about their experiences, and societal sensitivities and cultural barriers contribute to concealing and keeping these incidents hidden. An Imam from in the Badakhshan province told Rawadari that sexual abuse of children occurs in most religious madrassas in the province, and only a very small portion of it is revealed to public.

Families and relatives of the survivors often keep these cases hidden due to the fear of damaging their social status and reputation. In many cases, the Taliban obstructs the disclosure of these incidents. According to the findings in this report, the Taliban have threatened the families of the victims to refrain from making any references to the sexual abuse of children in religious madrassas.

The victim's family said, "When we became hopeless with the security forces, we approached the Taliban's department for Promotion of Virtue and Prevention of Vice to pursue our complaint. At this point, the perpetrator was arrested, and the child victim was referred to a medical examination to confirm the allegations. The hospital officially confirmed the sexual



For example, in 2023, a religious teacher in the Kandahar region raped an 8-year-old boy. When the victim's family discovered the child's deteriorating health, they went to the nearest police station and filed a complaint. A family member recounted the incident as follows: "When we realized what had happened, we went to the nearest police station to file a complaint, however, as soon as they learnt that this crime had occurred in a madrassa, they told us it was not their responsibility. Then we went to the second police station, but the head of the station insisted that we should not make a big deal out of this issue, and that we should talk to the perpetrator and forgive him."

assault through an official letter, but the Taliban's department for Promotion of Virtue and Prevention of Vice refused to accept it. We insisted, and eventually, the case was transferred to the Forensic Medical Department, where it was confirmed again. However, two days later, we heard that the perpetrator had been released from prison". The survivor's family stated that they cannot ignore this violation and will continue to pursue it.

In another case, an Imam of a mosque in Herat province raped a five-year-old girl, and the victim was taken to the hospital for treatment in poor health. The Taliban did not take any action to investigate this case. Also, another Imam in Kunduz province was caught by the local people when he tried to sexually assault one of his students, a boy, inside a container. But the sources said that the Taliban ignored this case to protect the reputation of religious madrassas and did not take any legal action to deal with it.

Sexual assault on children is one of the most serious crimes and one of the examples of human rights violations, but since the perpetrators are teachers of religious madrassas, due to their religious position and the respect they have in the eyes of the Taliban, they are immune from any legal prosecution and accountability.

Child survivors of sexual abuse do not have access to the necessary health care, counseling, and legal assistance, and the Taliban have limited the activities of non-profit organizations including organizations that support children. For example, in Daikundi province, the Taliban have prevented the activities of two organizations focused on child protection and have not allowed them to work.

USING CHILDREN AS SOLDIERS AND MILITARY FORCE

According to the International Convention on the Rights of the Child, the recruitment and use of children as military forces is strictly prohibited⁶. Also, the optional protocol of this convention prohibits the use and any contact of children with military institutions. The Statute of the International Criminal Court also prohibits the use of children as military force in conflicts and wars, as well as the use of children as military forces in peacetime, and it is considered an international crime⁷.

Similarly, United Nations Resolution 1612, adopted in 2005, prohibits the use of children as soldiers or military personnel. However, in the reporting period, the Taliban have been recruiting children under the age of 18 as soldiers and military personnel in various parts of the country without any regard for these international standards. While the Taliban leader has issued an order banning the recruitment of children, there seems to be little enforcement. A few of the cases of the violations in this regard are included below. Additionally, Rawadari's findings indicate that some mosque imams and local officials of

