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“You Have No Right to Complain”

Education, Social Restrictions, and Justice in Taliban-Held Afghanistan



“You Have No Right to Complain”

Education, Social Restrictions, and Justice in Taliban-Held
Afghanistan

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Map



Summary

On February 29, 2020, the United States and the Taliban signed an agreement outlining a phased withdrawal of US forces from Afghanistan in exchange for Taliban commitments not to allow attacks on the US or its allies from Afghan territory. The troop withdrawal is expected to take place in parallel with negotiations between representatives from the Afghan government and other Afghan political groups and Taliban leaders aimed at achieving a political settlement after decades of armed conflict.

As negotiations advance, they will need to address concerns about protections of fundamental human rights, including the rights of women and girls; education; freedom of expression and the media; due process guarantees; as well as ending attacks on civilians and accountability for serious human rights abuses and war crimes.

For this to happen, representatives from human rights and other civil society organizations, including women's groups and victims' representatives, should participate in the full range of discussions surrounding the intra-Afghan talks, including in plans for implementation following any agreement. Although the constitution of the Islamic Republic of Afghanistan and the laws enacted in the years since 2002 include many human rights protections, implementation has been poor, including in areas under government control.

While in power in Afghanistan in the 1990s, the Taliban's rights record was characterized by systematic violations against women and girls; cruel corporal punishments, including executions; and extreme suppression of freedom of religion, expression, and education. Since the US-led military defeat of the government in late 2001, the Taliban insurgency has not recognized the legitimacy of the Afghan government or the 2004 constitution.

As of mid-2020, Taliban forces controlled or had significant influence in many provinces and districts of Afghanistan. In these areas, residents abide by a parallel set of government laws and Taliban-imposed regulations. Some nongovernmental organizations (NGOs) funded by international donors and working with the Afghan government provide social services, including education and health care, in Taliban-held areas. Taliban leaders have assumed some oversight of these services and have issued regulations concerning

their operations. Taliban officials liaise directly with NGOs and with local Afghan government officials through mediation by elders in the communities and community councils.

This divided state and the prospect of a peace agreement have raised a number of critical questions: What is life currently like under Taliban rule? And what does that say about the protection of fundamental human rights after a peace deal is signed?

This report is based on a total of 138 interviews, including 120 in-person interviews with Taliban officials, commanders, and fighters, who in their own words talk about their policies and their reasons for imposing restrictions on communities under their control. Others interviewed included teachers, doctors, elders, students, and other local residents in Helmand, Kunduz, and Wardak provinces—three of Afghanistan’s 34 provinces in the north, south and center of the country—between January 2019 and April 2020.

The report focuses on the everyday experiences of people living in Taliban-held districts and the impact Taliban policies have had on their rights and freedoms, including education; information and media; and movement. It looks at local people’s efforts to bring complaints against Taliban officials and fighters. Since US-Taliban negotiations began in early 2019, women’s rights activists and other Afghans in government-held areas have raised concerns about Taliban restrictions in their areas of control and the effect a settlement with the Taliban would have on these rights. We also document abuses by Taliban courts and prisons, including prolonged arbitrary detention and summary punishments, including executions. We do not document here the Taliban’s many and widespread violations of the methods and means of warfare, including deliberate attacks on civilians, which we investigated in the 2018 Human Rights Watch report, *No Safe Place: Insurgent Attacks on Civilians in Afghanistan*, and which continue to cause civilian harm.¹

Non-state armed groups are bound by Common Article 3 to the Geneva Conventions of 1949 and customary international humanitarian law. This requires that the Taliban respect fundamental guarantees in areas that they occupy, including: non-discrimination on the basis of sex and other grounds; freedom of religion; respect for family life; humane

¹ Human Rights Watch, *No Safe Place: Insurgent Attacks on Civilians in Afghanistan*, May 2018, <https://www.hrw.org/report/2018/05/08/no-safe-place/insurgent-attacks-civilians-afghanistan> (accessed June 10, 2020).

treatment of prisoners; prohibitions on torture and corporal punishment; collective punishment; and rights to a fair trial. Individuals who violate some of these guarantees, such as by committing torture, are responsible for war crimes. In areas they effectively control, the Taliban should also respect and protect the fundamental human rights of individuals, including the rights to education, freedom of expression and assembly.

Education for Girls and Women

Since 2002, in cities under Afghan government control, millions of Afghan girls have gone to school and Afghan women have participated in public life, including holding political office, in greater numbers than ever before in Afghanistan's history.

Yet these gains are partial and fragile even in government-controlled areas. While government efforts and donor-funded programs led to a dramatic rise in the numbers of girls in school, with millions enrolled in the initial years after 2002, the number of girls in school nationwide began to drop after 2014, due to factors including rising insecurity, discrimination, corruption, and diminished funding.

Research by Human Rights Watch and others demonstrates a rising demand for education in Afghanistan, including a growing acceptance in many parts of the country that girls should study. NGOs that support “community-based education”—schools located in homes in students’ communities—have often been more successful in enabling girls to go to school in areas where they would not have been able to attend government schools because of insecurity, family resistance, and community restrictions. But the government’s failure to integrate these schools into the state education system, combined with inconsistent funding for these schools, has deprived many girls of education.

Although the Taliban officially state that they no longer oppose girls’ education, very few Taliban officials actually permit girls to attend school past puberty. Others do not permit girls’ schools at all. The inconsistencies have left residents wary. As one teacher in Wardak province in central Afghanistan said, “Today, [a Taliban official] tells you that they allow girls up to sixth grade, but tomorrow, when someone else comes instead, he might not like girls’ education.” Taliban officials in several Kunduz districts have permitted girls’ primary schools to operate and in some cases allowed girls and young women to travel to government-held areas to attend high schools and university. By contrast, in some Taliban-

controlled districts in Helmand province, there are no functioning primary schools for girls, let alone secondary schools—some of these rural districts had no functioning girls’ schools even when under government control. In Taliban-held districts, NGOs running community-based education programs have been able to provide education where no other schools are accessible.

In some districts, the Taliban have imposed “taxes” on teacher salaries and threatened teachers and residents whose relatives teach in schools in nearby government-controlled areas.

Taliban officials claim that the differences in access to education between districts and provinces are due to security issues and varying levels of acceptance of girls’ education within the communities themselves. There is resistance to girls’ education in many rural communities in Afghanistan. However, Taliban district and provincial officials also determine implementation of policies in the areas they control. Their inconsistent approach to girls’ schools reflects the differing views of provincial Taliban commanders, their standing in the Taliban military command hierarchy, and their relationship with local communities. In some districts, local demand for education has convinced or compelled Taliban authorities to take a more flexible approach.

Freedom of Expression and Social Restrictions

In government-controlled areas, Afghan media play an active role in public life and participate in public issues. Yet journalists critical of the authorities risk threats and violence from officials, security forces, and government-backed militias. They face government restrictions on access to information.

By contrast, Afghan media usually may only enter Taliban-held areas with explicit Taliban permission. Taliban officials in their political office in Doha, Qatar, have said that they only require that journalists respect Islamic values. But Taliban commanders have threatened and attacked journalists for critical reporting. Taliban officials prohibit watching television in some districts and residents who watch TV do so in secret. Similarly, some Taliban officials impose restrictions on smartphones or ban them outright, limiting residents’ access to information and their ability to communicate, study, or work using the internet.

Social controls embodied in “morality” officials—known as “vice and virtue” police when the Taliban were in power in the 1990s—continue to operate in districts under Taliban control. These officials patrol communities to monitor residents’ adherence to Taliban-prescribed social codes regarding dress and public deportment, beard length, men’s attendance at Friday prayers, and use of smartphones or other technological devices. The rigidity or flexibility with which the Taliban impose these rules varies by province and district, with Kunduz among the most flexible and Helmand among the least. Violating the rules can result in a warning for a first-time or relatively minor offense. While public punishment for infractions is infrequent compared to the 1990s, for offenses deemed more serious, Taliban officials have imprisoned residents and inflicted corporal punishments such as beatings.

Taliban officials have told Human Rights Watch that they have not imposed the social restrictions that exist in the areas they control and that these reflect local community norms. At the same time, they have encouraged residents and imams of the local mosques to report on community members who skip prayers or engage in prohibited behavior.

Strict social norms regarding dress—especially for women—and women’s movements are common among communities in much of rural Afghanistan, including in conservative government-held areas. However, in both government-held and Taliban-held areas where such restrictions exist, some residents, particularly younger Afghans, have resisted these constraints in seeking more freedom. Moreover, in more diverse or urbanized areas, Taliban officials have sanctioned and reinforced rigid social controls in communities that had previously not observed such practices.

Detention and Punishment for Government Contacts, Criticism of the Taliban

A major restriction the Taliban imposes is to prohibit any contact with the Afghan government, either civilians or the military, except in some cases to obtain identity cards (*taskeras*) that are needed for government services. Taliban commanders and officials have threatened residents whose relatives work in the government or security forces. They have even threatened people for being stopped at government checkpoints. A resident of Wardak who the Taliban accused of providing food to government soldiers was threatened with severe punishment if he did it again, and was told, “you do not have the right to complain.”

Criticizing Taliban military activities is strictly forbidden; fear of retaliation keeps residents from advocating for their own protection. Although deploying forces in populated villages without taking all feasible precautions to protect civilians from attack is a violation of the laws of war, the Taliban have sometimes punished residents who have complained about Taliban forces entering their homes and firing on government troops.

The Taliban have also punished family members or other relatives as a form of collective punishment in violation of international law. A Helmand man whose relatives worked for the police told Human Rights Watch the Taliban accused him of being “a police spy.”

Those accused of being government spies, abducted government officials, and others detained for any contact with the government may be imprisoned indefinitely or summarily executed. Local Taliban commanders have considerable autonomy to carry out punishments, particularly in frontline areas. While credited for offering swift justice, Taliban civil courts have overridden or co-opted local dispute mechanisms and offer few due process protections.

Women have sought out Taliban courts to settle inheritance and property disputes. However, for women and girls who are victims of domestic violence, registering complaints through the Taliban courts does not offer even the limited possibility for justice that exists in government courts, while mirroring the same deficiencies by requiring women to pursue mediation within the family. Taliban courts have imposed brutal punishments such as lashing on men and women for so-called moral crimes. These punishments deter women from fleeing abusive situations in the home.

Impunity for grave abuses has long been a problem in Afghanistan, where the current and previous governments have largely failed to hold officials accountable for rights violations or prosecuted pro-government warlords and militias for serious abuses. The Taliban claim that they hold members of their ranks, including commanders, accountable for abuses, but this has meant little in practice since Taliban officials have seldom considered many human rights abuses and violations of international humanitarian law as wrongful acts.

Since 2015, the Taliban have made public statements about their intention to ensure internal accountability. In some cases, they have put measures in place to respond to complaints about abuse at the local level. However, these measures are very limited in

scope, and rarely affect senior officials or address serious abuses. In most cases, communities fear retaliation if they report abuse. Residents who have criticized Taliban actions have been accused of spying and beaten.

As the Taliban have consolidated control over areas that were previously contested, their restrictions have tightened, not eased. This raises serious concerns that as government influence wanes, the Taliban will be less willing to heed community demands about the protection of rights, as well as in any peace negotiations. The gap between official Taliban statements on rights and the restrictive positions adopted by Taliban officials on the ground indicates that the Taliban are far from an internal consensus on their own policies, and that reaching agreement on human rights provisions in a peace agreement will not necessarily result in their being implemented at the local level.

On other fundamental issues of governance, the Taliban have not developed consistent policies but rather a set of reflexive and reactive practices. While they have rolled back some harsh measures from the past, and communities have managed to push back against some restrictions, what has not changed is that in most areas there are few ways for communities to engage with Taliban officials to register complaints.

Afghans in Taliban-held districts have told Human Rights Watch that Taliban officials do not recognize any need to listen to them or allow them to air grievances or make recommendations. Instead Taliban officials generally see the communities as either with them or against them, and view criticism only as a challenge to their authority and evidence of affiliation with the enemy. Most importantly, in not permitting criticism, the Taliban have signaled that they do not see themselves as accountable to the people they govern.

In any settlement that emerges, it will be critical for the Taliban to demonstrate that they are willing to accommodate diverse communities, tolerate dissent, and meet the demands of the communities they govern, including of women and girls, for the protection of fundamental rights.

Key Recommendations

To the Taliban Leadership:

- Uphold the right of girls and boys to education in all areas, including through secondary level and above, and issue clear orders to all commanders not to obstruct the functioning of schools.
- Work with donors and community-based education providers to expand community-based schools in all areas and promote these schools in communities where families resist sending children, especially girls, to school.
- Take all necessary measures to protect civilians under Taliban control from the harmful effects of attacks. Avoid deploying, to the extent feasible, within densely populated areas.
- Cease all acts of intimidation, harassment, and summary punishment of residents who have criticized Taliban policies.

To the Islamic Republic of Afghanistan and the Taliban Regarding Peace Negotiations:

- Preserve all rights protections enumerated in the Afghan Constitution.
- Agree to the participation of women, rights activists, civil society representatives, media associations, and constitutional law experts in the thematic working groups at the negotiations.
- Agree to a meaningful role in the negotiations for victims and for victims' representatives to address the negotiators.

To the UN and Governments Supporting the Intra-Afghan Talks:

- Advocate forcefully that all parties preserve rights protections as provided for in the constitution and laws of the Islamic Republic of Afghanistan.

Methodology

Human Rights Watch carried out research for this report between January 2019 and April 2020. The report is based on a total of 138 interviews, including 120 in-person interviews conducted in Helmand, Kunduz, and Wardak provinces between January 2019 and October 2019.

The interviewees were selected through the snowball sampling method to ensure introduction to a range of interlocutors with knowledge about various Taliban policies and practices. Some of the interlocutors were interviewed twice during the research process in order to triangulate information shared by others.

The range of individuals interviewed included Taliban commanders, current and former Taliban judges, current Taliban fighters, members of the Taliban provincial and district commissions, and former Taliban foot soldiers. Other interviewees included tribal elders, school and university students and other young people, truck and taxi drivers, former detainees in Taliban prisons, shopkeepers, business owners, doctors, teachers, religious scholars and imams of local mosques, farmers, former civilian government officials, other local residents and witnesses to abuse in areas under Taliban control or those affected by Taliban policies and their implementation. We also interviewed officials with NGOs working in these provinces. Most interviews were conducted in Dari or Pashto.

All interviewees were informed of the purpose of the interview, the ways in which the information would be used, and offered anonymity in our reporting. This report withholds identifying information for most interviewees to protect their privacy and security. None of the interviewees received financial or other incentives for speaking with us.

Statistics of any kind—even basic population data—are often difficult to obtain in Afghanistan and of questionable accuracy. School enrollment figures are inflated by the government’s practice of counting a child as attending school until they have not attended any classes for up to three years.

In April 2019, Human Rights Watch met with Taliban officials in Doha, Qatar, to ask about their policies on access to education, women’s rights, and other restrictions on

communities under their control. In April 2020, we sent a letter asking for further clarifications and comments based on the findings in this report. Their response is included as an appendix.

Education in Taliban-Held Areas

Education as a Battleground

Education as a public service has long been a battleground in Afghanistan. From the early 20th century, a number of Afghan political leaders promoted educational reform as necessary for modernization and equality, while others saw it as an unwelcome imposition by foreign powers. Reforms in the 1930s expanded access to primary and secondary schools, including for girls, in cities and provincial centers.²

In 1950, Kabul University opened its doors to women in separate single-sex faculties for medicine, science, and the humanities.³ However, the reforms met strong resistance in the countryside, where they were seen as an encroachment on the power of local authorities and traditional values. There were few opportunities in rural areas to attend schools other than madrassas and mosques. For girls, there were almost no opportunities.

The April 1978 coup brought to power the People's Democratic Party of Afghanistan (PDPA) and plunged the country into civil war. In its drive to transform Afghanistan into a modern socialist state, the PDPA leadership decreed radical land redistribution measures, new marriage laws, and literacy programs, including for girls and women, that threatened traditional power structures. To implement its policies, the PDPA employed repression and violence, including mass killings and enforced disappearances, and the brutality sparked widespread protests from rural communities.⁴

² "In the last eight years of [Mohammad] Daud's premiership (1955-63), however, the number of primary and secondary school students nearly tripled, and the number of secondary students (mainly at Kabul University) increased more than fourfold; and in the period of political liberalization known as New Democracy, the number of primary school students doubled, and secondary students increased more than sixfold, growing an average of one-fifth per year. University enrolment was 3.4 times larger at the end of the decade than it had been at the beginning." Rubin, Barnett R. "Political Elites in Afghanistan: Rentier State Building, Rentier State Wrecking," *International Journal of Middle East Studies* 24, no. 1 (1992): pp. 77-99, www.jstor.org/stable/163763, (accessed March 8, 2020).

³ By 1970, 15 percent of students enrolled in primary and secondary school were girls, and women made up 17 percent of university students. Micheline Centlivres-Demont, "Afghan women in peace, war, and exile," *The Politics of Social Transformation in Afghanistan, Iran, and Pakistan*, edited by Myron Weiner and Ali Banuazizi (Syracuse University Press, 1994), p. 338.

⁴ According to Centlivres-Demont, "... the protests came not only from the religious quarter and tribal leaders, but from very large sectors of Afghan society." *Ibid.*, p. 343. Antonio Giustozzi and Claudio Franco note that the PDPA regime "set out to intensify the use of education as a vehicle of modernisation and ideological indoctrination ... Educational reforms were one of the main causes of rebellion in 1978-79. In 1978-92, the conservative and Islamist opposition came to see state schools as a primary target, with thousands being torched; thousands of teachers also died in the violence." Antonio Giustozzi and Claudio Franco, "The Battle for the Schools: The Taleban and State Education," Afghanistan Analysts Network, August 2011,

The December 1979 Soviet invasion enflamed a widening conflict. With Soviet funding, schools expanded student enrollment in the cities. Women outnumbered men at Kabul University for the first time in the mid-1980s (1,030 to 753) because men could only enroll after completing mandatory military service.⁵ The PDPA government revised textbooks and other materials to promote support for the Soviet Union and Afghan government. Hundreds of students participated in educational programs in Soviet-bloc countries, further fueling allegations of foreign control of education.

The *mujahidin* resistance forces, backed by the US to fight the Soviet and PDPA forces, assassinated government officials, including teachers, and burned schools. Nongovernmental organizations (NGOs) working in refugee communities in Pakistan provided educational services, but some *mujahidin* groups based there attacked programs promoting girls' education and women's literacy and employment. Following the dissolution of the Soviet Union in 1991 and the collapse of the Afghan government, fighting among the former *mujahidin* destroyed large parts of Kabul and other cities, forcing many schools to close. Throughout much of the country, schools largely ceased to function, although a few remained open in some cities.⁶

The Taliban, headed by Mullah Mohammed Omar and other former *mujahidin* fighters, emerged out of the factional fighting of the 1992-95 period. As they gained power, the Taliban imposed bans on girls' and women's education in the areas that came under their control. When Herat, in western Afghanistan, fell to the Taliban in September 1995, commanders ordered all girls' schools closed.

In 1996, when the Taliban captured Kabul and proclaimed the establishment of an Islamic Emirate, Taliban leader Mullah Omar decreed that provision of education for girls was "temporarily suspended."⁷ The decree also applied to the 4,000 women then studying at

<http://www.afghanistan-analysts.org/wp-content/uploads/downloads/2012/10/2011TalebanEducation.pdf> (accessed May 28, 2020).

⁵ Micheline Centlivres-Demont, "Afghan women in peace, war, and exile," *The Politics of Social Transformation in Afghanistan, Iran, and Pakistan*, edited by Myron Weiner and Ali Banuazizi, (Syracuse University Press, 1994), p. 349.

⁶ Antonio Giustozzi and Claudio Franco, *The Battle for the Schools: The Taliban and State Education*.

⁷ "The Minister for Higher Education told journalists that the segregated education of women would begin when resources became available, but that women would only be allowed to study certain subjects. 'The main problem is a lack of resources. We need separate facilities for girls and we do not have enough women teachers, but if we get the resources, women's faculties in certain subjects will be allowed to open,' said Higher Education Minister Maulawi Hamdullah Noumani. "Although they may not be allowed to study engineering for example, they will be allowed to study medicine, home

Kabul University.⁸ The enforcement of the decree was widespread but not absolute; NGOs negotiated with the Taliban to operate primary schools for both boys and girls, usually outside major urban areas, and urban activists ran small secret schools.⁹ The suspension of girls' education was not lifted until the US invasion ousted the Taliban government in late 2001.

Education Administration and Funding

Although primary education is compulsory by law in Afghanistan through class nine, the government has neither the capacity to provide this level of education to all children nor a system to ensure that all children attend school.

Overcrowding, lack of infrastructure and supplies, and weak oversight mean that children who do go to school may study in a tent with no textbook for only three hours a day. There is a shortage of teachers overall, and the government's failure to provide teachers, especially female teachers, in rural areas has undermined efforts to expand access to school in rural areas, especially for girls.

Corruption and politically driven efforts to inflate the numbers of students have plagued efforts to expand education since 2001.¹⁰ A 2016 report by the US Special Inspector General for Afghanistan Reconstruction found that teacher absenteeism ranged from 20 to

economics and teaching," he said. David B. Edwards, *Before Taliban: Genealogies of the Afghan Jihad*, (University of California Press, 2002), p. 296 (accessed February 20, 2020).

⁸ Ibid.

