

Causes and Consequences of Bacha Bazi in Afghanistan – by the AIHRC August 2014

(This report is taken from the AIHRC website – the original of which can be accessed [here](#))

Report Summary

Based on its legal mandates, the AIHRC launched a national inquiry on causes and negative consequences of Bacha Bazi (pederasty) in Afghanistan. The findings of this National Inquiry are obtained through interviews with perpetrators as well as with victims of this phenomena, local elites and witnesses of this practice. This National Inquiry was conducted through holding of 71 focus group sessions and 17 public hearing sessions in 17 provinces of our country. These sessions were attended by almost 2200 persons, including members of the provincial councils, representatives of justice and judicial organs, local elders, specialists, university lecturers, representatives of the civil society institutions, media, security organs, religious Ulama and local influential figures to exchange views about the consequences of Bacha Bazi. For enrichment of this report, other reports and researches conducted in this area have been used as secondary sources.

The findings by the AIHRC about the causes and consequences of Bacha Bazi in Afghanistan, attained through National Inquiry, are summarized as follows:

What is Bacha Bazi?

In some parts of our country, a number of local individuals keep with them one or more boys typically aging between 10 to 18 years for the purpose of Bacha Bazi generally associated with sexual exploitation and other forms of sexual harassments. These children are usually coming from poor families who are kept by some rich individuals as bodyguard, apprentice, servant at home, shop, bakery, workshop, hotels, restaurants and other paid jobs or through coercion, threat, trickery, intimidation and enticement. They often fall victims to sexual abuses. In some parts of the country, these children while wearing female clothes are used as dancers in parties and wedding ceremonies. At the end of ceremonies, they are usually taken to private houses or hotels and raped; sometimes they are even gang raped. As sex slaves, these children continually suffer from sexual exploitation or other forms of sexual harassments.

Bacha Bazi as a Crime and Human Right Violation

Bacha Bazi is not clearly defined in the Afghan laws and there is no specific provision about it. Since this action is a kind of child sexual exploitation and abuse, it is contrary to the spirit of the Constitution and other enforced laws in our country. Under the custom of Bacha Bazi, children are used as sex slaves and are sexually abused. Therefore, their right to human dignity is violated. Bach Bazi is prohibited, based on provisions of the Universal Declaration of Human Rights, International Convention on Civil and Political Rights, the Convention on the Rights of Childs and other human rights conventions. According to these conventions, the state party is obliged to fight against sexual exploitation of children and protect children from any kind of exploitation. Based on the Convention on the Rights of Child, the member states should take necessary measures to prevent kidnapping, trafficking in and sale of children in any form.

According to the definition of trafficking in person in Palermo Protocol and the Law against kidnapping and trafficking in persons, Bacha Bazi is a kind of trafficking in person. The Palermo Protocol reads, "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation, According to this definition Bacha Bazi is counted as trafficking in persons. Therefore, it is a criminal action and human rights violation.

Criminalization of Bacha Bazi

Although there is not any clear provision on Bacha Bazi in the criminal laws of Afghanistan, article 427 of the Criminal Law prohibits rape and pederasty (with male and female) and states that the perpetrators shall be sentenced to long term imprisonment. In addition, this law defines the aggravating condition of this crime and clarifies that in case the victim is a child or the perpetrator is a third degree relative of the victim or the perpetrator is the tutor, teacher or servant of the victim or has authority or influence over the victim in any way, it is considered an aggravating condition. Therefore, this article of the law considers Bacha Bazi as a serious crime of pederasty.

Article 427 of the Criminal Law is particularly about crimes of rape, pederasty and degradation. It does not specifically address the crime of Bacha Bazi, because Bacha Bazi does not cover only sodomy and sexual assaults, it includes other forms of sexual harassments such as touching massaging, forced dance in private and public ceremonies and practiced continually. It means that Bacha Bazi is not only committing of sodomy once, but it is a continual action and makes the victim known in the society. For this reason there is a gap and ambiguity in the laws of Afghanistan regarding Bacha Bazi and the existing laws do not address the problem sufficiently.

Analysis of the Statistical Data:

During this inquiry, interviews were conducted with three categories of people, including 36 perpetrators, 31 victims of Bacha Bazi and a number of elites and local witnesses. The findings of these interviews are presented as follows:

I. Demographic Specifications of the Perpetrators:

- 25% of Bacha Bazi perpetrators were aged between 21 to 30, 28% of them were aged between 31 to 40, the other 28% were 41 to 50 and 8% were aged between 51 to 40. (In total, 56% of them were between 41 to 50 years of age.)
- Literacy is an important and effective variable in the prevalence rate of Bacha Bazi. 58% of the perpetrators are illiterate. Level of literacy or illiteracy, however, is not a major factor in the prevalence of Bacha Bazi. This is because it is quite common among the literate and even those with higher education.
- Bacha Bazi does not have a direct link with the individuals' marital status; 78% of the perpetrators are married and only 22% are unmarried. 18% of the married ones have more than one wife. More than 46% of the married people got married when they were 18 to 25 years old. 46% of the married people are completely satisfied with their marriage. 43% are, however, partially satisfied with their marriage.
- In terms of social status, 64% of the perpetrators constitute normal people in the society. The rich, the commanders and the elderly also constitute the perpetrators – 8% each.