⁶ The UNGA, convention of child support adopted in 1989 Paragraph (3) Article 38

⁷ The Statute of the International Criminal Court, adopted in 1998

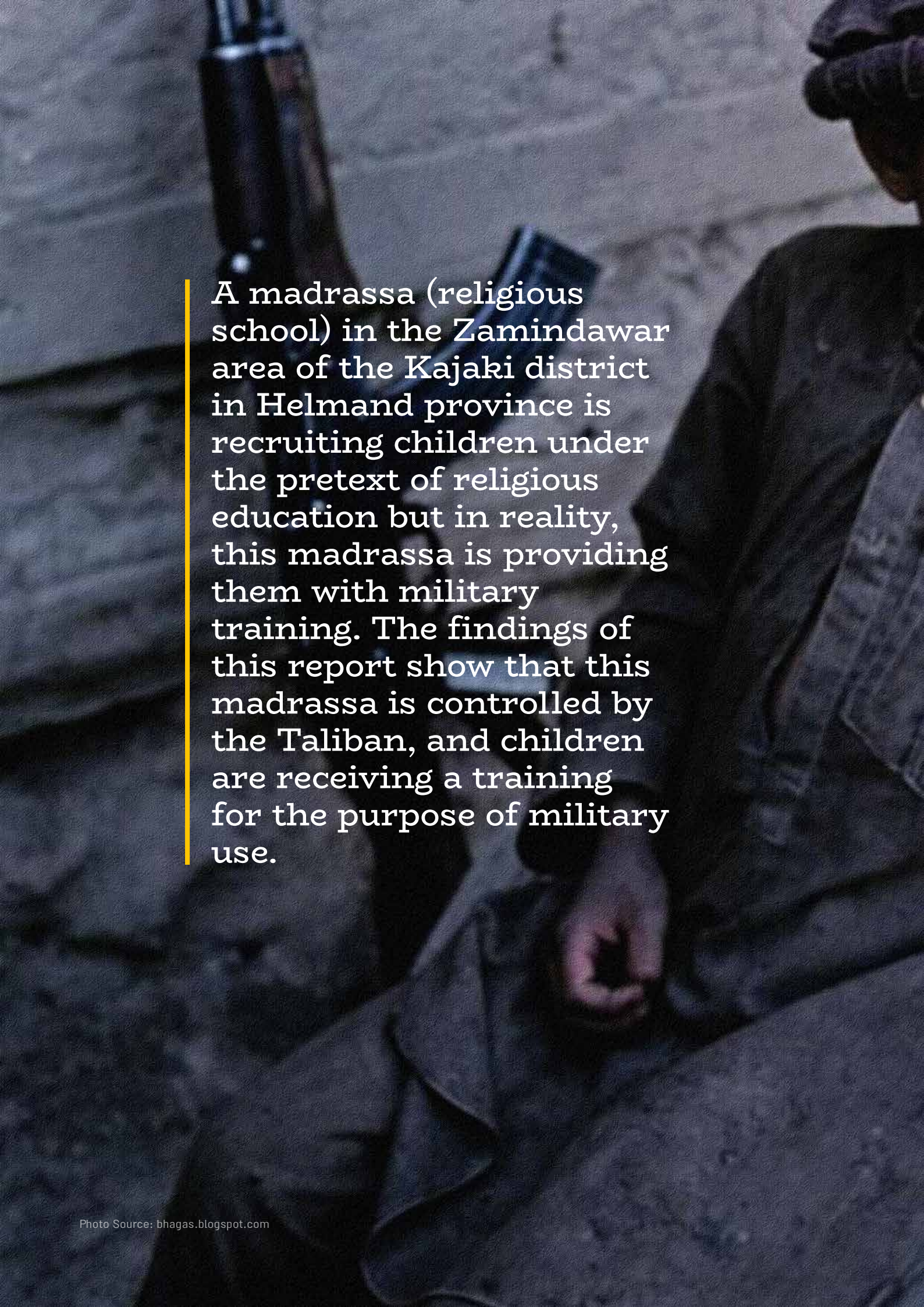
the Taliban in the southern provinces openly promote the learning of violent warfare tactics and encourage the children to join the ranks of the Taliban. While the active conflict has substantively receded in Afghanistan, the environment remains highly militarized and this along with the role of some madrassas in promoting violence, can have long-term consequences on the education of children.

Rawadari has also found other evidence that show that the local Taliban officials are trying to recruit children in military ranks. For example, the head of statistics of the Taliban in Farah Province has told his employees to write the age of 16-year-old boys applying for tazkira (national identification card) two years higher in order to remove the legal obstacle to their employment in the security forces. In addition, the Taliban in Nimroz Province have reportedly recruited a large number of children less than 16 years of age and have written their age two years older in their ID cards.