⁹ In rural areas, international NGOs such as CARE International and SCA [Swedish Committee for Afghanistan] were tacitly allowed to run schools for both boys and girls. In 2000, for example, SCA had schools for 170,000 students, of whom 39,000 were girls. Barnett Rubin and Clancy Rudeforth, "Enhancing Educational Opportunities in Afghanistan: Challenges and Opportunities," Center for International Cooperation, New York University, May 2016, p. 9, http://www.protectingeducation.org/sites/default/files/documents/enhancing_access_education_may23_final.pdf (accessed May 10, 2020). See also "Report on a survey on SCA-supported girls' education and SCA-built school buildings," August 29, 1997, http://afghandata.org:8080/xmlui/bitstream/handle/azu/3031/azu_acku_pamphlat_lc2410_a34_n345_1997_w.pdf?sequence=1&isAllowed=yhttps://cic.nyu.edu/sites/default/files/enhancing_access_education_may23_final.pdf (accessed February 20, 2020); Joseph d'Urso, "Afghan woman who ran secret schools under Taliban wins education prize," *Reuters*, November 4, 2015, <https://in.reuters.com/article/afghanistan-women-prize/afghan-woman-who-ran-secret-schools-under-taliban-wins-education-prize-idINKCNoST2KM20151104> (accessed May 28, 2020).

¹⁰ Ali Yawar Adili, "A Success Story Marred by Ghost Numbers: Afghanistan's inconsistent education statistics," March 13, 2017, <https://www.afghanistan-analysts.org/en/reports/economy-development-environment/a-success-story-marred-by-ghost-numbers-afghanistans-inconsistent-education-statistics/> (accessed May 27, 2020).

38 percent, and that a significant number of schools and teachers were so-called ghosts, meaning they were registered and funded, but did not actually exist.¹¹

Afghanistan's primary and secondary education system consists of four main types of schools. Government schools operate under the Ministry of Education, which is dependent on donor funding. Private schools in urban areas provide an option for families who can afford fees. Madrassas, schools devoted primarily to religious instruction, teach many children in both government-held and Taliban-held areas. Most operate outside the government education system and often exclude core subjects in the government's curriculum or teach only religious subjects. Finally, community-based education (CBE) is a model that has been used to successfully reach many Afghan children who would otherwise be denied education, particularly girls; it remains entirely outside the government education system and is wholly dependent on donor funding.¹²

Schools throughout Afghanistan, whether government-run, community-based, or private, generally segregate students by gender from about age 8. Some teachers in girls' schools are men. Public universities are coeducational, while many private universities and colleges are not.

Attacks on Schools After 2001

The US-led invasion and defeat of the Taliban government in 2001 created a power vacuum that fueled conflicts among various armed groups at the local level. Through 2002-2003, militia forces and other armed groups—some linked to local strongmen—attacked school buildings and other institutions. Some of these attacks targeted girls' schools.¹³

After 2004, the Taliban began to regain influence, primarily in the south and southeast of Afghanistan. They targeted schools as physical symbols of the central government's presence, particularly in rural districts. They also threatened and attacked teachers,

¹¹ Special Inspector General for Afghanistan Reconstruction, "Schools in Herat province: observations from site visits at 25 schools," November 2016, pp.4-5, <https://www.sigar.mil/pdf/special%20projects/SIGAR-17-12-SP.pdf> (accessed May 27, 2020).

¹² Human Rights Watch, *I Won't Be a Doctor, and One Day You'll Be Sick: Girls' Access to Education in Afghanistan*, October 2017, <https://www.hrw.org/report/2017/10/17/i-wont-be-doctor-and-one-day-youll-be-sick/girls-access-education-afghanistan> (accessed May 20, 2020).

¹³ Human Rights Watch, *Killing You is a Very Easy Thing for Us: Human Rights Abuses in Southeast Afghanistan*, July 2003, p. 96, <https://www.hrw.org/sites/default/files/reports/afghanistano703.pdf> (accessed May 28, 2020).

administrators and students.¹⁴ Attacking schools was a way to fuel instability, undermine support for the government, and essentially “scare people into obeying them.”¹⁵ Between January 1, 2005, and mid-2006, hundreds of schools closed across the country after a spate of Taliban arson and grenade attacks.¹⁶ Militias and other armed groups were also responsible for some attacks, often arising out of disputes over the government’s disbursement of funds as schools had become a lucrative resource and magnet for corruption after 2002.

Attacks gradually declined from 2007 to 2010 as the Taliban faced a backlash from local communities.¹⁷ In 2011, the Taliban leadership issued new statements on protecting education; attacks on education declined but did not cease.¹⁸ The United Nations Assistance Mission in Afghanistan (UNAMA) documented 18 incidents in 2019 in which Taliban forces targeted education facilities or personnel, many of which were apparently linked to the use of the schools by the government as polling places.¹⁹

Taliban Policy on Education since 2011

The Taliban’s policy on education has evolved from outright opposition to state-run schools to efforts since 2011 to assume an oversight role over educational services in some provinces.²⁰ The Taliban’s 2010 code of conduct (*layha*) established a commission on education, but it was not until after 2014 that an articulated written policy and

¹⁴ Human Rights Watch, *Lessons in Terror: Attacks on Education in Afghanistan*, July 2006, <https://www.hrw.org/report/2006/07/10/lessons-terror/attacks-education-afghanistan> (accessed March 2, 2020). The Taliban’s 2006 *layha* (code of conduct) explicitly stated that teaching in government schools was banned and those who did so were first beaten and if they continued, killed. It called on fighters to burn schools and have nothing to do with NGOs. These precepts were dropped in later versions of the code in 2009 and 2010. Kate Clark, “Calling the Taleban to Account,” Afghanistan Analysts Network, July 4, 2011, <https://www.afghanistan-analysts.org/en/special-reports/the-layha-calling-the-taleban-to-account/> (accessed February 20, 2020).

¹⁵ Kate Clark, “Calling the Taleban to Account,” Afghanistan Analysts Network, July 4, 2011, <https://www.afghanistan-analysts.org/en/special-reports/the-layha-calling-the-taleban-to-account/> (accessed February 20, 2020).

¹⁶ *Ibid.*

¹⁷ The Taliban removed the authorization to attack schools from their code of conduct in 2009. Giustozzi, p. 2.

¹⁸ Barnett Rubin and Clancy Rudeforth, *Enhancing Access to Education: Challenges and Opportunities in Afghanistan*, New York University Center for International Cooperation, May 2016, p. 6, https://cic.nyu.edu/sites/default/files/enhancing_access_education_may23_final.pdf (accessed February 20, 2020).

¹⁹ United Nations Assistance Mission in Afghanistan, *Afghanistan: Protection of Civilians in Armed Conflict 2019*, https://unama.unmissions.org/sites/default/files/afghanistan_protection_of_civilians_annual_report_2019_-_22_february.pdf, p. 27 and fn. 56 (accessed February 20, 2020).

²⁰ Antonio Giustozzi and Claudio Franco, *The Battle for the Schools: The Taleban and State Education*. Ashley Jackson and Rahmatullah Amiri, “Insurgent Bureaucracy: How the Taliban Makes Policy,” United States Institute of Peace, November 19, 2019, <https://www.usip.org/publications/2019/11/insurgent-bureaucracy-how-taliban-makes-policy> (accessed May 28, 2020).

administrative structure, including offices at the provincial and district level, emerged.²¹ The policy outlines the Islamic basis for government support to education and regulations governing the curriculum and hiring of teachers.

The emergence of the Taliban's written education policy coincided with their co-optation of the state education system in areas under their control, so that funding from the Afghan government's Education Ministry—much of it provided by international donors—continued, even as Taliban officials began overseeing the running of schools. In this way the Taliban leadership has not needed “to find funding or resources for schools because the government, and indirectly the international community, continued to pay for them.”²²

According to a 2016 report, local Taliban officials in the provinces where they have significant influence gained control of Ministry of Education funds as the result of negotiations between them and district-level officials.²³ In managing schools, Taliban officials monitor attendance, particularly of teachers, recruit teachers, and punish absentee teachers with beatings or dismissal.²⁴

The Taliban have also implemented changes to the curriculum, giving priority to religious studies and in some cases removing classes on culture (including music) and “terrorism,” and modifying history lessons.²⁵ Taliban officials have in some cases threatened teachers for not paying part of their salaries to the Taliban as a “tax.”²⁶ It remains unclear how much

²¹ Human Rights Watch interview with Taliban officials in Doha, Qatar, April 28, 2019.

²² Ibid.

²³ Ashley Jackson and Rahmatullah Amiri, “Insurgent Bureaucracy: How the Taliban Makes Policy,” United States Institute of Peace, November 19, 2019, <https://www.usip.org/publications/2019/11/insurgent-bureaucracy-how-taliban-makes-policy> (accessed December 10, 2019).

²⁴ Human Rights Watch interview with Taliban officials in Doha, Qatar, April 28, 2019.

²⁵ Barnett Rubin and Clancy Rudeforth, “Enhancing Access to Education: Challenges and Opportunities in Afghanistan,” New York University: Center on International Cooperation (CIC), May 2016, https://cic.nyu.edu/sites/default/files/enhancing_access_education_may23_final.pdf (accessed January 4, 2020).

²⁶ Ashley Jackson and Rahmatullah Amiri, *Insurgent Bureaucracy: How the Taliban Makes Policy*.

²⁷ Khan Wali Ahmadzai, “Taliban imposes changes on Afghan curriculum,” *Institute of War and Peace Reporting*, January 13, 2018, <https://iwpr.net/global-voices/taliban-impose-changes-afghan-curriculum> (accessed December 8, 2019). Barnett Rubin and Clancy Rudeforth, “Enhancing Access to Education: Challenges and Opportunities in Afghanistan,” New York University: Center on International Cooperation (CIC), May 2016, https://cic.nyu.edu/sites/default/files/enhancing_access_education_may23_final.pdf (accessed January 4, 2020).

²⁸ On January 28, 2019, Taliban officials in Parwan province abducted 49 teachers and held them until community elders negotiated their release two days later. Farid Tanha, “Seized 2 days ago, Taliban release Parwan teachers,” *Pajhwok*, January 31, 2019, <https://www.pajhwok.com/en/2019/01/31/seized-2-days-ago-taliban-release-parwan-teachers>, (accessed April 10, 2020). United Nations Assistance Mission in Afghanistan, *Afghanistan: Protection of Civilians in Armed Conflict 2019*, pp.

Education Ministry officials and the Taliban cooperate on the ground. By working with community elders, NGOs have succeeded in gaining support from Taliban officials for community-based education in many districts.

The Taliban's policy on education, however, remains a work in progress. The provincial education department and the Taliban education commission agreed to a memorandum of understanding in Helmand province that includes the following provisions:

- Schools, learning centers, [and] education buildings ... are national assets. It is the duty of the Emirate to protect them. The Islamic Emirate will work day and night to spread knowledge.... It will compel imams of [mosques] to address people that education is an obligation.
- The central and provincial employees of the [government Ministry of Education] and its provincial directorates can travel and inspect in Emirate-controlled territories, on the condition that the Emirate education department be informed in advance.
- The education authorities are responsible for establishing community-based outreach classes or community-based education for the areas with no accessibility to schools and education centers.
- Both parties [government and Taliban] will continue having coordination meetings to remove problems and barriers.²⁷

The Taliban's policy asserts that "education is essential for the benefit of society, and it is the responsibility of government to provide education for all."²⁸ No specific mention is made of formal girls' schools, but officials have stated that girls may study in mosques, madrassas, or private homes, and that women's education must be in line with Islamic values.²⁹ Despite the fact that the Quran promotes education for girls and women, the Taliban have largely opposed a blanket endorsement of girls' education, "in particular ... girls going to university, because they say the conditions on the ground are not good for

26-27, https://unama.unmissions.org/sites/default/files/afghanistan_protection_of_civilians_annual_report_2019_-_22_february.pdf (accessed February 20, 2020).

²⁷ Islamic Emirate of Afghanistan Education Commission, "Memorandum of Understanding," Serial No (251), March 2, 2019. Paper made available to Human Rights Watch.

²⁸ Human Rights Watch interview with Taliban officials in Doha, Qatar, April 28, 2019.

²⁹ Ashley Jackson and Rahmatullah Amiri, *Insurgent Bureaucracy: How the Taliban Makes Policy*.

girls' education."³⁰ The conditions they refer to include continuing conflict and insecurity, and local resistance to girls and women traveling outside their homes.

During meetings with US officials on the terms for an agreement on a US troop withdrawal in 2019-2020, Taliban negotiators stated that they were open to education for women and girls at all levels, including university. In meetings with Human Rights Watch in April 2019, Taliban officials reiterated that this was their official policy, but added that they would not impose it on communities that did not accept it:

We have to take into account local norms. In Kunduz, Samangan, Logar, people are more open-minded about girls' education. In Uruzgan, Helmand—the people are not open to this. We cannot impose from the top. We are working to change peoples' minds.... The Kunduz conflict is different from Helmand—we cannot establish the same rules and guidelines for all of Afghanistan. It has to be done in a case-by-case manner until the whole country is under our control.³¹

Individual Taliban commanders, shadow provincial governors, and district officials, many of whom have their own views on education, largely determine education policies in the areas under their control. In general, in southern Afghanistan there has been less demand from local communities for schools, particularly girls' schools, since there have never been many girls' schools in operation, except in a few district centers. In some parts of the southeast, Taliban officials have agreed to allow girls' schools, but only up to the sixth grade (around the age of 12) in districts where communities have advocated for them. In other areas, pressure from communities has persuaded commanders to allow greater access to education for girls. In Taliban-controlled areas of the north, girls' schools are also generally open up to the sixth grade and, in some cases, beyond.³²

While there is longstanding resistance to girls attending school after sixth grade in some communities, especially in rural areas, including in parts of the country under government

³⁰ Human Rights Watch interview with religious scholar, Kunduz city, April 7, 2019.

³¹ Human Rights Watch interview with Taliban officials in Doha, Qatar, April 28, 2019.

³² Ashley Jackson and Rahmatullah Amiri, *Insurgent Bureaucracy: How the Taliban Makes Policy*.

control, some of that resistance has eroded because of social changes that have taken place since 2002.

The accounts below provide examples of Taliban restrictions on the right to education in Taliban-held areas. Residents of these communities also describe their fear that local Taliban officials might retaliate against those who demand access to education.

Taliban Education Policies in Kunduz

The Taliban did not regain a foothold in Kunduz province until after 2009 as part of their broader resurgence in northern Afghanistan.³³ In the areas they controlled and influenced, they established a shadow administration that included courts, taxation, education, and other services.³⁴ For security reasons, most government officials, including the district education heads, have been based in the Kunduz provincial capital rather than district centers since 2015, and this has strengthened Taliban control over these services.³⁵

Factors explaining the greater flexibility the Taliban have adopted regarding girls' education in Kunduz province include: the fact that their resurgence came later in districts in Kunduz compared to provinces in other parts of the country, such as Helmand; stronger pre-existing community support for education; and the ethnically diverse population of the province.³⁶ However, even within Kunduz, Taliban policies are inconsistent across different districts and generally reflect the views of individual commanders, officials, and other authorities, both within their ranks and in the larger community. Resistance to girls' education is also common in government-controlled areas, such as Kunduz city. One city resident said, "We hear the imams of the mosques during Friday prayers preaching against girls' education."³⁷

³³ The Taliban gained ground in many areas where local communities had suffered abuses by Northern Alliance militias and strongmen. Lola Cecchinell, "Back to Bad: Chahrdara between Taleban and ALP—a district case study," Afghanistan Analysts Network, September 6, 2013, <https://www.afghanistan-analysts.org/en/reports/war-and-peace/back-to-bad-chahrdara-between-taleban-and-alp-district-case-study/> (accessed January 14, 2020).

³⁴ Antonio Giustozzi and Christoph Reuter, "The Insurgents of the Afghan North," Afghanistan Analysts Network, April 2011 <http://www.afghanistan-analysts.org/wp-content/uploads/downloads/2012/10/AAN-2011-Northern-Insurgents.pdf> (accessed January 14, 2020).

³⁵ Obaid Ali, "One Land, Two Rules (3): Delivering public services in insurgency-affected Dasht-e Archi district in Kunduz province," Afghanistan Analysts Network, February 26, 2019, <https://www.afghanistan-analysts.org/en/reports/economy-development-environment/one-land-two-rules-3-delivering-public-services-in-insurgency-affected-dasht-e-archi-district-in-kunduz-province/> (accessed January 24, 2020).

³⁶ Ashley Jackson and Rahmatullah Amiri, *Insurgent Bureaucracy: How the Taliban Makes Policy*.

³⁷ Human Rights Watch interviews with religious scholar and teacher, Kunduz city, April 7, 2019.

As of May 2020, there were several primary schools functioning in the Taliban-held districts of Dasht-e Archi and Chahar Dara, the districts where we conducted research. There was one girls' high school in the district center of Chahar Dara, which is officially under government control. In addition, international NGOs working with local partners provide community-based education programs for thousands of boys and girls in Taliban-held districts. Managing the schools and monitoring teachers' attendance is divided between Taliban forces and the government based on who controls the area.³⁸

According to a 2019 assessment of humanitarian needs in Kunduz province:

Boys have no problem in accessing schools except during [the] fighting period. However, girls can go to the school up to sixth grade. Girls' mobility is restricted to ... the village and thus they can't access higher grade schooling located at the district centers. This is due to a lack of female teachers but more of social norms. In the [district] center[s]... which are controlled by government there are no barriers and girls attend up to twelfth grade. Most important...[is] the lack of female teachers because the [Taliban] have put condition[s], and without female teachers the girls cannot attend higher grades, like in the case of [Dasht-e] Archi district.³⁹

Variations in Taliban Policy on Girls' Education in Kunduz

Throughout Kunduz in districts under the control of, or substantially influenced by, the Taliban, primary schools for girls have generally remained open, allowing girls to study through at least sixth grade. The restrictions are tied both to security and to the age of the students, with some officials banning girls over 8 years old, and others over 10 or 12.⁴⁰ One religious scholar in Aliabad district told Human Rights Watch:

³⁸ Obaid Ali, *One Land, Two Rules (3): Delivering public services in insurgency-affected Dasht-e Archi district in Kunduz province*.

³⁹ Noor Ahmad, Mirza Jan Hafiz, Akbar Ahmadi, and Vijay Raghavan, "Assessment Report-Health and Integrated Protection Needs in Kunduz Province," The Johanniter: International Assistance, November 2019, p. 69. https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/assessments/afg_kunduz_assessment_health-access-protection_johanniter-jack_nov_2019.pdf, (accessed March 13, 2020).

⁴⁰ Girls who begin their studies late may turn 10 or 12 before completing sixth grade.

The Ahmad Shah Baba elementary school has many girls who go to this school for studying. Yet the Taliban are less than 500 meters away. The Taliban every day see the girls going to this school but never attack them.⁴¹

A Taliban education official who visited Kunduz in early 2019 said that “girls can go to schools as long as all the staff are female, including guards and cleaners. This would apply for all girls’ schools up to tenth grade.”⁴² However, this did not correspond to the situation in most Taliban-held areas of Kunduz where girls seldom study beyond primary school. Moreover, while only 30 percent of teachers in Kunduz province are female, there are none at all in some districts, including Dasht-e Archi.⁴³

Residents have complained that the Taliban’s practices sometimes contradict their public statements. One teacher told Human Rights Watch:

If the Taliban are not against education, why have they closed some girls' schools? [Three local girls] had literacy classes in Dasht-e Archi district in the government-controlled area....[Since] the Taliban captured the entire Dasht-e Archi district and since then even the all-girls literacy classes have been shut down.⁴⁴

Some Taliban officials claim that their restrictions on education reflect communities’ not supporting education for girls above sixth grade. A religious scholar echoed this view, saying that although the “Taliban allow girls' education until twelfth grade, girls do not go after sixth grade in Taliban-controlled areas,” supposedly because of the community’s self-imposed restrictions.⁴⁵ However, community representatives counter that families do not send their girls to schools after sixth grade because in the past the Taliban harshly punished people for challenging their restrictions, and they fear they would do so again.⁴⁶

⁴¹ Interview with a religious scholar S., Chahar Dara, Kunduz, May 16, 2019

⁴² Human Rights Watch interview with a Taliban fighter, Dasht-e Archi, Kunduz, April 5, 2019.

⁴³ Human Rights Watch interview with religious scholar Z., Dasht-e Archi, Kunduz, April 9, 2019. See also Islamic Republic of Afghanistan, *Afghanistan Statistical Yearbook 2018-19*, p. 91, https://www.nsia.gov.af:8080/wp-content/uploads/2019/11/Afghanistan-Statistical-Yearbook-2018-19_compressed.pdf (accessed February 10, 2020).

⁴⁴ Human Rights Watch interview with teacher, Dasht-e Archi, Kunduz, May 15, 2019.

⁴⁵ Human Rights Watch interview with religious scholar, Kunduz city, April 7, 2019.

⁴⁶ Human Rights Watch interview with resident, Kunduz city, April 7, 2019.