II. Demographic Specifications of the Victims:

- Most of the victims are children under the age of 18. However, the youth above the age of 18 may also fall victims of Bacha Bazi. 42% of the victims are aged between 13 to 15. 45% of them are aged between 16 to 18 years of age. The other 13% constitute victims aged 18 to 25.
- Literacy and awareness have a very strong effect; the literate is less vulnerable. The majority of the victims are illiterate constituting 48%. 87% of the children who are victims of Bacha Bazi cannot attend school.

III. Main Findings

- 75% of the perpetrators have stated that they keep one boy. 14% have said that they have two boys. Two of them said, however, that they each have 3 boys in possession. 81.6% of the perpetrators stated the boys aged be between 13 to 16 years old. 78% of the perpetrators said that they take more interest in the ones aged between 13 to 16, 14% show interest in the boys aged 17-18.
- The most significant motive for Bacha Bazi has been stated to be recreation, lust and personal interests, to which 69.5% of the perpetrators have agreed. Lust includes bedding, satisfying sexual desires, feeling merriment through making boys dance at parties or even touching their bodies. Some other perpetrators have said that

they have pursued the act because it is either quite prevalent in their areas or considered natural; or they do it simply to compete their rivals.

- 29% of the perpetrators have said that they acquire the boys through paying money and buying exploiting their poverty. 13% have said that they have access to the boy through their friends. 9% have conceded to using force and threats for possession of the boys. The other 24% mentioned other means, which are not very clear.
- Poverty is the major cause for the emergence and prevalence of Bacha Bazi. 68% of the victims have conceded that they have received money for the act.
- 86% of the perpetrators have stated that they are attracted to fair looks of the boys. This, however, is not important to the other 14%.
- 39% of the perpetrators have said that the victims are in their possession 24 hours a day; they live together. 14% have said that their boys are available to them 12 hours a day, 8% have stated 6 hours of possession, 14% and 25% have stated 3 hours and 1 hour of possession respectively.
- The most common form of exploiting the victims is bedding with them and using them sexually. 39% of the exploitation reveals the same. Dancing and having fun are the second most common form of exploitation constituting 36%. However, 33% of the victims have conceded to being used sexually and 31% have said that they dance before the perpetrators and amuse them.
- 53% of the perpetrators have conceded to hold drinking parties with other perpetrators of Bacha Bazi; they make their boys dance there. The other 47% have denied doing this.
- 86% the perpetrators have claimed that the boys are happy with the act; 14% have denied it, though.
- The victims' responses, however, are opposite to the above statements. 87% have stated that they have not willingly been trapped. Only 13% conceded to having had consent.
- 81% of the victims have said that they want to quit this job. 19% of them, however, replied in negative. 58% of the victims have said that they have been subjected to violence. Based on their statements, battering, confinement and threat of killing are the most common forms of violence against them.
- 69% of the perpetrators have agreed to have faced opposition and reactions, with respect to their deeds, by other people. 31% of them, however, had not faced any such reactions.
- 89% of the perpetrators have stated that the security authorities have not prosecuted them for their acts of Bacha Bazi. 90% of the local elites and witnesses have said that the perpetrators have not been prosecuted legally.

The factors and grounds of pederasty (Bacha Bazi):

The spread and expansion of Bacha Bazi in Afghanistan has several factors and causes, such as lack of rule of law and corruption, ambiguity and gaps in the law, limited access to justice, poverty, insecurity, and existence of irresponsible armed groups has contributed to the spread of these phenomena which is discussed briefly as follows:

Lack of rule of law and corruption in the security, justice and judicial organs have made it difficult to prosecute the perpetrators of Bacha Bazi and they freely continue their law breaking acts and wantonness. Most of them have connection with the security organs and by using power and giving bribes, they get exempted from punishment. On the other hand the justice and judicial organs due to corruption and lack of strong will to implement justice, or due to lack of clarity in the penal codes on Bacha Bazi, do not want to prosecute of the perpetrators.

On the other hand, lack of courts and prosecutors in some districts specifically in insecure areas and districts caused the victims, not to have access to the justice and judicial mechanisms. Likewise, these factors have helped the perpetrators to continue practicing their acts with no fear of the law.