Based on the findings of this report, some of the children who have been recruited as soldiers and military personnel over the past two years include those whose fathers and other close relatives have been killed as Taliban fighters in the war against the Islamic Republic of Afghanistan. As a show of appreciation for these individuals, the Taliban have employed their children in military roles and pay them salaries. Additionally, a number of these children are relatives and close kin of local Taliban commanders who have been enlisted with the aim of increasing Taliban's military forces. Sources have told Rawadari that Taliban encourage their relatives and kin to send their children to join the ranks of their military forces to expand their trusted personnel. For example, a 17-year-old child from Maidan Wardak province stated, "When the Taliban took power, I left school, and now I work as a soldier alongside my brother, who is a commander. I am happy to be employed in this role, and I hope to become a high-ranking commander in the future".

Also, the findings of this report show that a number of male children were hired as body guards, secretaries, support staff or drivers for Taliban officials and are vulnerable to sexual abuse by their superiors. For example, a local Taliban official in Ghor province raped his bodyguard, who is a young boy, and the victim was severely harmed and taken to the hospital. In another case, a local Taliban official in the northern region of the country repeatedly sexually assaulted his bodyguard, who is a 15-year-old boy. This case was revealed by one of his colleagues, but the Taliban did not take any legal action and the young boy is still working as a bodyguard and driver for this official. In Daikundi province, the Taliban have employed a number of children (boys) in security checkpoints and have subsequently raped them.

The majority of children who work as bodyguards, secretaries, support staff or drivers for Taliban officials are usually between the ages of 14 and 18 and are perceived to have a more attractive appearance. A number of them have been employed unofficially, and the Taliban authorities pay them from the discretionary funds, avoiding formal recruitment and age requirements.

A person in military attire, including a dark jacket and a beret, is shown from the chest up. They are holding a rifle with a wooden stock and a black barrel. The background is a plain, light-colored wall. The overall tone of the image is somber and serious.

A madrassa (religious school) in the Zamindawar area of the Kajaki district in Helmand province is recruiting children under the pretext of religious education but in reality, this madrassa is providing them with military training. The findings of this report show that this madrassa is controlled by the Taliban, and children are receiving a training for the purpose of military use.

The problem of the presence of children in the ranks of military forces and armed conflicts in Afghanistan is appallingly nothing new. The issue is exacerbated under the Taliban due to lack of laws and enforcement for protection of children.

In addition, there are reports of the presence of children in the ranks of the National Resistance Front forces who participate in the war against the Taliban. For example, in September 2022, a 16-year-old child who was a soldier of the National Resistance Front was shot by the Taliban with a group of his comrades after surrendering to the Taliban.

Part Two

VIOLATION OF THE PRINCIPLES OF FAIR TRIAL AND THE HUMAN RIGHTS SITUATION OF THE OFFENDING CHILDREN



Based on international human rights principles, children accused of violations are entitled to all the support and rights that should be observed for adults in a fair trial process. Furthermore, due to the physical and mental conditions of children, human rights treaties also establish specific support, principles, and procedures for the trial of children with the aim of preserving their human dignity, respecting their human rights, expediting the handling of their cases, and ensuring their rehabilitation. The findings of this report have shown that none of the international principles and standards governing the trial of children are observed in the judicial and legal institutions of the Taliban, and there is no legal framework for addressing their legal cases. This has resulted in widespread chaos and the systematic violation of the human rights of accused and offending children.

NULLIFICATION OF LAWS PROTECTING CHILDREN

As mentioned in previous sections, the Taliban have repealed all laws focused on protection of children, which means there is currently no legal framework that includes the human rights of children and specifies the judicial process for their cases. Strict religious interpretations have replaced the laws, and Taliban courts handle criminal and legal cases based on the religious rulings and orders of their leader. The handling of cases involving accused children follows the same conditions. However, it is worth noting that the judicial process for child offenders varies from one province to another and from one court to another.

It should be mentioned that a very small number of cases involving child offenders, primarily related to elopement for marriage and “moral offenses”, are formally addressed in the courts. Most cases relating to child offences are resolved through non-judicial mechanisms.

HANDLING OF CHILD OFFENSES THROUGH NON-JUDICIAL MECHANISMS

In addition to the repeal of the specific child laws discussed earlier, the Taliban have eliminated all specialized institutions and units related to children, including juvenile courts and specialized bodies from the legal and judicial system. Juvenile courts and specialized bodies were legally empowered to handle the cases of children and played a significant role in ensuring the principles and standards of a fair trial. Currently, there is no specific unit within the Taliban’s legal and judicial institutions responsible for investigating and addressing child offenses.