At the same time, some Taliban commanders feel pressure from communities to allow girls to attend high school. U.R., a resident of Chahar Dara, said that “girls from Taliban-controlled villages come and study in Chahar Dara’s main girls’ high school [in the government-controlled district center].”⁴⁷ An elder of Chahar Dara said that, “If the Taliban were really against girls’ education after sixth grade, they could have closed down Jamiat Girls’ High School in Chahar Dara district already.”⁴⁸ However, the number of girls attending the school from these areas is small, and they are likely to be under Taliban surveillance.⁴⁹ Some residents have also expressed concerns about threats by the Taliban over members of their household attending a girls’ school.⁵⁰

In some areas local Taliban officials allow girls from their districts to attend Kunduz University, which is in a government-controlled area.⁵¹ A resident of Mama Khel, a suburb of Kunduz city, said:

The Taliban knows every girl who goes to university, their families, and the exact houses where they live. Every day these girls go to university in Kunduz city and come back. Still, the Taliban have not stopped them yet.⁵²

Expanding Madrassas for Girls

Since 2015, the Taliban in Kunduz province have promoted girls’ madrassas as an alternative to government schools in Kunduz.⁵³ In 2018, the Taliban worked with local religious scholars to open girls’ madrassas in the Nawabad area of Chahar Dara district. In Taliban-held areas, girls often go to both a school and a madrassa, each for a part of the day, which is not uncommon for boys in many areas of Afghanistan.⁵⁴

Residents of Taliban-controlled districts in Kunduz describe the expansion of madrassas as a deliberate attempt by the Taliban to encourage communities who want girls’

⁴⁷ Human Rights Watch interview with U.R., Chahar Dara, Kunduz, May 12, 2019.

⁴⁸ Human Rights Watch interview with community elder, Chahar Dara, Kunduz, April 8, 2019.

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Human Rights Watch interview with religious scholar, Kunduz city, April 7, 2019.

⁵² Human Rights Watch interview with Taliban religious scholar, Kunduz city, April 7, 2019.

⁵³ This seems to be unique to only some areas under Taliban control. Madrassas are not open to girls in Helmand.

⁵⁴ Human Rights Watch interview with religious scholar, Kunduz city, April 7, 2019.

education to accept them instead of government schools. Both government schools and government-run madrassas primarily teach religious studies, as well as some reading and writing, but private madrassas frequently do not teach mathematics, science, art, or other subjects offered at government schools.

Taliban Education Policies in Helmand Province

The Taliban resurgence in Helmand province gained strength in 2004-5 when local Taliban commanders who had largely returned to their communities after 2001 took up arms again as fighting broke out among local strongmen and mujahidin militias who had returned to power with US support.⁵⁵ Other tribally-based forces, some of whom had initially supported the US and NATO but who lost power during internecine fighting over the opium trade, joined them.⁵⁶

The Helmand conflict intensified through 2006-2010, fueled by rivalries over international patronage and the internationally driven effort to eradicate opium that drove many poorer farmers to seek support from local Taliban. After the withdrawal of most international forces in 2014, the Taliban expanded their control. By July 2017, the Taliban had either taken over or were strongly contesting 12 of the province's 14 districts.⁵⁷

The largely rural province of Helmand has historically had low numbers for school enrollment, and few rural areas had girls' schools.⁵⁸ As the conflict in Helmand intensified

⁵⁵ Mike Martin, *An Intimate War* (London: Hurst and Co., 2014). Ali Mohammad Sabawoon, "One Land, Two Rules (6): Delivering public services in insurgency-affected Nad Ali district of Helmand province," Afghanistan Analysts Network, June 2, 2019, <https://www.afghanistan-analysts.org/en/reports/economydevelopment-environment/one-land-two-rules-6-delivering-public-services-in-insurgency-affected-nad-ali-district-of-helmand-province/> (accessed March 2, 2020). Rahmatullah Amiri, "Helmand (1): A crisis a long time coming," Afghanistan Analysts Network, March 10, 2016, <https://www.afghanistan-analysts.org/en/reports/war-and-peace/helmand-1-a-crisis-a-long-time-coming/> (accessed March 2, 2020).

⁵⁶ Mike Martin, *An Intimate War*, pp. 132-153.

⁵⁷ Andrew Quilty, "Static War: Helmand after the US Marines' return," Afghanistan Analysts Network, April 23, 2020, <https://www.afghanistan-analysts.org/en/reports/war-and-peace/static-war-helmand-after-the-us-marines-return/> (accessed March 2, 2020).

⁵⁸ Most rural areas of Afghanistan had very few schools for girls even before the 1990s, although some NGOs ran home-based education programs. Pia Karlsson and Amir Mansory, "An Afghan Dilemma: Education, Gender and Globalisation in an Islamic context," Stockholm University, 2007, p. 7, <http://www.diva-portal.org/smash/get/diva2:197642/FULLTEXT01.pdf>. Theo Farrell, *Unwinnable: Britain's War in Afghanistan 2001-2014* (Vintage Digital 2017), loc. 3773. Mike Martin, *An Intimate War* (London: Hurst and Co., 2014) p. 166. In a 2000 study, the United Nations Development Programme noted that only 1 percent of women in Helmand province were literate, and "no females were recorded as attending school or having discontinued school." United Nations Development Programme, "Helmand Planning Group, Helmand Initiative, "Joint Strategy Development," May 2000; "Taliban territory: Life in Afghanistan under the militants," *BBC News*, June 8, 2017,

after 2005, districts changed hands multiple times and the fighting led to repeated school closings. Since 2014 the district capital, Lashkargah, has seen an influx of people from the rest of the province, with more schools enrolling girls, although their numbers have remained low compared to boys.⁵⁹ A number of international and national NGOs have run community-based education programs enrolling approximately 7,000 girls throughout the province, some in Taliban-held areas.⁶⁰

The Taliban's position on girls' education in Helmand is more rigid than in Kunduz and Wardak and reflects community attitudes particularly prevalent in rural areas of Afghanistan where traditionally girls seldom appear outside the home once they near puberty. Such views are common in some government-held areas as well, especially in rural districts where there is often community pressure against girls traveling outside their homes to go to schools.

In most Taliban-held areas of Helmand, including Gereshk, Musa Qala, and Kajaki, we found that despite official Taliban statements allowing girls' education, local Taliban officials maintain that girls' attendance—at least in formal schools—is prohibited.⁶¹ In Gereshk, a Taliban commander told Human Rights Watch that, “In our district, the Taliban do not allow women to get education.”⁶² A university student said:

<https://www.bbc.com/news/world-asia-40171379> (accessed March 24, 2020). Only 6 percent of students in Helmand were girls in 2004-2005, and no girls were enrolled in school in nine of Helmand's sixteen educational districts. Human Rights Watch, *Lessons in Terror: Attacks on Education in Afghanistan*, July 2006, p. 47, <https://www.hrw.org/report/2006/07/10/lessons-terror/attacks-education-afghanistan>, (accessed March 2, 2020). According to the UN, only about 102,700 students were enrolled in 2006, fewer than 14 percent of them girls. “Afghanistan: Boy's education slides in Helmand,” Payvand, October 7, 2007, <http://www.payvand.com/news/07/oct/1074.html>, (accessed March 21, 2020). In 2018 that number was 213,000 boys and 49,000 girls.

⁵⁹ “Afghanistan: Boys' education slides in Helmand,” *Payvand*, October 7, 2007, <http://www.payvand.com/news/07/oct/1074.html>, (accessed March 21, 2020). Because the government does not have an accurate count of enrollment figures, and education is a highly politicized issue, education statistics are often inflated. See Ali Yawar Adili, “A Success Story Marred by Ghost Numbers: Afghanistan's inconsistent education statistics,” Afghanistan Analysts Network, March 13, 2017, <https://www.afghanistan-analysts.org/en/reports/economy-development-environment/a-success-story-marred-by-ghost-numbers-afghanistans-inconsistent-education-statistics/> (accessed May 10, 2020).

⁶⁰ The Konterra Group, “Mid-Term Evaluation of the Increasing Access to Basic Education and Gender Equality Programme (Afghanistan) (2015-2019),” commissioned by the United States Agency for International Development (USAID), May 2019, https://www.unicef.org/evaldatabase/files/Mid-Term_Evaluation-FinalReport.pdf (accessed April 22, 2020).

⁶¹ Human Rights Watch interview with M.S., Gereshk, Helmand, February 12, 2019.

⁶² Human Rights Watch interview with Q.H., commander, Gereshk, March 12, 2019.

When the Taliban came, there had been a school where both boys and girls studied together. The girls were in the first and second grade classes—small girls. The Taliban told the headmaster that boys can come to schools, [but that] the girls should not come anymore.⁶³

For some, even the subject is taboo: one elder in Musa Qala said that “Only boys’ schools are operating, but due to Taliban fear, no one talks about girls’ schools.”⁶⁴

These strictures apply only in Taliban-held areas. A Taliban commander in Gereshk said:

In the past, our leaders said girls’ schools are banned, even if that is in the [district center] or city. But now [we] do not attack schools in city or [district center] bazaar, and it is only in those areas which are rural and where Taliban has control that girls’ schools are not allowed.⁶⁵

Unlike Kunduz, in northern districts of Helmand, including Musa Qala, Baghran, and Kajaki, girls are also not allowed to go to mosque schools or madrassas. A former Taliban fighter from Musa Qala told Human Rights Watch:

Girls cannot go to the mosque, forget about [girls] studying in a madrassa and school. The Taliban have said this. The Taliban do not allow even small girls to go mosque to study, even though [they would do so for studying] the Quran and other religious [subjects].⁶⁶

A teacher from Kajaki confirmed this: “I have two daughters and one son. My son goes to madrassa, and I teach the Quran to [my daughters] in the morning and evening.”⁶⁷

Taliban Arguments against Girls’ Education in Helmand

Some local Taliban commanders, particularly in the south, adhere to a local tribal social code, from which many of the restrictions on women’s movement and education in Afghanistan originate.

⁶³ Human Rights Watch interview with university student, Sangin district, February 20, 2019.

⁶⁴ Human Rights Watch interview with Musa Qala elder, January 28, 2019.

⁶⁵ Human Rights Watch interview with M. N., commander, Gereshk, Helmand, March 13, 2019.

⁶⁶ Human Rights Watch interview with former Taliban fighter in Musa Qala, January 29, 2019.

⁶⁷ Human Rights Watch interview with S.Q., teacher, Kajaki, Helmand province, March 15, 2019.

Interviews by Human Rights Watch and others suggest that Taliban officials and commanders in Helmand, most of whom are from villages in rural areas of the province, oppose girls' schools, as do ordinary Taliban members. Most come from parts of Helmand, where because of local social norms, there had never been girls' schools. However, some Taliban commanders in Helmand see themselves as entitled to make their own decisions based on their interpretation of Islam rather than to listen to the pronouncements of others. As one Taliban commander said:

We [the Taliban] obey those orders that are based on Islam and Sharia [Islamic law], and if it is against Islam and Sharia, we do not obey the orders. If our leaders allow girls' education, we disagree, and we would not accept their orders.⁶⁸

Another commander told us that the current ban on girls' education in Helmand is justified because the "leaders ordered us to open [schools] but only boys' schools. There is no mention or even discussion of girls' schools in Musa Qala because we do not need girls' education right now."⁶⁹ At the same time, as one fighter said, "If our leaders and commanders allow girls' schools, we would not say anything because we obey the orders of our leaders."⁷⁰

Even if the leadership wanted to implement a uniform approach to girls' education, it likely would not want to confront powerful provincial commanders on this issue, at least so long as the war is ongoing.

A local university student said that when he raised the question of girls' education with the Taliban in Sangin:

I thought that they would beat me up. They said whoever sends their women to school and education actually do not care about their women's honor and is [an] apostate. They said that schools should be targeted.⁷¹

⁶⁸ Human Rights Watch interview with I.S., Taliban commander, Gereshk, Helmand, March 5, 2019.

⁶⁹ Human Rights Watch interview with Taliban commander, January 29, 2019.

⁷⁰ Human Rights Watch interview with R.M., Taliban fighter, Kajaki, Helmand, March 6, 2019.

⁷¹ Human Rights Watch interview with university student, Sangin district, Helmand, February 20, 2019.

Taliban officials and fighters in Helmand have offered a variety of explanations for girls not being allowed to attend school, many of which are at odds with official statements made by the Taliban leadership.

Conditions “Are Not Right”

In interviews with Human Rights Watch, Taliban commanders said that current war conditions did not allow for girls’ education. One Taliban member said the issue was not a priority because “right now, the situation is dominated by fighting.... [We] should do jihad.”⁷² A Taliban commander from Gereshk said:

Women going to school in the current time has no justification from an Islamic point of view, because this is not the time that our women should go to schools; [as] the present condition is war. These kinds of [activities], like women’s education, have no importance right now. Infidels invaded our country, so we should do jihad against them. When Afghanistan is liberated, we will make a plan for girls’ schools if people want our girls to go to school.⁷³

A member of the Taliban education commission in Helmand maintained that when the “right time” comes and the Taliban can implement strict regulations governing schools, then girls’ schools will be possible. Local residents have also heard these arguments from the Taliban.

Local Taliban officials in Helmand have claimed that local communities have not asked for girls’ schools and that in the future they would accommodate girls’ education if there is demand. A senior Taliban education official explained the official position this way to Human Rights Watch:

At the time when Taliban captures the entire Afghanistan then it is possible to create a system in which women in hijab go back and forth to study [school]. Their honor will be preserved [by going in hijab].⁷⁴

⁷² Human Rights Watch interview with Taliban member, Helmand, March 12, 2019.

⁷³ Human Rights Watch interview with Q.A., Taliban commander, Gereshk, Helmand, March 12, 2019.

⁷⁴ Human Rights Watch interview with Taliban official, Helmand, March 4, 2019

In the 1990s, Taliban officials also said that their prohibition on education for women and girls was temporary, pending the establishment of a Taliban government throughout Afghanistan—a view that leaves little room for negotiation with the Afghan government and other actors.

“Foreigners’ Influence” on Education

Some Taliban officials in Helmand portray the approach taken by international donors and the Afghan government as being out of line with Islamic norms and Afghan culture, by which they seem to mean the culture of rural areas of Helmand. They imply that it is not girls’ education itself that they find objectionable, but the way it has been promoted and implemented by the Afghan government. A Taliban commander from Gereshk told Human Rights Watch: “Foreigners and the [Afghan] state have been trying to open girls’ schools so that they can [create] a similar mentality [in women] like theirs.”⁷⁵

Another Taliban commander in Gereshk said that, “Women’s education is to be banned until the time that Americans are no longer here [in Afghanistan] because we do not have control of our country and our country is occupied.”⁷⁶ A Taliban fighter claimed:

Women getting an education in the current conditions is *narawa* [not allowed], because we saw that Americans would go to our girls’ schools. There they would talk to our girls, and they would give schools’ bags and games, and also took pictures with them. They would sit with our female teachers in one office and would talk to them.⁷⁷

School and Work for Women

Some Taliban commanders try to justify the ban by saying that allowing girls to attend school could lead to other unwanted demands from women, such as getting jobs and working alongside men. One told Human Rights Watch:

In the end when they finish school, they [women] work with men at the

⁷⁵ Human Rights Watch interview with A.T., Taliban commander, Gereshk, Helmand, February 16, 2016.

⁷⁶ Human Rights Watch interview with M. H., Taliban commander, Gereshk, Helmand, March 13, 2019.

⁷⁷ Human Rights Watch interview with G.H., Taliban fighter, Kajaki, Helmand, February 16, 2019.

same place, and even for outsiders they [women] do not cover their faces and sit at the same office.⁷⁸

In Helmand, where most non-agricultural jobs are in the civil service, work would also mean working for the government or NGOs. A fighter said:

As we do not allow our women to work, then what is the benefit of studying?... [Women] who go to school in order to work tomorrow in government or NGOs, we would not let them [women] do that. Therefore, it is not good to allow girls to study at schools.⁷⁹

A Taliban commander speculated that:

Maybe in the future, some people might want their daughter and sister to become a doctor or a teacher but not in the current conditions. Those conditions require that girls' schoolteachers are only female and likewise at the university where all the teachers for girls are female. Males and females should not study together.⁸⁰

Lack of Women Teachers and Threats

In explaining their resistance to girls' schools, some Taliban mix ideological reasons with practical ones, especially the lack of female teachers. In government-held areas, government officials have acknowledged that female teachers are critical in encouraging families to send girls to school. Afghanistan has long suffered from a lack of teachers, and female teachers in particular, especially in rural areas.

The number of female teachers is at or above 40 percent of the total only in a few large cities.⁸¹ In Helmand, only 19 percent of teachers in government schools are women. According to Daud Shah Safari, the head of the Department of Education in Helmand province, as of early 2019, 11,135 boys and 1,424 girls attended school in Taliban-held

⁷⁸ Human Rights Watch interview with Taliban commander, K.A., Gereshk, Helmand, February 16, 2016.

⁷⁹ Human Rights Watch interview with Taliban fighter, G.H., Kajaki, Helmand, February 16, 2019.

⁸⁰ Human Rights Watch interview with K.A., Taliban commander, Gereshk district, Helmand, February 16, 2019.

⁸¹ Islamic Republic of Afghanistan, *Afghanistan Statistical Yearbook, 2018-2019*, https://www.nsia.gov.af:8080/wp-content/uploads/2019/11/Afghanistan-Statistical-Yearbook-2018-19_compressed.pdf. (accessed April 19, 2020).

Nad-e Ali district, taught by 153 male and 4 female teachers. After the district fell to the Taliban, the ministry shifted its female teacher positions to other provinces.⁸²

Local officials' resistance to outsiders, and social norms that prevent women from traveling outside their homes or communities or from living alone, also keep women from other areas from being employed as teachers.⁸³

In some cases, Taliban officials have pressured teachers to leave the area apparently because they have taught English classes and are seen as government supporters. S.A. was a teacher at a school in Gereshk district in Helmand province. In October 2019, Taliban officials stopped him from going to school and accused him of meeting with government officials. According to a relative of S.A.:

The local Taliban officials were already suspicious of [S.A.] because he shaved his beard and in late 2019, he added afterschool English lessons for his students. The Taliban arrested him. They beat him and released him in the Nahr-e Seraj desert. They told him if he returns to the school, they will kill him. They also told the headmaster of the school that if the English language course continued, they would burn the school.⁸⁴

S.A. left the school and moved to Lashkar Gah, the provincial capital.

In 2019, M.W. began teaching Pashto, English, and mathematics to girls in her home-based classes in a village in Gereshk. She also asked the government to build a school in the village. After some villagers reported her, the local Taliban officials took M.W.'s husband, A.W., into custody and told him to stop the classes. He ignored the threat and M.W. continued to teach. After that, the Taliban warned A.W.'s father to tell A.W. to move away from the village. The family decided to move to a government-held district center, where M.W. now teaches.⁸⁵

⁸² Ali Mohammad Sabawoon, *One Land, Two Rules (6): Delivering public services in insurgency-affected Nad Ali district of Helmand province*.

⁸³ Human Rights Watch interview with K.A., Taliban commander, Gereshk district, Helmand, February 16, 2019.

⁸⁴ Human Rights Watch interview with relative of S.A., Chak District, Maidan Wardak, July 24, 2019.

⁸⁵ Human Rights Watch interview with family member, Gereshk, February 16, 2019.

Taliban Education Policy in Wardak Province

The capital of Wardak province lies along a strategic highway linking Kabul (40 kilometers to the east) with Kandahar (450 kilometers to the south).⁸⁶ The Taliban gained influence in Wardak province from 2007 amid power struggles among rival militias.

By 2009, the Taliban had considerable control over much of the Pashtun-dominated southern and eastern districts of the province, and threatened the highway to Bamiyan to the north where they attacked civilian and commercial transport.⁸⁷ The Taliban also reportedly exploited local land disputes between ethnic Hazaras and Kuchis to gain the latter's support.⁸⁸ Disillusionment with government corruption and electoral fraud, and abuses by US forces—including a series of killings of civilians in 2012—fueled Taliban recruitment.⁸⁹

Wardak has few urban areas. After 2002, schools opened in many districts. By 2003, primary school enrollment was 75 percent for boys and 25 percent for girls.⁹⁰ As elsewhere in Afghanistan, there has been resistance in many rural communities to girls' schools. One tribal elder told Human Rights Watch:

We did not have a girls' schools before ... During President [Hamid] Karzai's time, schools were slowly established. These schools were in local mosques. There is a mosque in Akhundkhail where girls studied until ninth

⁸⁶ The highway has been the target of numerous Taliban attacks on Afghan security force, US and NATO vehicles.

⁸⁷ Ehsan Qaane, "One Land, Two Rules (9): Delivering public services in insurgency-affected Jalrez district of Wardak province," Afghanistan Analysts Network, December 16, 2019, <https://www.afghanistan-analysts.org/en/reports/economy-development-environment/one-land-two-rules-9-delivering-public-services-in-insurgency-affected-jalrez-district-of-wardak-province/> (accessed April 3, 2020).

⁸⁸ Fabrizio Foschini, "The Kuchi-Hazara Conflict, Again," May 27, 2010, <http://www.afghanistan-analysts.org/wp-content/uploads/wp-post-to-pdf-cache/1/the-kuchi-hazara-conflict-again.pdf> (accessed May 12, 2020).

⁸⁹ "Conflict analysis: Chak and Sayedabad districts, Wardak province," http://www.academia.edu/download/30905004/CPAU_ConflictAnalysis_ChakSayedabadDistricts_WardakProvince.pdf (accessed May 12, 2020). Mohammad Tariq Osman Elias, "The Resurgence of the Taliban in Kabul, Logar, and Wardak," In Antonio Giustozzi, ed. *Decoding the New Taliban*, (New York: Columbia University Press, 2009), p. 46; Anand Gopal, "Ballot-stuffing witnessed amid troubled Afghanistan vote," *Christian Science Monitor*, September 18, 2010, <https://www.csmonitor.com/World/Asia-South-Central/2010/0918/Ballot-stuffing-witnessed-amid-troubled-Afghanistan-vote>, (accessed May 12, 2020). Dylan Welch, Hamid Shalizi, "Afghan move against U.S. special forces tied to abuse allegations," *Reuters*, February 26, 2013, <https://in.reuters.com/article/afghanistan-wardak-us-abuse/insight-afghan-move-against-u-s-special-forces-tied-to-abuse-allegations-idINDEEg1PoAA20130226> (accessed May 12, 2020).