Poverty plays an important role in the expansion of Bacha Bazi. Most of the victims of Bacha Bazi come from the poor families who try to earn their livelihood in the service of other people who later on engage in sexual or other forms of abuse.

Most of the families don't know that their children are raped. The perpetrators of Bacha Bazi taking advantage of their poverty and entice the children against money.

Insecurity in many parts of the country and presence of irresponsible armed groups has also contributed to the

spread of Bacha Bazi. It is mentionable that many of those who engage in Bacha Bazi are in contact with the irresponsible armed groups or they themselves are armed and have armed groups. They engage in Bacha Bazi using such powerful powers, including security organs and to make sure that they are free and safe from prosecution.

Lack of guardianship, illiteracy, and domestic violence has also laid the grounds for expansion of Bacha Bazi. The past long lasting wars caused many families to lose their guardian and children under 18 become the breadwinners of their family. Due to lack of or bad guardianship, such families are ready to put their children at risk to find a piece of bread. From the other end, low levels of literacy and awareness of families also cause their families not to well protect and look after them.

Due to lack of awareness their children face serious harms and risks of trafficking in children and kidnapping. Moreover, domestic violence is considered as a common act in most of the families. The children who are subjected to domestic violence in the family attempt to flee from home and consequently fall into the trap of kidnapers, abductors, and perpetrators of Bacha Bazi.

The outcomes of Bacha Bazi (Pederasty)

Bacha Bazi is regarded a nasty and offensive practice, a taboo. Therefore, the perpetrators of Bacha Bazi and the victims get isolated from the society, because the victims of Bacha Bazi often come from poor families and do not enjoy a high social status, as a result they get more isolated. The social isolation of such children and their families increase when the victims become famous after dancing in general events and parties. People not only end their relationship with the victim, but also with his family and relatives as well and try not to deal with them. The victims of Bacha Bazi suffer from serious psychological harms whereas they often get raped. The victims' psychological harms remain for long times even till their adulthood when they quit this act. One of the symptoms and negative impacts of sexual abuse is that the children are isolated and their confidence fades away. On the top of all these, such victims suffer from psychological trauma and stress and a sort of distrust, hopelessness and pessimist feeling happens to them.

Bacha Bazi results in fear among the children and a feeling of revenge and hostility develop in their mind. As a result of the continuity of the Bacha Bazi most of the families are concerned about their children and live a life full of fear and anxiety, because the perpetrators are very powerful people. In some incidents it has been reported that Bacha Bazi had led into a big hostility and revenge and has been followed by casualties in some incidents as well. The reports show that sometimes as a result of rivalry and jealousy regarding Bacha Bazi the perpetrators of Bacha Bazi have engaged in fighting with each other and consequently several people involved in the case were killed from both sides of the conflict.

Recommendations:

With regard to the information and findings collected in this National Inquiry as well as based on the analysis made in this report, the AIHRC presents the following specific recommendations to the government and civil society organizations:

1. The AIHRC wants the government to criminalize Bacha Bazi practices and declare it as a prohibited, by modifying the Penal Code,
2. The AIHRC urges the government to identify patterns of Bacha Bazi in the country, integrate them in criminal law labeling them as a crime,
3. The AIHRC urges the government to give direction to all the organs of justice and the police department to prevent the spread of Bach Bazi through detention and prosecution of the perpetrators of this act and to take legal action in this regard.
4. The AIHRC wants the government to identify the victimized children and while considering their personal confidentiality provide them and other children at risk with protection and support. Protection and support require the government to design and develop a comprehensive and effective program in which budget and adequate possibilities are considered.

5. The AIHRC asks the government to adopt the necessary measures to restore the mental health of victimized children and provide mental health care and services for them.
6. The AIHRC asks the government to seriously fight the culture of impunity and to put more efforts to strengthen the rule of law so that the perpetrators of Bacha Bazi would be punished.
7. The AIHRC asks the government of Afghanistan to disarm the irresponsible armed groups and act decisively to uphold the rule of law and prevent law-breaking acts, disobediences and promiscuity in the country.
8. The AIHRC asks the government of Afghanistan to decisively fight corruption in security, justice, judicial and other governmental organs and to provide grounds for accessibility of Afghan citizens to justice.
9. The AIHRC asks the government and civil society organizations to develop a national program to give awareness to the vulnerable families about the harms of child labor, child abduction and specifically about the practices of Bacha Bazi.
10. The AIHRC asks the government of Afghanistan and civil society organizations to put some efforts to strengthen, the spirit of respect for human rights and accountability in security, detective and justice organs in the country by conducting training programs. The AIHRC can play a leading role in this regard.