The findings of this report indicate that most cases of children are not referred to courts for resolution, but instead, they are resolved through non-judicial mechanisms, where institutions such as the departments of Promotion of Virtue and Prevention of Vice, provincial police stations, district police stations, provincial & district governors, tribal councils and local elders all play significant roles in addressing cases involving accused children. **Even for severe violations of children’s rights, Taliban courts often refer such cases to informal mechanisms for resolution. For instance, in Daikundi province, the Taliban court referred a case of rape of a young girl by two men to the local elders for resolution.**

Rawadari has documented cases where district police stations and the department for Promotion of Virtue and Prevention of Vice officials, after detaining children, decide on the resolution of cases and determine the type and extent of punishments. These children are released after serving their sentences in police stations. **Beating, flogging, whipping, and monetary fines are among the punishments imposed on children by officials of the district police station officials and departments of Promotion of Virtue and Prevention of Vice.**

Furthermore, our findings indicate that the cases of children accused of crimes against national security are not sent to courts. Instead, departments of the general directorate of intelligence and district police stations administer punishment for these children and keep them in detention for months. In some cases, these children are not allowed to contact their families for months.

LACK OF ACCESS TO DEFENSE LAWYERS

The findings of Rawadari indicate that the child defendants do not have access to a defense lawyer and legal assistance. Guaranteeing this right is one of the most important principles and criteria of a fair trial and international human rights conventions have recognized this right for children in all stages of investigation and trial.⁸

The information obtained by Rawadari indicates that the Taliban courts impose and implement strict restrictions in access to defense lawyers. For example, the meeting of the defense lawyer with the defendants is subject to the written permission of the court, and the defense lawyers are required to present two witnesses in court to prove their representation on behalf of the children. In the meantime, in a number of provinces, including Helmand and Panjshir, Taliban courts do not accept and allow the presence of defense lawyers in criminal cases related to children. While in a number of other provinces such as Kandahar, Ghazni, Maidan Wardak, Paktika, Paktia, Daikundi and Khost, there is no such restriction on criminal cases, but due to the other restrictions such as the requirement for two witnesses to confirm the representation, children practically cannot have access to a lawyer and legal aid. While conducting interviews for this report, Rawadari could not confirm any cases where children had access to defense lawyers.

DELAY IN PROCESSING CHILDREN'S CASES

The handling of the cases of children accused of violating the law must take place in a reasonable time and without undue delay. However, in the Taliban government, neither the judicial process for child offenses, nor the timeline for their detention is clearly defined.

⁸ The United Nations General Assembly, the International Convention on the Rights of the Child, adopted in 1989, Articles 37 2(B) and 40

While some categories of child cases, especially those involving charges of committing “immoral acts” or running away from home, are addressed in the courts, these cases remain unresolved for months unless there is persistent follow up from the families. Currently, there is no legal framework in Afghanistan to determine the duration of monitoring, detention, and confinement of children. For example, in March 2022, a 14 years old child was in Taliban detention for three months on the charges of stealing a very small sum of money (equivalent of 2 dollars). In Daikundi province, there is also information which indicates that child suspects have been kept together with adult prisoners in districts for up to a year.

DETAINING CHILDREN WITH ADULT PRISONERS

Since their re-takeover, the Taliban have closed numerous Juvenile Rehabilitation Centers across the country and have been detaining children alongside adult prisoners. For example, in the provinces such as Kandahar and Uruzgan, boys are kept in the rehabilitation centers, while young girls/underage girls are held together with adult women in prisons.

In Nimruz, the Taliban have closed the juvenile rehabilitation center, resulting in 31 children between the ages of 8 and 17 being held in a public prison alongside the adult prisoners. In Panjshir, the Taliban detain children accused of criminal offenses in the juvenile rehabilitation centers, while children accused of “political crimes” are held in detention centers and prisons. Similarly, in Ghor and Herat, the Taliban have transferred the juvenile rehabilitation center to public prisons and the Taliban detain the incarcerated children there. In tKunduz, Takhar, Baghlan, and Badakhshan, the Taliban hold child suspects under detention and in prisons until the court issues a verdict, after which they are transferred to the juvenile rehabilitation centers.