⁹⁰ Swedish Committee of Afghanistan, "Provincial Survey of Wardak," October 2004, http://184.73.243.18:8080/jspui/bitstream/azu/3521/1/azu_acku_pamphlet_hc418_w37_l37_2004_w.pdf (accessed May 12, 2020).

grade. When the Taliban came to power [in the area], the Taliban allowed girls' schools [only] up to sixth grade.⁹¹

As the Taliban re-emerged in Wardak province in 2006-2007 and gained control of districts, they closed down most schools—including boys' schools. Since then their position on girls' schools has varied from district to district, depending on when they took power and on the views of individual commanders. Another tribal elder said that:

In Shneez Dara village, during the first four years of President Karzai's term, girls were able to go to school. After that, the schools were closed down. Since then, there is no school. For example, the Ansarullah elementary has been closed since the fourth year of President Karzai's first term.⁹²

Some districts, such as Chak and Sayedabad, went back and forth between government and Taliban control. Each time the Afghan government reassumed control the schools opened and then closed when the Taliban returned. A teacher from Chak district described his two daughters' access to education in that period:

My two daughters, their school was open from 2003 to 2005 or 2006. They received an education and now they can read and write. But since the closure of the girls' school for the last 13 or 14 years, the girls have not gone to school in our area.⁹³

Another teacher said that his daughters had intermittent access to schools:

In our area, the Taliban closed down the girls' school. After five or six years the army came and set up check-posts around our villages. Then the girls' schools reopened. My daughters were in school. They studied until third grade, then the school was closed down by Taliban again. [Since then] they have been left out of education.⁹⁴

⁹¹ Human Rights Watch interview with tribal elder, Jalraiz district, Maidan Wardak province, October 20, 2019.

⁹² Human Rights Watch interview with tribal elder, Sayeadbad district, Maidan Wardak province, August 7, 2019.

⁹³ Human Rights Watch interview with teacher, Chak district, Maidan Wardak Province, October 27, 2019.

⁹⁴ Human Rights Watch interview with teacher, Chak district, Maidan Wardak Province, June 15, 2019.

A teacher in Chak district said that a girls' primary school has been transformed into a boys' school due to pressure from community elders and the Taliban:

At the beginning of the Karzai government [2005] ... the Naswan Goda primary school [was founded]. The Taliban came in around 2007 or 2008. [They] burned down the tents of this school. Despite [this], the teachers continued to take salaries and claimed that they taught the students [girls] in their homes. In 2015, elders told the teachers and people from the Education Ministry that the Taliban would not allow girls to come to school.... The elders suggested that they recruit boys for this girls' school. That is what the officials did. So, for the last five years, this school is functioning but only boys' study there. The name, however, is still Naswan Goda, which means 'Goda's Girls' Primary School,' but actually only boys attend it.⁹⁵

While Taliban officials often refer to a grade limit for girls in school, a girl's physical age and appearance often play a more important role. Within conservative communities, families are more likely to stop girls who look older or are taller than their peers from attending school.⁹⁶ An elder from Sayedabad district said:

Due to these limitations [age and appearance], people fast-track girls to finish as many classes as they can before they reach—or appear to reach—the age that they would be forbidden not only from going to school but also from going outside.⁹⁷

In rare cases, girls are allowed to study up to seventh and even eighth grades. This appears to be either because the Taliban do not know, or the girls have not yet reached an age where they look too old to go to school.⁹⁸ A resident of Chak district said:

Girls who reach puberty when they are older than 10 years are told not to come to school. It is not about the grade, but about the girl's age. If the girl

⁹⁵ Human Rights Watch interview with teacher, Chak district, Maidan Wardak Province, October 27, 2019.

⁹⁶ Human Rights Watch interview with tribal elder, Jalraiz district, Maidan Wardak province, October 20, 2019.

⁹⁷ Human Rights Watch interview with tribal elder, Sayedabad district, Maidan Wardak province, September 13, 2019.

⁹⁸ Human Rights Watch interview with tribal elder, Sayedabad district, Maidan Wardak province, September 13, 2019.

looks older—too old to come out of the house—she is not allowed to come for education.⁹⁹

Individual Taliban commanders play a crucial role in any Taliban policy. For example, schools have opened in some areas because the Taliban commanders of the area allow it. An elder in Sayedabad said:

Some Taliban are not against girls' education. For example, N.A., who is a key Taliban commander, went to university, studied English language, and is not against education irrespective of whether it is boys' or girls' education. He is also from [here] and he cares about his area.¹⁰⁰

In areas where the local commander is against education, schools have closed. The teacher in Chak said:

Until early 2019, the Taliban did not allow female education in ... Wardak province. However, there were girls' schools ... mainly run by NGOs. However, some of these NGO-run girls' [schools] were also closed because the [commanders] did not allow girls' education or teachers to get salaries from NGOs.¹⁰¹

Some Taliban tolerate programs run by NGOs, even though they do not allow those run by the Afghan government. An elder in Sayedabad said:

The Taliban allow the [NGO] literacy learning programs, but so far, they have not allowed girls' schools funded by the Afghan government. Although there were some problems with NGO-run literacy programs, the Taliban still prefers them.¹⁰²

⁹⁹ Human Rights Watch interview with local driver, Chak district, Maidan Wardak province, August 28, 2019.

¹⁰⁰ Human Rights Watch interview with tribal elder, Sayedabad district, Maidan Wardak province, September 4, 2019.

¹⁰¹ Human Rights Watch interview with teacher, Chak district, Maidan Wardak province, October 27, 2019.

¹⁰² Human Rights Watch interview with tribal elder, Sayedabad district, Maidan Wardak province, August 7, 2019.

In some districts, the presence of these NGO programs seems to have led to a shift in policy. Since early 2019, some Taliban officials have said that girls can go to school up to sixth grade. One teacher said that although Taliban officials first stipulated that only women could teach girls, because there were very few female teachers, men began teaching in girls' schools.¹⁰³

The Taliban district official responsible for education in Chak district has openly discussed supporting girls' education up to sixth grade and vowed to get funding and support to open girls' primary schools. The teacher in Chak said:

[The official] told me, 'You are an elder so I will appoint you as the girls' teacher.' I told him that ... I could teach the girls from my village—I would not go to another village because of fuel expenses.... So, he asked one, two, or even three teachers from boys' schools, saying he wanted to open girls' schools ... I can assure you that girls' elementary schools are allowed since early 2019, be it in Siyaoon or Arabon or Chak. [But] only primary school exists for girls; no girls' schools above sixth grade. In fact, the Taliban say that if a girl is older [i.e., puberty], we do not allow her in girls' schools even if she studies in the first grade.¹⁰⁴

Schools and literacy programs run by NGOs often remain open even when other girls' schools are closed.¹⁰⁵ The tribal elder said that, "Only the [accelerated] literacy program run by [an international NGO] exists. For example, in Lar and Bar [village], there is one class in each area. Girls come to these classes, only first or second grade."¹⁰⁶

The apparently arbitrary implementation of policies based on individual commanders' views has left residents wary. One teacher said: "Today, [a Taliban commander] tells you that they allow girls up to sixth grade, but tomorrow, when someone else comes instead, he might not like girls' education."¹⁰⁷ Residents also fear retaliation if they allow girls to go

¹⁰³ Human Rights Watch interview with elder, Chak district, Maidan Wardak province, July 24, 2019.

¹⁰⁴ Human Rights Watch interview with teacher, Chak district, Maidan Wardak province, October 27, 2019.

¹⁰⁵ Human Rights Watch interview with teacher, Chak district, Maidan Wardak province, June 15, 2019.

¹⁰⁶ Human Rights Watch interview with tribal elder, Sayedabad district, Maidan Wardak province, August 7, 2019.

¹⁰⁷ Human Rights Watch interview with teacher, Chak district, Maidan Wardak Province, October 27, 2019.

to school: “Right now, we heard the Taliban said small girls can go to school until sixth grade. But people still do not have the courage to open the girls’ school yet.”¹⁰⁸

In some districts Taliban authorities have threatened teachers and principals for working in girls’ schools where they have banned them, particularly when the teachers come from areas under government control. A teacher described what happened when the Taliban captured most of the area around a school in Wardak that had been in a government-held area: “The principal, A.M., was taken by the Taliban after they closed down his school. He was held for 10 to 15 days because he was running a girls’ school in late 2019.”¹⁰⁹

¹⁰⁸ Human Rights Watch interview with businessman, Sayedabad district, Wardak province, October 23, 2019

¹⁰⁹ Human Rights Watch interview with teacher, Chak district, Maidan Wardak province, June 15, 2019

“Vice and Virtue” and Other Restrictions

When the Taliban were in power in the late 1990s, the Ministry of Enforcement of Virtue and Suppression of Vice (*al-Amr bi al-Ma'ruf wa al-Nahi `an al-Munkir*) was arguably the most powerful agency in the government and was responsible for the enforcement of all Taliban decrees regarding moral behavior. The ministry banned playing music and watching television. Outside their homes, women and teenaged girls were required to be covered entirely by a *burqa* and accompanied by a *mahram*—a male member of their family. Men were required to have beards.¹¹⁰ The Taliban police frequently beat those who failed to comply.¹¹¹

The Taliban also banned most women’s employment outside the home. Before the Taliban took control of Kabul, women accounted for 70 percent of all teachers, about 50 percent of civil servants, and an estimated 40 percent of medical workers.¹¹² Because female health professionals were exempted from the ban, many NGOs and UN agencies reclassified their female employees as health workers to get around restrictions.¹¹³ Even with the exemption, travel restrictions, such as the *burqa* and *mahram* requirements, deterred 150 female staff in Kabul’s women’s hospital from working; only 50 remained there under the Taliban. Before June 1998, women were treated in women-only wards of public hospitals.¹¹⁴

As the Taliban has gained control of districts across Afghanistan, “vice and virtue” officials again have a role in enforcing social norms. While implementation is inconsistent and communities have managed to push back against some restrictions, what has not changed is that in most areas there are few ways for communities to challenge Taliban policies, air grievances, or seek redress.

¹¹⁰ United Nations Commission on Human Rights, “Final report on the situation of human rights in Afghanistan submitted by Mr. Choong-Hyun Paik, Special Rapporteur, in accordance with Commission on Human Rights resolution 1996/75, E/CN.4/1997/59, February 20, 1997, p. 8, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G97/105/81/PDF/G9710581.pdf?OpenElement> (accessed April 15, 2020).

¹¹¹ *Ibid.*

¹¹² *Ibid.*

¹¹³ Human Rights Watch interview with former journalist, May 6, 2020.

¹¹⁴ United Nations Commission on Human Rights, “Final report on the situation of human rights in Afghanistan submitted by Mr. Choong-Hyun Paik, Special Rapporteur, in accordance with Commission on Human Rights resolution 1996/75, E/CN.4/1997/59, February 20, 1997, p. 8, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G97/105/81/PDF/G9710581.pdf?OpenElement> (accessed April 15, 2020).

The Taliban's experience in provinces like Helmand, where the rural population generally wears traditional dress, has influenced their approach to local variations in dress and appearance elsewhere in Afghanistan. In Kunduz province, particularly in more urban areas, and to some extent in Wardak, men (but very seldom women) sometimes wear more Western clothes. As the Taliban has gained control of districts in these provinces, some residents have switched back to more traditional clothes to avoid facing threats or punishment by the Taliban.

Vice and Virtue and Other Restrictions in Helmand

As they have gained control of more areas of Afghanistan since 2016, the Taliban have again created structures to oversee community behavior, using a mixture of enforcement and outreach to try to justify the measures and ensure community compliance.

Enforcement varies among communities. Enforcement is more lenient in areas where the Taliban's control is not absolute and where the population is ethnically mixed. In Helmand, enforcement became gradually stricter as the Taliban consolidated control and punishments for infractions grew more severe.

Within a few months of taking control of a district in Helmand, the Taliban designated a local commission to enforce the social code.¹¹⁵ In Musa Qala they did not establish such a commission until 2019, and then expanded to Gereshk, Sangin, and Kajaki districts. The commission functions to "ensure that people are not shaving or trimming their beards, listening to music, [carrying out] *bacha bazi*,¹¹⁶ and other actions that are against Sharia."¹¹⁷ Its members patrol communities; they usually give a warning, but in some cases detain people for offenses. The level of authority the commission wields depends on the extent of control the Taliban has in the area.

When local "Vice and Virtue" commissions were first established, local military commanders controlled them. But since 2019, Taliban authorities have introduced civilian

¹¹⁵ Human Rights Watch interview with S.F., Taliban member, Musa Qala, January 29, 2019.

¹¹⁶ *Bacha bazi* is the "harmful practice whereby boys are used by men for entertainment. The boys are made to dance in parties, often dressed in female clothes and subjected to sexual violence." United Nations Assistance Mission in Afghanistan, *Annual Report on Protection of Civilians in Armed Conflict: 2018*, February 2019, p. 63, https://unama.unmissions.org/sites/default/files/afghanistan_protection_of_civilians_annual_report_2018_final_24_feb_2019.pdf (accessed June 9, 2020).

¹¹⁷ Human Rights Watch interview with S.F., Taliban member, Musa Qala, January 29, 2019.

members to police community behavior, while still granting military commanders the powers to stop and beat anyone for offenses, like shaved beards or listening to music.¹¹⁸ In general there is close collaboration between a district's military commanders and the local "Vice and Virtue" staff to carry out inspections and enforce regulations.¹¹⁹

The Taliban appoint local imams to monitor people and report infractions. A former Taliban fighter said:

If someone is not offering prayer, does not come to mosque, shaves his beard, [gets involved with] dog-fighting ... or playing music, then it is the job of the imam of this area to tell [the Vice and Virtue department]. He [the imam of the mosque] is then responsible for reporting on the offenders.¹²⁰

By connecting the imams with the civilian and military staff of the Vice and Virtue commission, the Taliban have established a broader base of informants and those authorized to carry out punishments. According to another former Taliban fighter:

In Musa Qala, in early 2019 the Taliban summoned all mullahs and told them that if in your mosques there is a person that does something which is against Sharia, you [the imams] are responsible. You need to tell us about this person.¹²¹

Restrictions on Women's Dress and Movement

The Taliban leadership is largely from areas of rural Afghanistan where women seldom leave the home. If they need to see a doctor or visit family, they would be accompanied by a male member of the family.¹²²

Taliban authorities in Helmand have pressured minority communities that do not normally observe these customs to prevent women from moving outside their homes. A Taliban commander told Human Rights Watch:

¹¹⁸ Human Rights Watch interview with Y.O., Gereshk, Helmand, March 22, 2019.

¹¹⁹ Human Rights Watch interview with S.F., Gereshk, Helmand, January 29, 2019.

¹²⁰ Human Rights Watch interview with former Taliban fighter, Musa Qala, Helmand, January 29, 2019.

¹²¹ Ibid.

¹²² Neamatollah Nojumi, Dyan Mazurana, Elizabeth Stites, *Life and Security in Rural Afghanistan* (Rowman & Littlefield, 2008), p. 36.

[In Nad-e Ali] there is a village populated by [a certain] tribe. Women in this village do not cover their faces. When the Taliban captured that area, the women still came out of their home and walked around without covering the faces. At that time, a key Taliban commander warned the tribe it would not be allowed for the local women to go outside of the houses, especially not without covering their faces, [and if they did] then [the Taliban] would take action. [So] the women stopped going outside.¹²³

Some local religious leaders have promoted the restriction against women's freedom of movement, saying that women "going out of the house without extreme necessity is *narawa* [forbidden]."¹²⁴ In Helmand the Taliban apply these restrictions on women in all areas under their control, including female teachers, NGOs, or medical staff who come from outside these districts to work. A local resident who is close to the Taliban said that "female doctors who work in clinics in Taliban-controlled areas are not allowed to move around [outside the clinic]."¹²⁵ With these restrictions imposed on all women it has become difficult for clinics in Taliban-controlled areas to recruit qualified staff, thereby depriving local women of access to medical services.

Restrictions on Smartphones, Memory Cards, and Music

In Helmand, the Taliban have prohibited smartphones, they insist, to prevent residents from listening to music and watching videos.¹²⁶ A tribal elder described an incident he witnessed in March 2019:

The Taliban were standing on the main road, conducting searches. M.E., a local resident, was stopped at this search point by the Taliban. He had a smartphone with him and also a WhatsApp application that was active on it. The Taliban not only broke his phone, but also beat him for having a smartphone.¹²⁷

¹²³ Human Rights Watch interview with Q.H., a commander, Gereshk, March 12, 2019.

¹²⁴ Human Rights Watch interview with M.S., Gereshk, Helmand, February 12, 2019.

¹²⁵ Ibid.

¹²⁶ One respondent noted that "Taliban doesn't allow smartphones in our district because they say people watch music videos and other videos prohibited by Islam." Human Rights Watch interview with businessman from Sangin, Helmand, March 18, 2019.

¹²⁷ Human Rights Watch interview with elder, Gereshk, Helmand, February 3, 2019.

Residents of Taliban-held districts in Helmand have said that the Taliban have increasingly been on the lookout for people listening to music and other prohibited things. In early 2019, a Taliban patrol raided a shop in a mobile bazaar in Gereshk district. A young resident said: “They destroyed three computers because of music and movies inside them.... A lot of people no longer bring their computers there fearing the Taliban would destroy them.”¹²⁸

Similarly, cellphone memory cards are also no longer allowed in Helmand province. A resident of Gereshk said that the “Taliban openly announced in mosques that memory cards are banned in their control area [because] the youth listen to music, watch movies and video clips on memory cards in their phones and Mp3 players.”¹²⁹

The ban on memory cards and music is not limited to public use. A businessman from Sangin said that in March 2019 he had guests from Kandahar in his home. “The guests played music on their Mp3 and also smoked hashish. Suddenly, the Taliban showed up; they destroyed our Mp3 and also beat the guests.”¹³⁰ A Gereshk resident said the restrictions had become harsher:

Four years ago, the Taliban did not get upset about listening to music in a room or somewhere far away, but for the last three years, Taliban had become more restrictive on this issue as well as regarding shaving beards, having long hair, playing cards, dogfighting, and having smartphones.¹³¹

In many parts of northern Helmand, the Taliban prohibit possession of televisions. In some cases, the Taliban have made punishments very public, apparently as a way to reinforce their authority, even for relatively minor infractions. A youth from Helmand described an incident he witnessed:

The Taliban get very upset if they find a TV in your house. One hundred percent they would beat someone if they caught that person with a television and dish.... One of our neighbors had a TV along with a dish

¹²⁸ Human Rights Watch interview with young man, Gereshk, Helmand, February 4, 2019.

¹²⁹ Human Rights Watch interview young man, Gereshk, Helmand, February 4, 2019.

¹³⁰ Human Rights Watch interview with businessman from Sangin, Helmand, March 18, 2019.

¹³¹ Human Rights Watch interview with elder, Gereshk, Helmand, February 3, 2019.

antenna....The Taliban then took our neighbor to the side of the river, where the Taliban severely beat him.¹³²

However, in some areas people still secretly watch TV and listen to the radio. For example, because Nad-e Ali district is not far from the provincial capital, Lashkargah, residents are within range of the signal.¹³³

Restrictions Related to Men's Dress Code and Appearance

In Helmand, the Taliban's enforcement of a dress code has reportedly also become stricter in northern districts as their control over the area has expanded. A resident in Gereshk described restrictions on any clothing that resembled clothes worn by government security forces:

Last Eid, the Taliban announced that people should not wear clothes that have embroidery on sleeves and should not wear red hats. During Eid, the Taliban were searching along the main roads looking for violations of these new restrictions. In the Spin Masjid area, the Taliban then started cutting up people's brand-new clothes they had received for Eid, just because of the embroidery on sleeves. The Taliban enforced the ban on red hats because local ANSF [Afghan National Security Forces] and militia used to wear such red hats.¹³⁴

The Taliban also monitor men's beards and have imposed harsh punishments in some cases for violators. A tribal elder from Gereshk described their enforcement of this rule:

Every Wednesday, there is a mobile bazaar by the name of Shana Jama [in Gereshk district]. People from across Helmand come to this bazaar for shopping. This area is under the Taliban control; therefore, most of the time, they put up check post for controlling all the vehicles coming to the mobile bazaar. The Taliban are also looking out for people who have

¹³² Human Rights Watch interview with Y.G., Gereshk, Helmand, March 22, 2019.

¹³³ Obaid Ali, *One Land, Two Rules (3): Delivering public services in insurgency-affected Dasht-e Archi district in Kunduz province*.

¹³⁴ Human Rights Watch interview with young man, Gereshk, Helmand, February 4, 2019. An elder from Gereshk added that "a relative had also been stopped by the Taliban who cut the embroidered sleeves of his new shirt." Human Rights Watch interview with elder, Gereshk, Helmand, February 3, 2019.

[trimmed or] shaved beards. During last week's mobile bazaar, the Taliban found three people with shaved beards from Lashkargah. The Taliban beat them severely in front of the entire crowd.¹³⁵

Another local resident said that the Taliban had stopped him in the Gereshk district.

They asked me in front of everyone to come to them—they called me ‘sister’ because I did not have a beard. They beat me a little and then let me leave. But they warned me to not shave my bread again in order to not get beaten again. They said there would be no excuse or clemency anymore.¹³⁶

Punishing Family Members

As part of their stricter approach to enforcing restrictions in Helmand, the Taliban have also punished family members or other relatives in order to demonstrate their power. This abuse is a form of collective punishment in violation of international law.

Throughout Helmand it is common for extended families to have some relatives working for both the Taliban and the ANSF or other government offices. The Taliban have reportedly become more emboldened in their use of relatives to put pressure on families to leave the ANSF, to stop work for the government or NGOs and even for women to give up their jobs as teachers or healthcare workers. The Taliban often pressure or punish a relative or fellow tribesman if they cannot reach the offender directly.¹³⁷ Infractions include having a relative working for the Afghan government who is beyond the reach of the Taliban, but whose relatives are not. One elder gave an example:

In Deh Adam Khan [Gereshk district], there was a man, M.S., whose sister was living in Gereshk [center]. The sister’s sons were with the police. The Taliban found out about and forced M.S. to leave Deh Adam Khan within three days. They said, ‘You are police’s spy.’¹³⁸

M.S. has not been able to return. Another resident said:

¹³⁵ Human Rights Watch interview with elder, Gereshk, Helmand, February 3, 2019.

¹³⁶ Human Rights Watch interview with resident of Gereshk, February 5, 2019.

¹³⁷ Human Rights Watch interview with elder and former Taliban commander, Gereshk, Helmand, February 5, 2019.

¹³⁸ Human Rights Watch interview, elder and former Jihadi commander, Gereshk, Helmand, February 5, 2019.

Those who are in Taliban-controlled areas cannot openly say that their friends and relatives are in the government [or working] as [Afghan army] soldiers or police. Nor can [someone] whose relatives are in the police go to see them ... they would have to come secretly to meet their relatives. If the Taliban finds out that someone went ... and had *baa-n-daar* [meeting or hanging out] with soldiers or went there to check on them, then that person is in trouble and the Taliban would not let go of this person.¹³⁹

Relations with Aid Organizations

As the Taliban have increasingly sought to present themselves as a government, they have increasingly overseen education, health, and other services and interact with aid organizations.¹⁴⁰ However, residents in Helmand describe continuing threats by the Taliban against NGOs, particularly if they receive foreign aid or are involved in government contracts in other parts of the country. The Taliban sometimes block organizations from operating by claiming they are gathering intelligence to be used against them. In addition, when the Taliban request humanitarian aid to be delivered to areas under their control, they place restrictions on the organizations in order to monitor and control their activities.

Demining organizations have been a particular target of threats because the work involves removing Taliban-planted improvised explosive devices (IEDs).¹⁴¹ A former Taliban commander provided an example:

[Two men] were working for a mining clearing organization [in Gereshk district]. The Taliban sent them a warning to leave the job, or else their safety could not be guaranteed. They both moved their house from Malgir [which is under the Taliban control] to Lashkar Gha and rented a house there. They live there now and continue to work in the mine clearing organization ... but the Taliban have warned them they if they are caught, they will ‘deal with them’ [punish them].¹⁴²

¹³⁹ Human Rights Watch interview, with elder and former Taliban commander, Gereshk, Helmand, February 5, 2019.

¹⁴⁰ Kate Clark and Jelena Bjelica, “One Land, Two Rules (1): Service delivery in insurgent-affected areas, an introduction,” December 6, 2018, <https://www.afghanistan-analysts.org/en/reports/economy-development-environment/one-land-two-rules-1-service-delivery-in-insurgent-affected-areas-an-introduction/> (accessed April 22, 2020).

¹⁴¹ It is not uncommon for the Taliban to threaten demining staff to leave their jobs, as the Taliban are also aware that it might be difficult to replace specially trained staff for those positions.

¹⁴² Human Rights Watch interview with an elder and former Taliban commander, Gereshk, Helmand, February 5, 2019.

The Taliban have also carried out abductions of humanitarian workers, deminers, and healthcare workers. For example, on September 14, 2019, in Samangan province, a group of armed Taliban fighters abducted five local staff members of an international demining agency. They released them on September 30. In another incident on October 16, 2019, in Daikundi province, the Taliban abducted two male polio vaccinators and then released them three days later following the mediation of community elders.¹⁴³

Vice and Virtue and Other Restrictions in Kunduz

When the Taliban first re-emerged as a significant force in Kunduz province around 2008, they promulgated a number of wide-ranging restrictions in areas under their control. These included prohibiting any cooperation with Afghan government officials, international forces, and even development organizations. At the same time, they were more lenient on social restrictions, such as listening to music, having a television and smartphones, and shaving beards. If these behaviors were done quietly and out of sight, the Taliban would often ignore them. That has changed as the Taliban's control over Kunduz has grown.

The Taliban in Kunduz have gradually implemented successive waves of restrictions on local communities in proportion to their level of control and the community's capacity to resist. After 2015, when the Taliban gained substantial control in many Kunduz districts, the Taliban expanded these restrictions. Some were aimed at gaining community support by targeting criminal behavior such as bacha bazi and thereby providing justice for victims, which the government had largely failed to do, while also inspiring fear, since punishments were often brutal and swift. They increased the number of restrictions and created a more systematic way to define policies and punishments, and police the community. This effort was aimed at reducing differences between districts and commanders, as well as delineating responsibilities. According to a Chara Dara resident:

If the [Taliban] military comes across a place where they see something against Sharia, they can stop it but they cannot beat [or punish] people, because that is the job of the vice and virtue [department]. The military personal can let the shadow Taliban governor or their line of command

¹⁴³ United Nations Assistance Mission in Afghanistan, *Afghanistan: Protection of Civilians in Armed Conflict 2019*, https://unama.unmissions.org/sites/default/files/afghanistan_protection_of_civilians_annual_report_2019_-_22_february.pdf, p. 49 (accessed February 20, 2020).

know about any situation they encounter and then implement whatever instruction they receive.¹⁴⁴

The Taliban officially established a vice and virtue department in Kunduz province in late 2017, although before that Taliban members were responsible for enforcing restrictions and punishments.¹⁴⁵ A former member of the Vice and Virtue department in Kunduz explained that the job entailed:

Going to mosques to talk to imams and to also preach to locals about offering prayer on time and not do things that are against Sharia.... the Taliban will beat people if they would find them doing things against Sharia.... no permission from top officials is needed because this is our job—to preach Sharia and bring people to Sharia and punish those who do not obey Sharia.¹⁴⁶

According to an elder from Dasht-e Archi, there was no negotiating over punishments: “If one argued with Taliban over something they had banned and one was guilty of breaking the rules then they would beat the person very badly.”¹⁴⁷

The most common restrictions include a curfew starting at 9 p.m.; no smoking of cigarettes; no use of Salaam sim-cards (a government-owned small radius telecommunication network); no shaving of beards or having long hair for men; and a ban on television.¹⁴⁸ A local elder added that neglecting mandatory attendance at prayer, playing of music, and anything “prohibited by Sharia” was banned.¹⁴⁹

¹⁴⁴ Human Rights Watch interview with resident of Chara Dara. The Afghan Local Police were notorious for abuses in Kunduz, and the Taliban wanted to establish separate areas of responsibility between their military and the police operations of the vice and virtue department.

¹⁴⁵ Human Rights Watch interview with a former Vice and Virtue Taliban official, Kunduz, April 6, 2019.

¹⁴⁶ Ibid..

¹⁴⁷ Ibid..

¹⁴⁸ Ibid.

¹⁴⁹ Human Rights Watch interview with, elder, Dasht-e Archi, Kunduz, April 9, 2019.

There is also no possibility of negotiating over “tax” increases. As of 2019, the Taliban had also increased their collection of taxes in Kunduz, taking roughly 10 percent of farmers’ harvests.¹⁵⁰ An elder from Chahar Dara said:

In the past, they would only take one or two bags ... and leave the rest, but now they take 10 percent of everything now. It was only wheat [before] but now they levy tax on watermelon, tomatoes, and everything else that people grow in the district. The Taliban have told the elders not to complain. They say, ‘If you do it again, we will put you in a container and teach you a lesson.’¹⁵¹

The ban on relations between residents and the Afghan government and most foreigners is at the core of the Taliban’s restrictions on communities. After the Taliban re-emerged in Kunduz they banned all relations, especially employment, with the Afghan government. A former civil servant described a threat he had received:

A Taliban member knocked on my door. As I came out, he beat with me the butt of his AK-47 [assault rifle]. He asked me why am I serving the infidels. I said that I distribute *tazkiras* [national identity documents] to everyone including the Taliban. He continued to beat me until another Taliban fighter saved me. He said being a *tazkira* distributor was okay with them. After a while I left the job because the Taliban became stricter and also prohibited *tazkira* distributors.¹⁵²

Dress Code, Appearance, and Attendance at Mosques

Kunduz residents expressed concern to Human Rights Watch about the presence of the Vice and Virtue department, fearing more restrictions on communities, including a stricter dress code.¹⁵³ Virtually all women in Kunduz wear the hijab (generally a head scarf) in Taliban-controlled areas of Kunduz, and it is common in government-held areas of Kunduz as well. Local social norms do not keep women from leaving their homes. Unlike Helmand,

¹⁵⁰ While the Taliban have collected taxes on opium and other crops in the south for many years, they previously did not have sufficient control in Kunduz province to do so.

¹⁵¹ Human Rights Watch interview with elder, Chahar Dara, Kunduz, April 8, 2019.

¹⁵² Human Rights Watch interview with former civilian government official, Dasht-e Archi, Kunduz, April 8, 2019.

¹⁵³ Human Rights Watch interviews with residents of Dasht-e Archi, Kunduz, April 8-9, 2019.

in Kunduz the Taliban have not consistently monitored men's beards and hair, with some commanders taking a stance on these issues while others do not.¹⁵⁴ Many Taliban officials have largely acceded to local customs in Kunduz.¹⁵⁵ However, a Taliban judge told Human Rights Watch that: "The Vice and Virtue department representatives come to the Turkman bazaar ... where they stop and detain people who have shaved their beards....The Taliban detain any violators for an hour or two."¹⁵⁶

The Taliban have also become stricter about attendance in mosques at prayer times in some areas, tracking down and questioning those who do not show up.¹⁵⁷ Local mullahs keep attendance sheets, according to an imam: "Now the majority of the community attend [for morning and evening prayer] because people are afraid of the Taliban."¹⁵⁸

Television, Smartphones, Sim Cards, and Music

Starting in early 2016, the Taliban in Kunduz began restricting television and in 2017 they announced a complete ban in areas under their control. Despite the ban, local residents have continued to watch televisions in secret.¹⁵⁹ Taliban officials have also searched people at checkpoints and beaten those in possession of Salaam SIM cards (a government-run telecommunications network). The Taliban have also banned playing music, but as with television, enforcement has been gradual. Warnings are issued but then escalate into punishment, which in some cases have included severe beatings.¹⁶⁰

Vice and Virtue and Other Restrictions in Wardak

In Wardak province, both military and civilian Taliban officials play a role in vice and virtue policing, including questioning, beating and even detaining people for offenses like

¹⁵⁴ Human Rights Watch interview with former Vice and Virtue official, Kunduz, April 6, 2019; Human Rights Watch interview with teacher, Dasht-e Archi, Kunduz, May 15, 2019.

¹⁵⁵ According to one resident, most men in Kunduz trim their beards. Human Rights Watch interview with a pro-Taliban religious scholar, Chahar Dara, Kunduz, May 16, 2019.

¹⁵⁶ Human Rights Watch interview with a Taliban judge, Kunduz, April 10, 2019.

¹⁵⁷ Human Rights Watch interview with former member of the commission, Chahar Dara, Kunduz, April 6, 2019.

¹⁵⁸ Human Rights Watch interview with imam from Chahar Dara, Kunduz, 8 April 2019; for midday prayers attendance is not mandatory because people are in their fields. Human Rights Watch interview with H.A., an elder, Dasht-e Archi, Kunduz, April 9, 2019.

¹⁵⁹ Interview with H.R., an elder, Dasht-e Archi, Kunduz, April 10, 2019. In the early years of the insurgency in Kunduz, the Taliban did not ban the possession of television sets and dish antennas. Human Rights Watch interview with F.R., Dasht-e Archi, Kunduz, May 10, 2019.

¹⁶⁰ Human Rights Watch interview with community elder, Chahar Dara, Kunduz, April 8, 2019.

haircuts deemed unacceptable and shaving beards off. Wardak's Vice and Virtue police are less visible than in Helmand and Kunduz and implementation of restrictions is more uneven, possibly because the Taliban's control over the province is less secure.¹⁶¹

Restrictions for Women

In Wardak, unlike Helmand, women in rural areas generally travel outside their homes to work in the fields, fetch water, and wash clothes. However, in some villages, where there is a *kariz* (a traditional underground water system, well, or hand pump), the Taliban have told local elders to build walls around them. Said a local businessman:

In the Shash Kala, people do not have wells by their homes, so the women get water from the nearby kariz and also wash clothes there. The Taliban said that no one should see these women and therefore ordered the community to build walls and made it clear that men are not allowed around those places.¹⁶²

Although the Taliban have not explicitly prohibited women's movement outside the home, residents have said that the general understanding is that some activities are restricted. Women now fear going to the bazaar without a male relative to accompany them.¹⁶³ For visits to clinics the Taliban have said that women "should not come alone, they should have a man accompanying them."¹⁶⁴

Some districts have also seen new restrictions. In Nerkh, Taliban officials stipulated that women must wear burqas, not just the black hijab customarily worn in the district.¹⁶⁵ In Jalrez district, the Taliban first prohibited girls' classes after sixth grade, then imposed other restrictions.¹⁶⁶ In August-September 2019, the Taliban announced in local mosques that local women should wear blue burqas instead of hijabs and not wear sandals that expose the feet. Enforcement has been weak, however. One Jalrez resident said:

¹⁶¹ Human Rights Watch interview with university student, Chak District, Maidan Wardak province, July 13, 2019.

¹⁶² Human Rights Watch interview with businessman, Sayedabad district, Wardak province, October 23, 2019.

¹⁶³ Human Rights Watch interview with religious scholar, Chak district, Maidan Wardak province, June 21, 2019.

¹⁶⁴ Human Rights Watch interview with teacher, Chak district, Maidan Wardak province, June 15, 2019.

¹⁶⁵ Human Rights Watch interview with teacher, Chak district, Maidan Wardak province, June 15, 2019.

¹⁶⁶ Human Rights Watch interview with tribal elder, Jalraiz district, Maidan Wardak province, October 20, 2019.

When my mother heard in August she should wear the burqa she said, ‘I have eye problems and with a burqa I cannot wear glasses.’ So far the Taliban has not come to us to tell us that my mother cannot wear a hijab.¹⁶⁷

Other Restrictions on Dress Code, Beards, Music, and Television

Restrictions on beards vary considerably by districts and even among Taliban officials. A Wardak resident described an incident he witnessed:

The Taliban from the other side of the province stop and ask you, ‘Why have you shaved your beard? Why do you have this kind of haircut?’ The Taliban from our side just tell you to correct it but in those areas, where the Taliban are strong, they beat people for shaving their beards or having an unapproved haircut. They beat my two friends during the last Eid ul Adha [August 2019]. He told them having this haircut is not a sin, but the Taliban slapped him and said [the haircut] is copying those of the infidels.¹⁶⁸

By contrast, in Jalrez district the Taliban have taken a tougher position on beards and other aspects of appearance. In August 2019, residents said the Taliban had stopped them at check posts and warned them about “foreign-looking” haircuts and beards that were too short.¹⁶⁹

The Taliban appear to be particularly strict with teachers, warning them to “fix your character [according to Sharia] and appearance [beard, hair, and dress].”¹⁷⁰ The restriction against wearing Western-style attire in public appears to be directed primarily against men. Prohibitions on other clothes, including caps and hats, are related to those associated with particular mujahidin factions.¹⁷¹ Displaying the Afghan flag, including clothing resembling the flag, is strictly banned and punished in Taliban-controlled areas.¹⁷²

¹⁶⁷ Human Rights Watch interview with tribal elder, Jalraiz district, Maidan Wardak province, October 20, 2019.

¹⁶⁸ Human Rights Watch interview with teacher, Chak district, Maidan Wardak province, August 13, 2019.

¹⁶⁹ Human Rights Watch interview with tribal elder, Jalraiz district, Maidan Wardak province, October 20, 2019.

¹⁷⁰ Human Rights Watch interview with teacher, Chak district, Maidan Wardak province, October 27, 2019.

¹⁷¹ Human Rights Watch interview with elder, Chak district, Maidan Wardak province, July 24, 2019.

¹⁷² In August 2019, the Taliban beat D., a man in Chak district, because he was wearing a scarf that resembled the government of Afghanistan’s flag. Human Rights Watch interview with resident, Chak district, Maidan Wardak province, August 13, 2019.

In Wardak the Taliban have generally not restricted watching television. One resident said, everyone “can see dish antennas on rooftops, but the Taliban do not say anything.”¹⁷³ Although the Taliban attempted to ban smartphones after gaining significant territory in Wardak in 2016, they were unable to implement a ban and focused instead on memory cards. According to local residents, they stop people at check posts and search their phones for music. Over the past couple of years, the Taliban have been checking people’s phones at check posts. According to a tribal elder in Jalrez district, the local Taliban have taken a strict approach against music:

The Taliban don’t allow you to listen to music. They check your phones and even memory cards. They ask for passwords for the phone. If they find any songs, they break the phone and beat the owner. For example, my cousin had his headphones on. From behind a Taliban fighter tapped him on the shoulder and asked him about what he was listening to. My cousin said there is nothing. The Taliban fighter then took the headphones and heard the music. The Taliban fighter did not break his phone, but only broke his memory card, because the Taliban fighter knew his [my cousin’s] father.¹⁷⁴

When I was going to Jaghatu district [of Wardak] [in March-April 2019] the Taliban stopped us and took my phone. They checked the memory where they found a couple of songs. The Taliban told me, ‘Look at your beard and look these songs.’ They broke the memory card because of the songs.¹⁷⁵

A businessman in Sayedabad district explained that the Taliban also prohibit live traditional music at weddings, engagement parties, and other celebrations: “Music is not allowed, not even at wedding parties. Women play *dayereh* [a small frame drum] inside, so that people outside cannot hear it, [thus] the Taliban have not said anything [about this] yet.”¹⁷⁶

¹⁷³ Human Rights Watch interview with teacher, Chak district, Maidan Wardak province, August 13, 2019.

¹⁷⁴ Human Rights Watch interview with tribal elder, Jalraiz district, Maidan Wardak province, October 20, 2019.

¹⁷⁵ Human Rights Watch interview with businessman, Sayedabad district, Wardak province, October 23, 2019.

¹⁷⁶ Human Rights Watch interview with teacher, Chak district, Maidan Wardak province, August 13, 2019.

The Taliban in most districts of Wardak have also imposed restrictions on gatherings, notably *majlas* (nighttime social gatherings), ostensibly to prevent card-playing and other banned games, but also to exert control. Those who disobey risk “getting beaten for ignoring this restriction.”¹⁷⁷

In Wardak, the Taliban have established a system to regulate and collect “taxes” – the Islamic taxes of both *zakat* and *usher*, even in government-held areas.¹⁷⁸ But, as in Kunduz, there is no possibility of negotiating over Taliban-imposed taxes. A local Taliban official said:

The Taliban appointed a responsible person for each area to collect *usher* and *zakat*, with one person being responsible for the whole district. No other person has the right or power to come and collect it. The person who collects issues a small note that certifies that one has paid *usher* to the Taliban.¹⁷⁹

The Taliban “have lists for each village and go from village to village, asking everyone how many apples they are harvesting. The Taliban would warn the farmers not to lie because they ask from other people as well, such as the merchant who buys the apples.”¹⁸⁰ The Taliban also collect taxes from shops, charging 1,000–5,000 afghani [US\$13–\$65] per year for each shop.¹⁸¹

¹⁷⁷ Human Rights Watch interview with religious scholar, Chak district, Maidan Wardak province, June 21, 2019; Human Rights Watch interview with teacher, Chak district, Maidan Wardak province, August 13, 2019.

¹⁷⁸ Zakat and *usher* are Islamic taxes; zakat is levied to provide for the needy, and is a religious obligation for Muslims. Usher is a tax on wealth derived from agriculture.

¹⁷⁹ Human Rights Watch interview with local Taliban, Sayedabad district, Maidan Wardak province, October 15, 2019.

¹⁸⁰ Human Rights Watch interview with tribal elder, Jalraiz district, Maidan Wardak province, October 20, 2019.

¹⁸¹ Human Rights Watch interview with doctor, Chak district, Maidan Wardak province, July 2, 2019.

Accountability: Addressing Community Grievances and Complaints

While the Taliban claim to hold their fighters and senior officials accountable for abuses, officials generally rebuff any criticism of their actions. Residents have expressed fear of retaliation if they complain about the way the Taliban carry out military operations or enforce restrictions. As a result, there are few ways for communities to engage with Taliban officials to register complaints. Taliban officials tend to view criticism as a challenge to their authority and evidence of affiliation with the government. The Taliban also strictly prohibit contacts between residents and Afghan government security forces and officials.

The Taliban system of accountability depends largely on the status and power of the commander in question, with senior leaders determining whether anyone among their ranks will be held accountable, and how. In some cases, residents have raised concerns directly with the Taliban provincial commission or district governor, and in some cases this has led the commission to disarm commanders because of complaints of abusive behavior, or overturn decisions by local commanders who have imposed arbitrary restrictions.¹⁸²

However, pressure from communities often plays little part in determining the outcome of a complaint against frontline commanders.¹⁸³ The senior leadership is highly unlikely to do anything that would antagonize Taliban commanders and fighters deemed essential for the war effort.

Because criticizing the Taliban about military operations that harm communities is risky, residents typically refrain from advocating for their own protection. For example, the Taliban have punished residents who have complained about their forces entering civilians' homes and firing on Afghan government troops from inside. Deploying forces in populated villages without taking all feasible precautions to protect civilians from attack is

¹⁸² Human Rights Watch interview with teacher, Dasht-e Archi, Kunduz, May 15, 2019.