Detaining children with adult prisoners is a clear violation of human rights, as the behavior of adult prisoners can have harmful consequences on children. It can reinforce criminal motivations in children and expose them to the risk of engaging in criminal behaviors, while also making them vulnerable to sexual abuse and other forms of violence and mistreatment. For example, during the first year of Taliban rule in Ghazni province, children were held together with adult prisoners, leading to multiple complaints of sexual abuse. As a result of pressure and complaints, the Taliban were forced to allocate a separate building within the detention facility for the detained children.

TORTURE AND MISTREATMENT OF DETAINED CHILDREN

According to international human rights treaties, torture and ill treatment of individuals are strictly prohibited, and no one should be subjected to any form of torture, abuse, cruel or inhumane treatment under any circumstances. This right is also guaranteed for children.

In Article 37, Paragraph (a) of the International Convention on the Rights of the Children, it is stated: “No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment”.⁹

Based on the information obtained, most of the mistreatment and torture of children occur in the police stations. For instance, officials in a police station in Ghazni province subjected a child accused of stealing a bicycle to severe beatings and extreme torture. In April 2022, the Taliban detained three children in the centre of Nawah Mish district of Daikundi province, because their fathers had worked in the previous government. These children were severely beaten and tortured in the police stations to the extent that one of them suffered serious psychological problems.

In the provinces of Kabul and Panjshir, Rawadari has documented cases where children accused of committing crimes against national security and collaborating with opposing groups have been detained by Taliban police and intelligence agencies and subjected children to such kind of severe torture in the police stations. These children have been subjected to beatings and mistreatment from the moment of their detention until their release and during their detention they have been denied the opportunity to speak with their families for several months. Additionally, in Ghor province, the Taliban force detained children to clean kitchens and bathrooms, and fetch water.

THE DISCRIMINATORY TREATMENT OF CHILDREN BY THE TALIBAN’S COURTS

Rawadari’s findings indicate that the Taliban handle cases of children accused of breaking the law with different and discriminatory manner depending on their gender and ethnic background. They make decisions regarding them not based on the nature of the charges but rather considering their gender and ethnicity. For instance, Taliban courts in most cases, especially in cases of elopment and in cases of ‘moral crimes’ (i.e. running away from home, romantic relationships outside marriage, adultery), impose harsher punishments on girls compared to boys.

A source from Badakhshan province has reported that the Taliban openly say that: “Women and girls are “the source of corruption and sedition, and if they don’t leave their homes, men are incapable of committing any criminal acts on their own”. Local Taliban officials in this province have even stated in Friday prayer sermons multiple times that women and girls are “ambassadors of the devil and the sources of corruption and indecency, leading men to astray.” The stated mindset regarding women and girls has also influenced the decisions and judgments of the Taliban courts. Sources from judicial and legal institutions in Ghor and Kunduz provinces have reported that in cases of ‘moral crimes’ and elopement, the courts

⁹ The United Nations General Assembly, the International Convention on the Rights of the Child, adopted in 1989



However, Rawadari's research findings indicate that detained children are exposed to various forms of torture and mistreatment. Forced cleaning of bathrooms, kitchens, prison cells and dormitories, beatings and physical abuse, forced labor, and waterboarding are examples of mistreatment and torture of children in the detention facilities.

treat girls more harshly and usually consider them as the culprits, claiming that “young women incite moral corruption in men.”

Likewise, the Taliban have different treatment when dealing with child suspects who are relatives or kin to them. They usually impose lighter punishments on them or easily declare their innocence. For example, in Nimruz province, whenever a child offender has a familial or tribal relationship with Taliban judges and officials of judicial and legal institutions, they are not punished. However, in the case of other children belonging to different ethnic groups, they face more harsh treatment.

THE IMPLEMENTATION OF CRUEL PUNISHMENTS ON CHILDREN

The international human rights treaties emphasize the importance of proportionality between the punishment and the type of crimes committed by children and prohibit the implementation of severe and degrading punishments, even if they are intended for the rehabilitation and behavioral improvement for children. On the other hand, the best interests of children and their age appropriate considerations dictate that their trials should not be public, and the verdict should not be made public, however, over the past two years, the Taliban have publicly punished many children on charges of committing criminal acts in public places and in the presence of people.