¹⁸³ The commission sometimes rules against local Taliban commanders who have imposed arbitrary restrictions. In 2018, local apple growers in Chak district, Wardak, complained about a restriction against hiring laborers from outside the province to help with the harvest. The commanders had argued that outsiders could be spies, but the commission ruled in favor of the growers. Human Rights Watch interview with an elder, Chak district, Maidan Wardak province, July 24, 2019.

a violation of the laws of war.¹⁸⁴ A Taliban judge in Helmand told Human Rights Watch that residents could not register complaints about this:

In areas of fighting, the [Taliban forces] shoot from people's houses on enemy positions.... No one can complain because no one would listen. Neither the commanders nor the judges would listen.¹⁸⁵

In Wardak, Taliban commanders have punished people who have complained about Taliban fighters entering houses:

In late 2018, my cousin U.G. and M.H. were talking about Taliban fighting from their houses. They said this in front of a mosque with people around. Someone told the Taliban. Soon, a group of Talibs came and took them to a remote area with an empty house. All of the Taliban had covered their faces and then beat my cousin and M.H. badly.¹⁸⁶

When villagers complain about the Taliban putting them at risk, the Taliban commanders on the ground often tell them to make their complaints to the leaders. An elder in Musa Qala said:

If you ask me, the leaders would also side with [the field commanders]. They will tell you that since the Taliban are willing to sacrifice themselves, why can't you leave one house?¹⁸⁷

Taliban commanders have not been reprimanded for causing civilian harm from IEDs. At most, local communities may receive a warning to avoid a certain area. According to residents in Gereshk, Helmand, the Taliban have reportedly increased efforts to let local residents know which roads they can safely use. However, a local businessman

¹⁸⁴ International Committee of the Red Cross, *Customary International Humanitarian Law* (Cambridge: Cambridge University Press, 2005), rules 22 to 24.

¹⁸⁵ Human Rights Watch interview with judge, Kajaki, Helmand province, March 25, 2019.

¹⁸⁶ Human Rights Watch interview with student, Sayedabad district, Maidan Wardak province, October 22, 2019.

¹⁸⁷ Human Rights Watch interview with former Taliban fighter, Musa Qala, Helmand province, January 29, 2019.

complained that “when [the Taliban] hide IEDs, they tell you not to go there, but when we plead with them not to place IEDs because we use the road, they do not listen to us.”¹⁸⁸

In April 2019, Taliban officials told Human Rights Watch that they had appointed representatives in each province to investigate allegations of civilian casualties and other complaints by civilians. They said they had installed “complaint boxes” in every district for people to use anonymously and had acted on complaints that roadside IEDs were impeding travel and hurting farmers and local businesses from reaching markets. They claimed they had removed more than 90 IEDs in Kandahar in response to such complaints.¹⁸⁹

The proximity of Afghan security forces to Taliban forces in frontline areas can heighten the risk to civilians. An elder in Wardak described an encounter that illustrates how local residents get caught between the Taliban and government forces:

In a nearby village, there are [Afghan army] check posts. The Taliban accused me of providing food and water to them ... I was afraid. I contacted a friend who is a Taliban commander and he told me to go and tell them very emotionally that I cannot stop giving food and water because I am afraid of [the Afghan security forces]. Despite my explanation, the Taliban commander told me: ‘In the future you must think before providing food, tea and water. You do not have the right to complain—if you do this again you will be punished.’¹⁹⁰

The Taliban threatens local residents who provide any type of support to the Afghan government. At the same time, the Taliban use threats and force to demand food from local residents. A teacher in Chak district said that in some areas the Taliban’s provincial and district commissions have established a system:

Each house is forced to provide food when it is their turn. You cannot complain to anyone. The commission, which is the oversight body for any

¹⁸⁸ Human Rights Watch interview with businessman, Gereshk, Helmand province, January 29, 2019.

¹⁸⁹ Human Rights Watch interview with Taliban delegation in Doha, April 2019. They did not say if the IEDs had been replanted elsewhere.

¹⁹⁰ Human Rights Watch interview with elder, Chak district, Maidan Wardak province, July 24, 2019.

complaints against local commanders, says we must [do it]. We are compelled to, or they would beat us.¹⁹¹

While providing food to strangers and guests is an essential part of local culture, community members say the Taliban has abused this hospitality because, “By force they ask for tea.”¹⁹² An elder said that refusing to give food was dangerous: “If you do not provide food ... they would accuse you of something, then arrest you.”¹⁹³

The Taliban also punish residents for expressing criticism. A university student in Chak district said:

If you say the Taliban are not good people, they [Taliban] will beat you [and] accuse [you] of being government spy. They will detain you until community members and elders come and guarantee that you would not say that again.¹⁹⁴

Another resident described the arrest of a local man for criticizing the Taliban:

First, we heard the Taliban had arrested him for being a spy.... But that the actual reason was he had said critical things about the Taliban.¹⁹⁵

And a shopkeeper said: “If you want to talk about the Taliban’s deficiencies, you can do it in Kabul, but no one can [criticize] the Taliban, even in front of his own brother. The Taliban ... will find out.”¹⁹⁶

¹⁹¹ Human Rights Watch interview with teacher, Chak district, Maidan Wardak province, August 13, 2019.

¹⁹² Human Rights Watch interview with university student, Chak district, Maidan Wardak province, July 17, 2019.

¹⁹³ Human Rights Watch interview with an elder, Chak district, Maidan Wardak province, July 24, 2019.

¹⁹⁴ Human Rights Watch interview with university student, Chak district, Maidan Wardak province, July 13, 2019.

¹⁹⁵ Human Rights Watch interview with a tribal elder, Jalraiz district, Maidan Wardak province, October 25, 2019.

¹⁹⁶ Human Rights Watch interview with shopkeeper, Chak district, Maidan Wardak province, September 4, 2019.

Civil and Criminal Justice

Since 2008, the Taliban have established courts in Kandahar, Helmand, Herat, and other provinces, often overtaking or co-opting customary dispute-resolution mechanisms. The Taliban still allow traditional dispute resolution, so long as the elders in the community support them.¹⁹⁷

The Taliban's judicial system has relied largely on local religious scholars to adjudicate civil cases, such as land disputes. As Taliban courts emerged in contested areas, they gained a reputation for swift decisions and incorruptibility compared to the Afghan government's judiciary, where corruption is rife and cases have often languished for years.¹⁹⁸

Residents in Taliban-held areas do not have a choice between Taliban and government courts. According to a Taliban judge, as the Taliban have consolidated control they have also prohibited residents from using government courts:

All the disputes go to the Taliban. People do not have other options. Either solve your problem [yourself] or go to the Taliban. People cannot go to government or even elders for dispute resolution because the Taliban do not allow them to.¹⁹⁹

There are several levels of Taliban courts, from the district-level to provincial, as well as a *tamiz* court, an appeals court roughly equivalent to a constitutional court that does not re-examine the facts of a case but only interprets the relevant law. The *tamiz* court is located in Baluchistan, Pakistan.²⁰⁰ Local communities were already familiar with the Taliban court system; the Taliban judge said that between 2006 and 2012, residents of Taliban-

¹⁹⁷ See Jami Forbes, "The Significance of Taliban Shari`a Courts in Afghanistan," Combatting Terrorism Center, West Point, May 2013, <https://www.ctc.usma.edu/the-significance-of-taliban-sharia-courts-in-afghanistan/> (accessed April 10, 2020).

¹⁹⁸ Azam Ahmed, "Taliban Justice Gains Favor as Official Afghan Courts Fail," *New York Times*, January 31, 2015, <https://www.nytimes.com/2015/02/01/world/asia/taliban-justice-gains-favor-as-official-afghan-courts-fail.html> (accessed April 25, 2020).

¹⁹⁹ Human Rights Watch interview with Taliban judge, Kajaki, Helmand province, March 25, 2019.

²⁰⁰ Antonio Giustozzi and Adam Baczko, "The Politics of the Taliban's Shadow Judiciary, 2003–2013," *Central Asian Studies*, 1, 2014, pp. 199–224, <https://spire.sciencespo.fr/hdl:/2441/8b60tjcpe8m2pij8uh8oge3h5/resources/2014-baczko-taliban-shadow-judiciary-central-asian-affairs-1-2.pdf> (accessed May 12, 2020).

controlled Helmand communities traveled to Pakistan for adjudication of serious disputes, mainly over land.²⁰¹

The Taliban provincial court in Helmand reportedly handles thousands of cases, both civil and criminal, per month.²⁰² Local Taliban commanders carry out arrests on the orders of the Taliban shadow district governor, provincial governor, district military commission, or the head of the Taliban provincial commission.²⁰³ In frontline areas, commanders have more autonomy to order arrests. Arrests are generally based on complaints from the community or from Taliban commanders identifying misconduct, including infractions like listening to music.

The Taliban justice system is focused on punishment and largely relies on confessions, often obtained by beatings and other forms of torture.²⁰⁴ The swift administration of punishment for major crimes is a way for the Taliban to demonstrate their control and instill fear. Authorities sometimes execute those found guilty of murder within days.²⁰⁵ Corporal punishment for *hudud* crimes, serious offenses under Sharia, appears to be less frequent.²⁰⁶

In a case documented by the UN, on January 19, 2019, Taliban officials in Adraskan district, Herat province, executed a man by hanging after a Taliban shadow court sentenced him to death. He had been convicted of murdering a man to steal his motorbike. The man had been in Taliban custody since early 2018 while his case proceeded through three Taliban courts.²⁰⁷

²⁰¹ Human Rights Watch interview with Taliban judge in Kajaki, Helmand province, March 25, 2019. Since 2012, the Taliban have also occasionally used mobile provincial courts.

²⁰² Ibid.

²⁰³ Human Rights Watch interview with Taliban fighter, Kajaki, Helmand province, March 1, 2019.

²⁰⁴ Human Rights Watch interview with elder in Gereshek, January 31, 2019. Torture and other ill-treatment by non-state armed groups is prohibited by international humanitarian law conventions, notably Common Article 3 to the Geneva Conventions of 1949 and the Second Additional Protocol of 1977 to the Geneva Conventions of 1949 (Protocol II), article 4(2)(a), as well as customary law. See International Committee of the Red Cross, *Customary International Humanitarian Law*, rule 90.

²⁰⁵ Human Rights Watch interview with elder in Musa Qala, January 28, 2019.

²⁰⁶ Human Rights Watch interview with elder in Musa Qala, January 28, 2019.

²⁰⁷ United Nations Assistance Mission in Afghanistan, *Afghanistan: Protection of Civilians in Armed Conflict 2019*, https://unama.unmissions.org/sites/default/files/afghanistan_protection_of_civilians_annual_report_2019_-_22_february.pdf, p. 50. 56 (accessed February 20, 2020).

Under Common Article 3 to the 1949 Geneva Conventions, courts created by a party to the conflict, even if they are not recognized as legitimate by the state, are subject to the requirements for a fair trial.²⁰⁸ Such courts should offer “the essential guarantees of independence and impartiality.” These include: notifying the accused of the charges against them; having rights and means of defense; presumption of innocence; and no compelled self-incrimination.²⁰⁹ No trial should be held if these guarantees cannot be provided.²¹⁰

Political Cases

The Taliban court system deals with local disputes but not with the adjudication of political cases or disputes between commanders. For political cases, such as alleged spying, there are no official courts. Taliban military commanders are authorized to arrest anyone they deem suspicious, in particular persons who are believed to have ties with the Afghan government or are suspected of spying. Close to the front line, in particular areas under threat of airstrikes, commanders are more likely to carry out summary punishments, including executions.

Elders in Musa Qala told Human Rights Watch that Taliban commanders have detained “dozens of people” from the area they accuse of having ties with the government.²¹¹ One elder said that in some cases the bodies of people the Taliban detained have been found, but the fate of others remains unknown:

In a nearby village, there was a farmer living. After local people rumored that he was Daesh [Islamic State] in early 2016 the Taliban arrested him. Since then we do not know where he is. Normally when the Taliban kill someone, they put their bodies close to a road so that their families can come and collect it for burial, but we have not seen his body yet.²¹²

²⁰⁸ Common Article 3 to the Geneva Conventions of 1949, 3(1)(d).

²⁰⁹ Protocol II, article 6.

²¹⁰ See generally, International Committee of the Red Cross, *Commentary of 2016 to Article 3: Conflicts Not of an International Character*, paras. 691-95.

²¹¹ Human Rights Watch interview with elder in Musa Qala, Helmand province, March 1, 2019.

²¹² Human Rights Watch interview with elder in [name of village withheld], January 28, 2019.

A shopkeeper in Gereshk said, “In areas where fighting was going on, from time to time we would find dead bodies of local people we recognized but also of outsiders. We could not say anything against this because the Taliban would kill us too.”²¹³

Among those the Taliban have targeted have been members of government-backed militias like the Sangoryan.²¹⁴ Local residents referred to the Taliban units who carry out these operations as “KhAD,” a reference to the secret police responsible for arrests and torture during the Soviet occupation.²¹⁵

One incident involved Abdul, who had served as a police officer in another province but had returned to his home village in Gereshk during the Eid ceasefire of [June] 2018. Local residents in the village immediately reported his presence to the Taliban, who captured him and took him [to a village in the district]. A witness described what happened:

Abdul was brought by four or five Taliban members to a village, where his hands were tied and he was forced to the ground. One Taliban fighter sat on his head and the other one sat on his legs, and they beat him with cables. His screams could be heard all over the village. They beat him to the point where he lost consciousness twice—dunking him in a water bucket in between. During the beating Abdul shouted, ‘I have left the police, and I will not associate with the police again.’ During the beating, a Taliban member grabbed an AK-47, loaded it, and told Abdul, ‘I will kill you if you do not give a proper confession and now is the time that you pray for yourself.’ Abdul started begging for his life, ‘Do not kill me, I am separated from my father, and I have a wife and child, and there is no one else to take care of them.’ The Taliban laughed at him and through a walkie-talkie a Taliban commander gave the order to kill Abdul.²¹⁶

²¹³ Human Rights Watch interview with shopkeeper in Gereshk, Helmand province, January 29, 2019.

²¹⁴ Human Rights Watch interview with former fighter, Musa Qala, Helmand province, January 29, 2019. The Sangoryan were a special government-backed militia unit meant to blend into areas where the Taliban were active.

²¹⁵ Human Rights Watch interview with former fighter, Musa Qala, Helmand province, January 29, 2019. KhAD (*Khadamat-e Aetla'at-e Dawlati*) was the name of the intelligence agency during the Soviet occupation of Afghanistan whose secret police killed and tortured tens of thousands of Afghans. Afghans also frequently refer to the government’s National Directorate of Security as “KhAD” because it continues to operate with similar methods.

²¹⁶ Human Rights Watch interview with A.W., Gereshk, Helmand province, March 29, 2020.

Abdul begged the witness to release him, but he told him, “The Taliban will not listen to me.” The Taliban then beat Abdul with an AK-47, took him out of the room, and transported him on a motorcycle a little farther to the local hillside. The witness said, “I heard Abdul’s screams, and after some time shots were fired [we knew] Abdul had been killed.” ²¹⁷

The Taliban had three accusations against Abdul: spying for Sangoryan, working with the police in an ambush against the Taliban, and collaborating with other informants against the Taliban. Only the Taliban commander who gave the order and the men who captured him were involved in deciding what to do with Abdul; such a case would not go before a Taliban judge.

In another case of alleged spying, Mir, a resident of Gereshk, was killed because of his family’s association with the Afghan Local Police (ALP), a government-backed militia. Through the first months of 2018, the Taliban had planted roadside IEDs targeting the ALP. As they were from the area, Mir’s relatives frequently discovered the IED locations and would inform their superiors. Because of this, the Taliban suspected Mir of being a government spy. When he learned of this, Mir left the Taliban-controlled area for four months. At the end of Ramadan [mid-June 2018], he decided that it was safe to return to his home village for a few days. The Taliban found out that he had returned and took him into custody. According to a former Taliban fighter who was a witness:

Mir was taken to the Shurakai area north of Gereshk, where he was restrained and beaten for three hours but did not confess. We made him sit in the car and took him to Qala-e-Yagz, a Taliban prison. He was killed during the night and later on his dead body was disposed of in a nearby wheat field. The Taliban told people that Mir had been shot when he tried to escape while being taken to the doctor. ²¹⁸

Although the Taliban apparently accused Mir of being an informant, he appears to have been summarily executed because of his family affiliation.

²¹⁷ Ibid.

²¹⁸ Human Rights Watch interview with U.W., resident of Gereshk, Helmand province, January 29, 2019.

Non-Political Cases

The Taliban's district governor is the focal point for local communities to register civil complaints and criminal charges. After accepting a complaint, the district governor has the authority to order an arrest and refer the case to a judge. However, some district governors act as judges themselves, giving them more authority in the disposition of cases.

While the Taliban justice system is reputed to be less corrupt than the government system, many commanders continue to play a role in influencing non-political and civil cases. Residents in Kajaki said that commanders sometimes apply pressure on judges for a favorable decision and that "some cases come quickly before the judge because one of the Taliban commanders asked him to look into them,"²¹⁹ and that "judges address the commander's or their relatives' cases before others."²²⁰

Besides asking for preferential treatment, some commanders have pushed to get cases moved from one judge or court to another to get a more favorable outcome; moving a case to a different judge or court is almost impossible for civilians. One local elder cited as an example the case of Taliban commander T.L., who reportedly received a bribe in exchange for interceding with the judge to get a suspect released. "T.L. used to have nothing," the elder said. "Now he owns motorbikes and cars."²²¹

Prisons

The Taliban run dozens of unacknowledged prisons for people detained as spies and for abducted government officials in areas under their control. Prisoners may be held for extended periods of time, which are not disclosed at the time of sentencing. Residents and former prisoners said that uncertainty about the length of the sentence is part of the punishment. One former prisoner said:

The judge did not tell me how long I would be in prison. I spent six months in their prison in Helmand province. I saw people in the prison who had spent far more time there and still did not know when they would be released.²²²

²¹⁹ Human Rights Watch interview with S.Q., teacher, Kajaki, Helmand province, March 15, 2019.

²²⁰ Human Rights Watch interview with T.F., Kajaki, Helmand province, March 1, 2019.

²²¹ Human Rights Watch interview with elder in Musa Qala, Helmand province, January 28, 2019.

²²² Human Rights Watch interview with former prisoner, Helmand province, January 29, 2019.

In May 2019, the UN expressed concern about ill-treatment of detainees in Taliban prisons, saying that prisoners who had been freed during government security force operations gave “credible accounts of Taliban subjecting detainees to ill-treatment and actions that may amount to torture, as well as serious allegations that some detainees were killed. Reports also indicate that detainees were held in poor conditions and made to do forced labour.”²²³

The Taliban maintain a women’s prison in Kajaki district in Helmand. However, when the courts convict women they often return them to the custody of their families rather than sentence them to prison.²²⁴

Women and the Judicial System

Women have access to Taliban courts, and either represent themselves or have male family members represent them. In Helmand, for example, some women have appeared in Taliban courts, while others do not do so because of family pressure not to be seen outside the home. Women who approach the courts are most often older women who have achieved a certain status within the family and community that allows them to leave their home without fear of disapproval, or women who have nobody to represent them. In some frontline areas, the Taliban have specified that women should send male representatives instead of appearing in court themselves.²²⁵

The most frequent disputes women bring to the courts are related to property, inheritance rights, and divorce. In a 2019 study of Taliban courts, women who were interviewed in Herat and Faryab (and who said they had achieved a satisfactory outcome) said that they believed they would not have achieved justice from state or customary mechanisms.²²⁶

²²³ United Nations Assistance Mission in Afghanistan, “Grave concern about accounts of Taliban ill-treatment of detainees,” May 26, 2019, <https://unama.unmissions.org/un-grave-concern-about-accounts-taliban-ill-treatment-detainees> (accessed April 15, 2020).

²²⁴ At the time of our research it reportedly held two prisoners. Human Rights Watch interview with Z.K., a fighter, Kajaki, Helmand province, February 6, 2019.

²²⁵ Human Rights Watch interview, elder, Gereshk district, January 31, 2019.

²²⁶ Ashley Jackson and Florian Weigand, “Rebel rule of law Taliban courts in the west and north-west of Afghanistan,” Overseas Development Institute, May 2020, <https://www.odi.org/publications/16914-rebel-rule-law-taliban-courts-west-and-north-west-afghanistan> (accessed May 28, 2020). The report noted that the fact that divorces were granted “‘according to sharia’ appeared to make divorce more acceptable and less shameful in these women’s views compared to a divorce pursued through the state courts.” Ibid., p. 7.

Taliban courts also hear a small number of domestic violence cases, but generally defer to local customs and pressure the parties to resolve such disputes at home.²²⁷ This approach mirrors the deficiencies of government courts that press women to pursue mediation within the family rather than prosecution, an approach that leaves women and girls with no recourse but to “forgive” their abusers and continue to live in the same household and, often, continue suffering violence.²²⁸ As a Helmand resident observed, it is unlikely that “the Taliban would arrest someone who has beaten his wife or any other female member of the house.”²²⁹ In such cases, the Taliban district governor would normally press the relatives to resolve the problem in the home, and for the woman to drop any complaint.²³⁰

Taliban courts have also imposed harsh punishments for “moral crimes,” including *zina*, the offense of sexual intercourse by two individuals who are not married to each other. The vagueness inherent in allegations of *zina* makes it easy for a husband or father angered by a woman or girl fleeing from home to allege that she has committed or intended to commit *zina*, especially if she was in the presence of a man who is not a relative. In such cases, the Taliban have sentenced the accused to cruel punishments that include lashing and, in some cases, execution.

The UN documented three cases in which Taliban courts sentenced women to lashing for committing adultery or having “immoral relationships” with men.²³¹ In a November 2019 case in Kohistan, Faryab, Taliban officials charged a man and woman with “elopement” after the woman fled from an abusive situation in her home. According to the UN, the woman’s husband had forced her out of their home after he married a second wife. A *Pajhwok* media report claimed she was fleeing domestic violence and had sought the assistance of another man to appeal to the Taliban district authorities.²³² The Taliban

²²⁷ At the time of our research it reportedly held two prisoners. Human Rights Watch interview with Zakir, Taliban fighter, Kajaki, Helmand, February 6, 2019

²²⁸ United Nations Assistance Mission in Afghanistan, “Injustice and Impunity Mediation of Criminal Offences of Violence against Women,” May 2018, https://unama.unmissions.org/sites/default/files/unama_ohchr_evaw_report_2018_injustice_and_impunity_29_may_2018.pdf (accessed May 28, 2020).

²²⁹ Human Rights Watch interview with a female resident of Kajaki, Helmand province, February 6, 2019.

²³⁰ Ibid.

²³¹ United Nations Assistance Mission in Afghanistan, *Afghanistan: Protection of Civilians in Armed Conflict 2019*, https://unama.unmissions.org/sites/default/files/afghanistan_protection_of_civilians_annual_report_2019_-_22_february.pdf, p. 19 (accessed February 20, 2020).

²³² “Woman shot dead in Faryab over alleged elopement,” *Pajhwok*, November 22, 2019, <https://www.pajhwok.com/en/2019/11/22/woman-shot-dead-fayab-over-alleged-elopement> (accessed May 28, 2020).

arrested the man and woman and the court sentenced her to death. According to one villager, her father and brother, who were Taliban members, carried out the sentence, fatally shooting her.²³³ The involvement of the woman's family members in the killing makes it likely this was a so-called honor killing—murder of women by their own families—sanctioned by the Taliban. The Taliban sentenced the man whom she had asked for help to 40 lashes.²³⁴

²³³ "Woman shot dead in Faryab over alleged elopement," *Pajhwok*, November 22, 2019, <https://www.pajhwok.com/en/2019/11/22/woman-shot-dead-fayab-over-alleged-elopement> (accessed May 28, 2020).

²³⁴ According to UNAMA, the woman had been evicted from her home after her husband took a second wife. Accompanied by another man, she had sought a meeting with district officials to seek justice against her husband. Taliban officials arrested her and the man accompanying her. After the hearing, the man was sentenced to 40 lashes. After the woman's father gave his approval, the woman was executed. United Nations Assistance Mission in Afghanistan, *Afghanistan: Protection of Civilians in Armed Conflict 2019*, https://unama.unmissions.org/sites/default/files/afghanistan_protection_of_civilians_annual_report_2019_-_22_february.pdf, p. 19 (accessed February 20, 2020).

Recommendations

To the Taliban Leadership:

On Education

- Uphold the right of girls and boys to education in all areas through secondary level and higher education, including college or university, and issue clear orders to all commanders not to obstruct the functioning of schools.
- Issue orders that fighters are to avoid occupying or otherwise using schools for military purposes.
- Prohibit all attacks on schools unless they are currently being used for military purposes. Teachers are civilians not subject to attacks, threats, or detention.
- Work with donors and community-based education providers to expand community-based schools in all areas and promote these schools in communities where families resist sending children, especially girls, to school.

On Protecting Civilians

- Take all necessary measures to protect civilians under Taliban control from the effects of attacks. Avoid deploying, to the extent feasible, within densely populated areas.
- Establish comprehensive measures for residents to register complaints (beyond complaint boxes) and widely publicize these. Ensure that complainants can use them without fear of punishment.

On Social Restrictions

- Issue clear orders that women may travel without a male family member and ensure protection for female health workers to travel outside clinics to visit women who may be unwilling to leave their homes.
- Cease all threats and attacks on the media.
- Abolish restrictions on smartphone use and access to the internet and television.
- Cease all acts of intimidation, harassment, and summary punishment of residents who have criticized Taliban policies.

- End all summary punishments for people who have violated local regulations regarding dress and appearance, playing of music, and other behavior that is protected by international human rights standards.
- Respect the rights of communities to observe diverse practices with respect to attire, music, and other social activities.

On Detentions and Summary Punishments

- Release all prisoners held for the peaceful exercise of their basic rights, including the rights to expression and assembly.
- Ensure that all detainees and prisoners are treated humanely and provided adequate food and medical care.
- Halt the use of beating and other forms of torture or ill-treatment to extract confessions or inflict punishment.
- End the use of indefinite imprisonment.

To the Islamic Republic of Afghanistan and Taliban Regarding Peace Talks:

- Preserve all rights protections enumerated in the Afghan Constitution, including but not limited to the provisions of article 22, which states that men and women “have equal rights and duties before the law,” article 44 on women’s right to education, and article 48 on the right of all citizens to work.
- Agree to the participation of women, rights activists, civil society representatives, media associations, and constitutional law experts in the thematic working groups at the negotiations.
- Agree to a meaningful role in the negotiations for victims and for victims’ representatives to address the negotiators.

To the UN and Governments Supporting the Intra-Afghan Talks:

- Advocate forcefully that all parties preserve rights protections as provided for in the constitution and laws of the Islamic Republic of Afghanistan.
- Do not endorse any agreement that would undermine fundamental rights under international law.
- Ensure that the negotiating process and structure of the talks allows for ample time and space to discuss rights issues and involves consultations with a broad range of Afghans, including victims and civil society representatives.

- Encourage and support the participation of rights activists, civil society representatives, media associations, and constitutional law experts in the thematic working groups at the negotiations.
- Encourage and provide necessary financial support for victims to play a meaningful role in the negotiations and for victims' representatives to address the negotiators.
- Urge negotiators to avoid postponing critical decisions on protecting human rights for the sake of expediency in reaching a hasty settlement.
- Draw on civil society representatives and local expertise to inform thematic structures and working groups on key constitutional issues.

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Human Rights Watch wishes to thank those who agreed to be interviewed in Afghanistan. In deference to their concerns, we have honored their requests for anonymity.

Appendix I: Questions from Human Rights Watch to the Taliban (Islamic Emirate of Afghanistan or IEA)

Education:

We found significant variations in implementing the official IEA policy on education. Your education officials have said that the differences in access to education between districts and provinces are due to security and to the varying levels of acceptance of girls' education within the communities themselves.

- If communities do not demand education, the policy on allowing girls' and women's education is not enforced. Is that correct?
- Are there disagreements about girls' education in the IEA leadership? For example, we heard in some places that girls can only go to school if all of the staff are female, including guards and cleaners. Is this the official policy?
- There seem to be differences even in the same or nearby districts. For example, we are aware of the fact that girls are studying in district centers in Kunduz, but we were also informed that some girls' schools and also literacy classes in Dasht-e Archi were closed. What is the reason for that?
- Can you also clarify if young women are allowed to attend Kunduz University from districts in Kunduz?
- We also understand that there have been new girls' madrassas established in Naw Abad, Kunduz. What curriculum is taught in the madrassas?
- In Helmand, can local Taliban officials make decisions about education policy that are different from the official policy?
- In Gereshk we were told by education officials that until there is peace, girls should not go to school. Is this your official policy in Helmand? In order for there to be girls' schools, do communities have to first ask for girls' education? If people

believe it is not possible how would they ask? Are NGO education programs allowed in Helmand?

Community Restrictions

- Is there a department of *al-Amr bi al-Ma'ruf wa al-Nahi `an al-Munkir* (vice and virtue)?
- Are these kinds of restrictions and their enforcement by officials compulsory for all communities?
- What is the official IEA policy on smartphone use and televisions? In some districts we have been told that they were not allowed. We are concerned that people have access to information, for which access to the internet, television, radio, etc. is essential.
- We have been informed that the IEA would place no restrictions on the media except that they respect Islamic values. Would the IEA accept reporting that is critical of IEA governance and policies?
- On dress code, hijab, and women's ability to move outside the home, people in some communities have said that they were told they had to adopt certain practices (a certain kind of hijab or other clothing) that was different from what they had normally done. As one example, in Jalrez district of Wardak, the women were told to wear a different hijab than the one they traditionally wore. Is it possible within your policies to allow for minority communities to follow their own practices?
- Regarding restrictions on women moving outside the home: we are very concerned about how these restrictions might affect access to health care for women, especially if female medical workers find it difficult to move around outside their clinics, and if this makes it difficult to recruit qualified staff. We are also concerned about whether local women have access to health services, since they also cannot move outside the home without a male relative. Can you clarify your policy on this?

Infractions and punishments for contact with the Afghan government

- In many provinces, including Helmand, Wardak, Kunduz, and Logar, we have heard that having contact with anyone in the Afghan government is strictly prohibited, and that family members of people working in the Afghan government or security forces may be punished severely. Is that IEA policy? If so, does it apply even to teachers and medical personnel?
- Are there trial procedures for persons accused of having contact with the government? Who presides and what legal protections do the accused have?

Appendix II: Response from the Islamic Emirate of Afghanistan (IEA) to Human Rights Watch (English translation by Human Rights Watch)

Thank you for sharing your questions with us in preparing the report. The answers to your questions are as following:

Question: One of your question was that “we surveyed the education system in some districts of Helmand, Wardak, and Kunduz provinces and in these three provinces we found significant differences in implementing the official policy of Islamic Emirate of Afghanistan on education.” You also stated that “if community does not ask for education, then the policy (allowing education for women and girls) will not be enforced, is that correct?

Answer: The IEA policy in regards to education is the same for the entire country and there is no difference in provinces. However, considering the security situation in some provinces, districts, and villages; there will be no opportunity in implementing the policy and therefore, sometimes a difference in enforcing policy can be observed between different areas. Last year we also stated during our meeting with you that in some areas looking at difficulties [challenges] some communities hesitate to send their children to schools. Furthermore, we encourage them and try to provide [education opportunity] for them, but if despite all this they still have no interest in [receiving education], then we cannot force people to do so, because safeguarding life has precedence over education.

Question: You’ve asked that there are differences among IEA leadership in regards to girl’s education.

Answer: There is no difference in regards to policy among IEA leadership and boys and girls are both allowed education according to Sharia and Afghan traditions.

Question: It seems that there are differences in even similar or nearby districts...

Answer: There is no difference in the policy. But, as stated earlier, considering the security situation in some areas, sometimes the opportunity [option] is not there. And this is not only for girls, in some areas the opportunity [option] is not favorable for boys either.

Question: Could you please also clarify if young women (girls) from Kunduz districts who wish to attend Kunduz university are allowed?

Answer: As stated earlier, they can if they wish to do so according to Sharia and Afghan customs; obviously, security and the area conditions need to be taken into considerations, which at the current time are not favorable.

Question: We also know that new madrassas have been established in Naw Abad, Kunduz. What curriculum is taught in these madrassas?

Answer: IEA has education commission [department] within its organization; this department reviews madrasa curriculums and in areas controlled under the Emirate curriculums approved by the Emirate are thought.

Question: Can local Taliban officials in Helmand decide on education policy that could be different than the official policy?

Answer: As stated earlier, Emirate has one policy in regards to education and one department is in charge of that. Nonetheless, in some areas delay in the implementation could depend on the area conditions; and that too is coordinated with the Emirate leadership.

Question: You've asked about Gresh; in there you were told "if there is no security, girls should not attend school."

Answer: The answer to your question was provided in other question and that is: if there is no security, and people's life, dignity, and property are not secure; then people will not feel comfortable with [attending] school; not only girls, but boys feel the same. In regards to "community will need to demand girl's education"; in this regard [the answer is]: Emirate encourages community toward education and without any means facilitates the opportunity for them; however, if communities don't feel comfortable because of security concerns than in such cases Emirate cannot make attending school obligatory on people. If education institutions coordinate with Emirate officials and follow the Emirate guidelines, then why shouldn't they be allowed [that should not be a problem.]

Question: Is there a "vice and virtue" department?

Answer: In an Islamic society "vice and virtue" is a requirement [necessity]. The "vice and virtue" office exists within the "Guidance and Invitation" commission of Islamic Emirate which is headed by respected Ulema [Islamic scholars]. This office [vice and virtue] with special guidelines encourages communities toward: goodness, growth, brotherhood, removing hatred from each other, and community works.

Question: Are these types of restrictions by authorities necessary for the entire community?

Answer: We don't understand what you mean by "restrictions". If there is a tradition in a society, rather than restriction that [tradition] becomes society's culture and way of life; and people adhere [or follow] tradition voluntarily and without compulsion. But if you mean "enforcing Sharia laws", Islamic Emirate considers that as its priorities.

Question: What is the IE policy on smart phones and televisions? We were told in some districts that they are not allowed...

Answer: There is no restrictions by IE on smart phones, televisions, and radios; nevertheless, we encourage appropriate use of them.

Question: ... Does IE accept critical reports of its government and policies?

Answer: No government allows destructive reports. Nonetheless, if critical reports are constructive, within the Sharia guidelines and Afghani tradition, then why not; [IE] will not only allow such reports, but will also try at its best to bring positive changes based on such report.

Question: You asked about Hijab [woman's covering]

Answer: Hijab is an important edict in Islam and therefore in accordance with Islamic laws IE has directed women to obey covering; no dress code has been specified for them. The incidents that you mentioned, we also investigated those [incidents]. That incident took place because of

someone's personal desires and the issue was resolved after the investigation. And minorities have their rights in Islam; in Afghanistan all their rights will be given to them in accordance with the Sharia.

Question: In regards to women going outside.

Answer: When it comes to women going outside [their houses] Islam has its own principle which is the IE policy as well. In accordance with Islamic laws [and] in light of Islamic jurisprudence, women are permitted a specific travel limitation of a short distance which [means] they [women] can go outside for some essential needs without a male companion [Mahram]. If they [women] are traveling to the travel limits, they will then need a male companion. Nonetheless, if area, surroundings, and time is dangerous, then we recommend that under these unfavorable circumstances women should not go outside the house by themselves.

Question: In regards to association with Kabul establishment...

Answer: This information is inaccurate. Based on the Sharia, one individual cannot be punished for another individual's crime even if the other individual is a close family member of this individual; and this is the IE policy as well.

Question: Are there legal procedures for those people who are associated with the government? Who presides over the proceedings? And does the accused have any legal protections?

Answer: Emirate does not try just anyone associated with the Kabul establishment. Nonetheless, those who are actively fighting against the IE will be tried and there are legal procedures [established] for these individuals. The courts are presided by professional judges and accused have necessary legal protections. Accused can present witnesses in his/her defense and defend him/herself.

Date: 6/2/2020

Appendix III: Letter from the High Office of the Courts of the Afghanistan Islamic Emirate to Human Rights Watch (English translation)

Afghanistan Islamic Emirate (1&2)

High Office of the Courts

Correspondence number 190

Date: 6/2/2020 (3)

The High Office of the Courts of the Islamic Emirate's response to two questions (first: who oversees the courts. Second: is anyone guilty by association with the Kabul establishment?) of the Human Rights Watch organization:

Answer to first question:

All courts of the IE are overseen by High Office of the Courts. High Office of the Courts has one general president and two vice presidents (Courts Guide[Bill] page 5).

Furthermore, High Office of the Courts has executive branch, financial branch, interrogation branch, educational branch, and investigation branch (Courts Guide Article 1).

Answer to second question:

Those who are associated with the Kabul establishment there are two types of associations: one is biological (family) association and second espionage [intelligence] association.

First: Court does not charge or find anyone guilty by family association. So, if an individual's brother or father or another family member works for the Kabul establishment, his brother, son, or family member is not charged or found guilty by association as it is stated in this verse of the holy Quran: *"Every soul draws the harm of its acts on none but itself. no bearer of burdens can bear the burden of another"* [Chapter 6, V. 164].

Second: If someone has intelligence contacts with the Kabul establishment, if this person's intelligence contact is proven based on Sharia to the court, lower court will find this person guilty and will decide on the punishment based on Sharia. After that the court will let the guilty person [offender] know of the punishment. After the judgment, if the offender is not content with the lower court's decision, he will be given the right to: defend himself, appeal, and object to the lower court's decision. The case will [then] go to the appeal court. Appeal court will look at the entire case, and the lower court decision and his objections to the decision [judgement]. After that if the lower court decision was in accordance with the Sharia, the appeal court will approve it. The approval will be announced to the offender. After [the decision is announced] if the

offender is not content with the appeal court's decision, he will be given the right to: defend himself, ask higher court [Discernment Court] to take the case, and object on appeal court's decision. The case will go to the higher court (4).

If the lower court decision is not in accordance with the Sharia, the appeal court will reject it. In such a case if the appeal court rejects the lower court's decision, appeal court will send the case back to the same lower court which had made the initial decision on the case and will point out flaws in the decision and will make recommendations in accordance with Sharia on correcting the flaws.

When the lower court makes the second decision [judgement], it will send it back to the appeal's court. Appeal court will again look at the lower court's decision; if the lower court's second decision is in accordance with Sharia, appeal's court will approve the decision. After the decision is approved, it [decision] will be announced to the guilty person. After the decision is announced, if the offender is not content with the appeal court's secondary approval he will be given the right to: defend himself, ask higher court to take the case, and object on appeal court's decision. The case will go to the higher court.

And if the lower court's second decision was not in accordance with the Sharia, appeal's court will reject it after which appeal's court itself will investigate the offender's case and will make its Sharia decision (Judiciary Courts Administrative Manual, Article 189 and Commentary.)

After the appeal court's decision, appeal court will notify the defendant of its decision. If [the defendant] does not accept the decision, he will be given the right to defend himself and ask higher court to take on the case. The case will then go to higher court. The higher court will review his entire case, lower court's and appeal court's decisions, and his objections on the decisions.

After the review, if a decision in the lower and appeal court's decisions was in accordance with the Sharia, higher court will approve that decision and will notify the offender.

And if a decision by either lower or appeal court was not in accordance with Sharia [This could also be translated as: "If none of the lower and appeal court's decision was in accordance to Sharia"], higher court will reject it.

In this case, if the higher court did not approve any of the decisions, it will send the case back for appeal and the appeal court will point out flaws in the decision and will make recommendations in accordance with Sharia on correcting the flaws (5).

When the appeal court makes the second decision, it will send it back to the high court. The high court will look at the appeal court's second decision; if the appeal court's second decision is in accordance with the Sharia, the high court will approve the decision and if it is not in accordance with the Sharia, it will reject it.

If the high court does not approve the appeal court's second decision, the high court will send the issue [case] to another province's identical [equal or matching] appeal's court and will instruct [the court] to make a decision in accordance with the Sharia. After that, the identical appeal's court itself will investigate the offender's case and will make its Sharia based decision and will announce [the decision] to the offender. If the offender does not accept the identical appeal court's decision, he will again be given the right to defend himself and ask for higher court to take the case; and the case will go to higher court.

Higher court will again review the individual's entire case, the lower and appeal courts decisions, and the individual's objections on those decisions; if the identical appeal court's decision is in accordance with the Sharia, higher court will approve the decision. And if it [the decision] is not in accordance with the Sharia, it will reject it again.

If the higher court does not approve the identical appeal court's decision, the higher court itself will investigate the case and will make its Sharia based decision and will announce it to the offender (Judiciary Courts Administrative Manual, Articles 224, 263.)

After this the high court will send its decision to the High Office of the Courts. High Office of the Courts can reduce or increase this offender's punishment in accordance with its authority.

If the High Office of the Courts decides on lesser or more sentencing (imprisonment) or releasing, this decision will be executed.

Except for murder [death sentence], the aforementioned detail is entirely in the event if the lower court makes a decision on jail term or other punishment [[Or: ... in the event, except for murder [death sentence], if the lower court makes a decision on jail term or other punishment.]]

And if the lower court decides death sentence for the offender, whether the individual accepts or rejects the decision, the decision will go to the appeal's court. Appeal's court will review the entire case and the lower court's decision. After the review, if the appeal's court approves the lower court's decision, the entire case will be sent to higher court.

Higher court will again review the entire case [and] the lower and appeal's courts decisions; after the review if the high court approves the lower and appeal's courts decisions, then the entire case will go to Emirate's leadership. If the Emirate leadership approves the lower, appeal, and high courts all three decisions, it [the decision] will be executed.

And if the Emirate leadership changes the death sentence to prison term or other punishment, then the prison term will be executed (Courts Guide Article 37, The Leadership Edict [order]).

This is the IE Courts guideline for offenders [criminals] which has been prepared in light of the Holy Quran; Prophet Mohammad's, peace be upon him, teachings; and the predecessors (6) accounts.

Note: The Emirate leadership has issued an order to all those in charge of prisoners not to torture prisoners and will need to treat them well. They [in charge of prisoners] shall take care of the [prisoner's] eating, drinking, praying, ablution, illness, heat, and cold. [Prisoner] shall not be disrespected and demeaned; court is the punishing authority and [prisoner] shall not be kept in prison after sentence time is completed.