Public punishment of children accused of ‘moral crimes’ has become a common practice, and the Taliban courts punish them in the absence of any regard for the age appropriate considerations and the best interests of children. **For example, on 16 February 2023, the Taliban publicly lashed two teenagers, a young woman and a young man in Badakhshan province on the charges of having a phone relationship (i.e having a romantic relationship over phone). In Maidan Wardak province, the Taliban subjected a 17 year old boy to beating and shaved his head for having music on his phone. Also, on the 27 June 2022, the Taliban detained two children on charges of robbery in the city of Faizabad, the capital of Badakhshan province, blackened their faces, paraded them inside the city, and displayed this in front of the public.**

Part Three

CONCLUSION AND RECOMMENDATIONS



Conclusion

Children in Afghanistan are in an extremely vulnerable situation facing poverty, hunger, lack of access to basic services as well as threats to their civil and political rights. Girls are more severely affected in all areas due to Taliban's widespread and systematic exclusion of women and girls and institutionalized gender discrimination. The dissolution of the previous legal framework and, as a result, the breakdown of the legal order in the country, the discriminatory policies and approach of the Taliban towards women and girls, the lack of recognition and attention to the specific needs of children by the responsible authorities, and the absence of monitoring and human rights advocacy organizations, as outlined in this report, have created the conditions for the increase in various forms of violence and criminal behaviors against children.

Among these challenges, the increase in forced and early marriages, suicide, sexual assault, the absence of appropriate legal mechanisms & support, and the violation of principles of fair trial are some of the most significant issues that reflect the concerning and difficult situation of Afghan children. Additionally, the widespread poverty and economic hardships within families, deliberate deprivation of women and girls from the right to work and education, as well as cultural and social barriers present in Afghan society are other factors that have contributed to the worsening human rights situation of children in the country. Addressing the human rights situation of children in Afghanistan requires a comprehensive approach from the international community and the de-facto authorities, an end to all discriminatory policies and actions targeting women and girls and a series of steps to restore and improve the legal framework protecting the rights of all children, including girls, children from all ethnic backgrounds and children with disability.

Recommendations

A – to the international community:

- Rawadari urges the international community and human rights organizations to exert pressure on the Taliban to reinstate and implement laws ensuring legal protection of children
- Sexual assault on children and using them as child soldiers are severe human rights violations. The international community and the relevant UN agencies in Afghanistan need to hold Taliban accountable on protection of children from sexual violence and military recruitment.
- Increasing poverty is one of the factors that significantly impact the violation of the civil and political rights of children. Accelerating international efforts for sustainability, increasing humanitarian aid, and reducing poverty in Afghanistan can effectively improve the situation of children.
- Rawadari urges the United Nations Assistance Mission in Afghanistan to regularly and consistently monitor the performance of the Taliban's judiciary and legal institutions, especially the situation in detention facilities, to address the human rights situation of offending children and ensure their access to a fair trial.

B – To the de-facto authorities

- Rawadari urges the de-facto authorities to act in accordance with previous laws, specifically the legal framework protecting children from violence and harassment, as well as ensuring their access to justice and legal assistance
- Rawadari urge the de-facto authorities to revive and implement the Child Protection Law (the Child Act) that provides a comprehensive legal framework for protection of children
- Rawadari calls on the de-facto authorities to respect international human rights standards and norms when dealing with offending children.
- Rawadari urges the de-facto authorities to create an enabling environment for the NGOs working on children's rights and protection.
- Rawadari urges the de-facto authorities to put an end to sexual abuse of children, the use of children as soldiers and military personnel, and their employment as servants, secretaries, and drivers.
- Those who commit crimes against children must be held accountable, and the complaints and demands of survivors and their families must be addressed in a timely and transparent manner.
- Rawadari calls on the de-facto authorities to end discrimination based on gender and ethnicity and cease their cruel treatment of children whose relatives worked in the previous government.
- Rawadari urges the authorities to reopen some of the Juvenile Rehabilitation Centers that were previously closed and create the conditions for effective rehabilitation and

training for delinquent children, preventing human rights violations against them.

- o Rawadari calls on the authorities to take effective action to end sexual abuse of children in educational institutions, including in madrassas, and hold the perpetrators accountable.



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