(Leadership Edict [Order] Number 10 J:5)

With Best Regards

The High Office of the Courts

Appendix IV: Questions from Human Rights Watch to the Islamic Emirate of Afghanistan (IEA) (Pashto translation by Human Rights Watch)

د پوهنې او زده کړې ، ټولنیز محدودیتونه ، او د سزا ورکولو په اړه پوښتنې

د بشري حقونو د څار سازمان د پوهنې او زده کړې لاسرسي ته زموږ د اندېښنو په اړه یو نوی راپور چمتو کوي. په ځانګړې ډول د افغانستان اسلامي امارت تر کنټرول لاندې سیمو کې د ښځو او نجونو د جامو اغوستلو قوانین ، د زیرک ټیلیفون (سمارت فون) کارول او د یو ځای څخه بل ځای ته د تګ (خوځښت) آزادۍ او نورو چلندونو په اړه بندیزونه، او د افغانستان د اسلامي امارت لخوا د ځینو سرغړونو د مجازات د احکامو تطبیق. ما په لاندې ډول د اصلي اندېښنو د سوالونو یو شمېر لست خلاصه کړی. زه به مننه وکړم که تاسو دې پوښتنو ته ځوابونه چمتو او نور اضافي نظرونه واستوئ. که موږ دغه ځوابونه د یوې میاشتې په اوږدو کې تر لاسه کړو (د ۲۰۲۰ کال د جون تر درېیم نېټې پورې) ، موږ به یې په څپاره شوي راپور کې شامل کړو.

پوهنه او زده کړه:

موږ د ګندوز، هلمند او وردګو په څو ولسوالیو کې ښوونې او روزنې ته د لاسرسي په اړه نظرواچوه. موږ پدې دریو ولایتونو کې د افغانستان د اسلامي امارت د رسمي پالیسۍ په پلي کولو کې د پام وړ توپیرونه وموندل. کله چې موږ یو کال دمخه د افغانستان اسلامي امارت د ښوونې او روزنې د پالیسۍ په هکله ستاسو د پوهنې د چارواکو سره په دوحه کې بحث وکړ، دوی وویل چې د ولسوالیو او ولایتونو ترمنځ تعلیم ته د لاسرسي توپیر کې د انجونو تعلیم مختلف کچومنل په خپله ټولنې او امنیت پورې اړه لري. په بل عبارت، دوی وویل چې که ټولنه د تعلیم غوښتنه ونکړي، نو پالیسۍ (د انجونو او ښځو تعلیم ته اجازه ورکول) نه پلي کېږي. ایا دا سمه ده؟

موږ د دې پوښتنو ځوابونه هم غواړو:

- موږ په هلمند، ګندوز او وردګو کې له بېلابېلو خلکو سره ولیدل چې ویي ویل د افغانستان د اسلامي امارت په مشر تابه کې د نجونو د زدکړې په هکله اختلافات موجود دي. د مثال په توګه، موږ په ځینو ځایونو کې واوریدل چې نجونې یوازې ښوونځي ته تللي شي که چېرې ټول کارګونکي ښځینه وي، په شمول د محافظین او پاکونکي. ایا دا رسمي پالیسۍ ده؟
- داسې بریښي چې حتی په ورته یا نږدې ولسوالیو کې هم توپیرونه شتون لري. د مثال په توګه ، موږ پدې حقیقت خبریو چې نجونې د ګندوز د ولسوالۍ په مرکزونو کې زده کړې کوي ، خو موږ خبرشو چې د دشت ارجي د نجونو د سواد زده کړې او ځینې ښوونځي تړلي وو. د دې لامل څه دی؟
- ایا تاسو کولی شئ دا هم روښانه کړئ چې که څوانې میزمني (پېغلې) د ګندوز له ولسوالیو څخه اجازه لري د ګندوز په پوهنتون کې برخه واخلي؟
- موږ په دې هم پوهیږو چې د ګندوز په نوآباد کې د نجونو نوې مدرسې جوړې شوې دي. په مدرسو کې کوم نصاب تدریس کېږي؟
- ایا په هلمند کې ، سیمه ایز طالب چارواکي د زده کړې د پالیسۍ په اړه پریکړې کولی شي چې د رسمي پالیسۍ څخه توپیر لري؟

- په ګرځېدو کې د پوهنې د چارواکو لخوا موږ ته ویل شوي و چې تر هغې پورې چې امن نه وي، نجونې باید ښوونځي ته لاړې نه شي. ایا دا په هلمند کې ستاسو رسمي پالیسي ده؟ موږ ته دا هم ویل شوي وو چې د انجونو لپاره ښوونځي، ټولنې باید لومړی د انجونو د تعلیم غوښتنه وکړي. مګر که خلک باور ولري چې دا امکان نلري نو دوی به څنګه پوښتنه وکړي؟ ایا په هلمند کې د غیردولتي موسسو یا انجیوګانو د زده کړې برنامو ته اجازه شته؟

ټولنیز محدودیتونه

- کله چې موږ یو کال دمخه په دوحه کې ستاسو د چارواکو سره د دغو محدودیتونو په هکله بحث وکړ، دوی وویل چې د ټولنیزو نورمونو پراساس د محدودیتونو په شرایطو کې د ولسوالیو او ولایتونو تر مینځ توپیر په دې سیمو کې د ځایي کلتورونو له امله و، په ځانګړې توګه د ښځو کالو اغوستلو مقررات او چلند او د کور څخه بهر ته وتل.
- آیا هلته د امرېلمعروف او نهی عن المنکر ریاست شته؟
- ایا د چارواکو له خوا د دې ډول محدودیتونو پلي کول د ټولې ټولنې لپاره لازمي ده؟
- د زیرک تېلفون (سمارت فون) په کارولو او د تلویزیونونو په هکله د افغانستان د اسلامي امارت رسمي تګلاره څه ده؟ په ځینو ولسوالیو کې موږ ته ویل شوي وو چې اجازه ورته نشته. زموږ اندېښنه او توجه خلکو ته د معلوماتو ته لاسرسی دی، د دې لپاره چې انټرنیټ، تلویزیون، راډیو او نورو ته لاسرسی لازمي دی.
- کله چې موږ تېر کال ولیدل، موږ خبر شو چې د افغانستان اسلامي امارت په رسنیو هیڅ ډول محدودیتونه نه وضع کوي پرته له دې چې دوی اسلامي ارزښتونو ته درناوی ولري. آیا اسلامي امارت په حکومتدارۍ اویا په خپله پالیسي او تګلاره کې انتقادي راپورونه په قبول کړي؟
- د جامو اغوستلو مقررات، حجاب، او د کور څخه بهر د ښځو د وړتیا او تګ په اړه: موږ له ځینو خلکو (ټولنو) څخه واوریدل چې دوی ته ویل شوي وو چې دوی باید ځینې دودونه غوره کړي (یوځانګړې ډول حجاب یا نورې جامې) دا د هغه څه څخه توپیر درلود چې دوی په عادي ډول ترسره کړي وو. د یوې بېلګې په توګه، د وردګو په جلریز ولسوالۍ کې، میرمنو ته ویل شوي وو چې د خپل دودیز حجاب پرځای بل رقم [حجاب] واغوندي. ایا ستاسو په پالیسيو کې امکان شته چې توکمیز لږکی (اقلیتونه) ته اجازه ورکړي چې خپل دود اوګردار تحقېب کړي؟
- د کور څخه بهر د ښځو د وتلو محدودیتونو پورې اړوند: موږ پدې اړه ډیر اندېښمن یو چې دا محدودیتونه څنګه د روغتیايي پاملرنې ته د ښځو لاسرسي باندې اغیز کولی شي، په ځانګړې توګه که ښځینه طبي کارګران د خپلو کلینیکونو څخه بهر ووځي نو دا د مجربو کارکوونکو استخدام ستونزمن کوي. موږ په دې اړه هم اندېښنه لرو چې آیا د سیمې میرمنې روغتیايي خدماتو ته لاسرسي لري، ځکه چې دوی هم نشي کولی د نارینه خپلوانو پرته د کور څخه بهر ووځي. ایا تاسو کولی شئ پدې اړه خپله پالیسي روښانه کړئ؟

له افغان حکومت سره د اړیکې د سرغړونې [په جرم] مجازات

- په ډیرو ولایتونو کې، په شمول د هلمند، وردګ، کنډز، او لوګر، موږ اوریدلي چې افغان حکومت کې د ښه له هر چا سره اړیکې په کلکه منع دي، او دهغو خلکو د کورنۍ غړي ته چې په افغان حکومت یا امنیتي ځواکونو کې

کار کوي سخته سزا به ورکول کيږي . آیا دا د افغانستان اسلامي امارت تگلاره ده؟ که داسې وي ، آیا دا حتی په ښوونکو او طبي یرسونل هم پلي کيږي؟

- آیا د هغه چا لپاره چې له دولت سره اړیکې لري د محکمې طرز العمل موجود دی؟ څوک د محکمې ریاست کوي اومئهم شخص کوم قانوني مسؤنیت لري؟

Appendix V: Response from the Islamic Emirate of Afghanistan (IEA) to Human Rights Watch

مننه له دې چې مونږ سره مو د راپور د چمتو کولو لپاره خپل سوالونه شریک کړل، ستاسو د سوالونو جوابونه په لاندې ډول دی:

سوال: ستاسې یوه پوښتنه دا وه چې د هلمند، وردگو او کندوز په څو ولسوالیو کې مو ښوونې او روزنې ته لاسرسی و ارزوله او په دې دریو ولایتونو کې مو د افغانستان د اسلامي امارت د رسمي پالیسي په پلي کولو مو د پام وړ توپيرونه ولیدل. همداراز مو ویلي چې په دوحه کې د امارت د مسئولینو سره په ملاقات کې تاسو ته ویل شوي وو چې که ټولنه د تعلیم غوښتنه ونه کړي نو پالیسي (انجونو او ښځو ته تعلیم ته اجازه ورکول) نه پلي کیږي، ایا دا سمه ده؟

جواب: د تعلیم او تربیې په برخه کې د اسلامي امارت پالیسي د ټول هیواد لپاره یکسان ده او د ولایتونو ترمنځ پکې کوم توپیر نشته، البته د ځینو ولایتو، ولسوالیو او کلیو امنیتي شرایطو ته په کتلو سره کله نا کله د پالیسي د پلي کولو زمینه نه وي برابره، ځکه ځینې اوقات د یوې سیمې او بلې ترمنځ د پالیسي په تطبیق کې فرق محسوسیږي. همداراز مونږ تیر کال ستاسو سره په مجلس کې دا ویلي وو چې په ځینو ځایونو کې ځینې ټولنې ځینو مشکلاتو ته په کتو سره زړه نه ښه کوي چې خپل اولادونه تعلیمي ادارو ته ولېږي، سربیره پر دې مونږ یې تشویقوو او کوشش کوو چې زمینه ورته برابره شي، خو که سره له دې دوی په دې برخه کې دلچسپي ونه لري نو بیا په دې برخه خلک په زور نه شو مجبورولای، ځکه چې حفظ د نفس په تعلیم باندې مقدم دی.

پوښتنه: تاسې په دې اړه پوښتنه کړې چې د اسلامي امارت په مشرتابه کې د انجونو د تعلیم په هکله اختلافات موجود دي.

جواب: د اسلامي امارت د مشرتابه ترمنځ د پالیسي په هکله هیڅ کوم اختلاف وجود نه لري، او هلکانو او نجونو دواړو ته د شریعت په چوکاټ کې او د افغاني عنعناتو سره سم د تعلیم اجازه شته.

پوښتنه: داسې بریښي چې حتی په ورته یا نږدې ولسوالیو کې هم توپيرونه شتون لري...

جواب: په پالیسي کې توپیر شتون نه لري، البته لکه مخکې چې بیان وشو د ځینو مناطقو امنیتي شرایطو ته په کتو سره ځینې اوقات دغه زمینه نه وي برابر، او دا یواځې د انجونو لپاره نه بلکې په ځینو ځایونو کې هلکانو ته هم زمینه نه وي مساعده.

پوښتنه: ایا تاسې کولی شئ دا هم روښانه کړئ چې که ځوانې میرمنې (پیغلې) د کنډز له ولسوالیو څخه وغواړي د کنډز په پوهنتون کې برخه واخلي نو اجازه لري؟

جواب: لکه چې مخکې بیان شو، چې د شریعت او بیا د افغاني عنعناتو په چوکاټ کې که وغواړي نو کولای شي، البته امنیت او د ساحې شرایط هم باید په نظر کې ونیول شي، کوم چې په موجوده وخت کې مساعد نه دي.

سوال: مونږ په دې هم پوهیږو چې د کنډز په نوآباد کې نوې مدرسې جوړې شوي دي، په مدرسو کې کوم نصاب تدریسېږي؟

جواب: د افغانستان اسلامي امارت په خپلو تشکیلاتو کې د تعلیم او تربیې کمیسیون لري چې هغوی وخت په وخت د مدرسو نصاب تر نظر تیروي او د امارت لخوا تصویب شوی نصاب د امارت تر کنترول لاندې سیمو کې تدریسېږي.

سوال: ایا په هلمند کې سیمه ایز طالب چارواکي د تعلیمي پالیسي په اړه پریکړې کولای شي چې د رسمي پالیسي سره توپیر ولري؟

جواب: لکه چې مخکې هم یادونه وشوه امارت د تعلیم او تربیې په اړه یوه پالیسي لري او یو کمیسیون یې مخ ته بیايي، البته په ځینو ځایونو کې په تطبیق کې ځنډ د هغې منطقي د شرایطو پورې اړه لري چې هغه هم د امارت د مشرتابه سره په تفاهم پرمخ بیول کېږي.

سوال: تاسې د ګرځک په اړه پوښتنه کړې ده چې هلته تاسو ته ویل شوي چې امن نه وي نو انجونې باید ښونځي ته ولاړې نه شي...؟

جواب: ستاسو ددې پوښتنې جواب په نورو پوښتنو کې شوی، او هغه دا چې امن نه وي، او د خلکو عزت، ځان او مال په امن کې نه وي نو خلک ښونځي ته زړه نه ښه کوي، نه یواځې نجونې بلکې هلکان هم زړه نه ښه کوي. پاتې شوه دا خبره چې د انجونو د تعلیم لپاره باید ټولنه غوښتنه وکړي، په دې برخه کې امارت ټولنه تعلیم او تربیې ته هڅوي او په نشت امکاناتو کې ورته زمینه برابروي، خو که بیا هم د امنیتي ملحوظاتو له امله د ټولنې اطمینان نه حاصلېږي نو امارت نه شي کولای چې په داسې شرایطو کې په خلکو باندې ښونځي ته تګ جبري کړي. که چیرته تعلیمي مؤسسي د امارت د اړوندو مسئولینو سره تفاهم وکړي او د امارت اصولو ته غاړه کېږدي نو ولې به اجازه نه وي.

سوال: ایا هلته د امر بالمعروف او نهی عن المنکر ریاست شته؟

جواب: امر بالمعروف او نهی عن المنکر په اسلامي جامعه کې یوه وجیبه ده. د اسلامي امارت له لوري د دعوت او ارشاد کمیسیون په چوکاټ کې د امر بالمعروف اداره شتون لري چې علماء کرام یې سرپرستي کوي، او د ځانګړي طرز العمل او اصولو له مخې ټولنه صلاح، رشد، اخوت، خپلمنځي کرکې ختمولو او خیریه کارونو ته رابولي.

سوال: ایا د چارواکو لخوا ددې ډول محدودیتونو پلي کول د ټولې ټولنې لپاره لازمي ده؟

جواب: مونږ نه پوهیږو چې د محدودیتونو څخه مو څه مراد دی. که په یوه ټولنه کې یو شی دود وي نو هغه محدودیت نه بلکې د هغې ټولنې په رواج او عنعناتو باندې تعبیرېږي او رواجونه خلک په خپله خوښه او پرته له فشار څخه کوي. او که چیرته مو مراد د شریعت د احکامو عملي کول وي نو هغه اسلامي امارت له خپلو لومړیتوبونو څخه بولي.

سوال: د زیرک تیلیفون په کارولو او د تلویزونونو په هکله د افغانستان اسلامي امارت تګلاره څه ده؟ په ځینو ولسوالیو کې مونږ ته ویل شوي دي چې ورته اجازه نشته...

جواب: په ځيركو تيليفونونو، تلويزيون او راډيو د اسلامي امارت له لوري كوم بنديز نشته، البته د سالم استعمال توصيه ورته كيږي.

سوال: ... ايا اسلامي امارت په حكومتداري او په خپله پاليسي او تگلاره كې انتقادي راپورونه به قبول كړي؟

جواب: هيڅ حكومت هم تخريبي راپورونو ته اجازه نه ورکوي، البته كه انتقادي راپورونه اصلاحي، د شريعت په چوكاټ كې او د افغاني عنعناتو سره سم وي نو ولي نه، نه يواځې دا چې اجازه ورکوي بلکې تر خپله وسه کوشش کوي چې د داسې راپور په اساس مثبت تغيرات راولي.

سوال: تاسې د حجاب په اړه پوښتنه کړې وه.

جواب: حجاب په اسلام كې يو مهم حكم دی، نو ځكه د اسلامي امارت له لوري ميرمنو ته د اسلام د مبارك دين د احكامو مطابق د ستر د مراعات كولو هدايت شوی، كوم ځانگړی لباس نه دی ورته مشخص شوی. كومي پيښې ته چې تاسې اشاره كړې ده، په دې اړه مونږ پلټنه هم وكړه، دغه پيښه هلته د يوه كس د شخصي تمايلاتو له امله رامنځته شوې وه او له تحقيق وروسته دغه مشكل حل شو. او اقليتونو ته په اسلام كې خپل حقوق ورکړل شوي چې په افغانستان كې هم د شريعت په چوكاټ كې د هغوی ټول حقوق ورکول كيږي.

سوال: د ميرمنو د وتلو په اړه.

جواب: له كور څخه د ښځو د باندې د وتلو په اړه اسلام خپل اصل لري، چې هغه د اسلامي امارت پاليسي هم ده، د اسلام له احكامو سره سم ميرمنو ته د اسلامي فقهي له لوري د تعين شوي سفر د حد تر اندازې تر كمې مسافې پورې اجازه شته چې له محرم پرته د كوم ضروري كار لپاره د باندې ووزي، كه د سفر د تعين شوي حد په انداز كې سفر كوي بيا بايد محرم ورسره وي. البته كه سيمه، ماحول او وخت خطرناك وي نو مونږ ميرمنو ته توصيه كوو چې په داسې ناوړه شرايطو كې يواځې له كور څخه ونه وزي.

سوال: د کابل ادارې سره د اړیکو په تړاو..

جواب: دغه معلومات سم نه دي، د شریعت په اساس د یوه کس په جرم بل کس ته، که هغه د هغه د کورنۍ نږدې غړی هم وي، جزا نه ورکول کیږي، او دا د امارت پالیسي هم ده.

سوال: ایا د هغه چا لپاره چې له دولت سره اړیکې لري د محکمې طرز العمل موجود دی؟ څوک د محکمې ریاست کوي؟ او متهم شخص کوم قانوني مصونیت لري؟

جواب: امارت هر هغه څوک نه محاکمه کوي چې د کابل د ادارې سره کار کوي، البته هغه کسان محاکمه کوي چې د اسلامي امارت په خلاف عملاً په جنګ کې دخپل وي، او د داسې خلکو لپاره هم د محکمې طرز العمل موجود دی. زموږ د محاکمو ریاستونه د متخصصو قاضیانو په لاس کې دي او متهم کس له اړینو قانوني مصونیتونو څخه برخمن دی. متهم کولای شي چې د خپل ځان په دفاع کې شواهد پیش کړي او خپله دفاع وکوي.

نیټه: ۲۰۲۰-۶-۲

Appendix VI: Letter from the High Office of the Courts of the Afghanistan Islamic Emirate to Human Rights Watch

1



د افغانستان اسلامي امارت

دمحاكمو عالي اداره

مکتوب نمبر: ۱۹۰

تاریخ ۱۰/ ۱۰ / ۱۴۴۱ هـ

د هیومن رایټس وچ دبشر د حقوقو دڅار سازمان و دوو سوالونو (اول: دمحاكمو سرپرستي څوک کوي. دوهم دکابل ادارې سره د اړیکو لرلو په وجه یو څوک مجرم بلل کیږي که نه ؟) ته د امارت اسلامي د محاكمو عالي ادارې جوابونه:

د اول سوال جواب:

د امارت اسلامي دتولو محکمو سرپرستي دمحاكمو عالي اداره کوي د محاكمو عالي اداره یو عمومي رئیس، دوه مرستیالان لري. (دمحاكمو لائحه: ۵ مخ)

همدا رنگه د محاكمو عالي اداره اداري څانگه، مالي څانگه، دتحقیق څانگه، تعلیمي اداره، او دتفتیش څانگه لري. (دمحاكمو لائحه: ۱- ماده)

د دوهم سوال جواب:

هغه څوک چي دکابل ادارې سره اړیکي لري دغه اړیکي دوه قسمه دي یو خلقي (قرايتي) اړیکي دي او بل دجاسوسی اړیکي دي

اول: دقرايتي اړیکو په وجه محکمه هیڅوک متهم او مجرم نه بولي نو که د یو چا ورور یا پلار یا بل قریب د کابل په اداره کي کار کوي دده ورور، زوی او قریب دده د قرايت په وجه متهم او مجرم نه بلل کیږي لکه د قرآن کریم ددغه آیت مبارک څخه چي واضح معلومیږي. {وَلَا تَكْسِبُ

كُلُّ نَفْسٍ إِلَّا عَلَىٰ نَفْسِهَا وَلَا تَزِرُ وَازِرَةٌ وِزْرَ أُخْرَىٰ} [الأنعام: 164]

دوهم: که یو څوک د کابل ادارې سره د جاسوسی اړیکي ولري نوکه محکمي ته دده جاسوسی دشرعي اصولو موافق ثابته سوه ابتدائیه محکمه دغه کس مجرم بولي او سزاء د شرعي اصولو سره سم ورته ټاکي تر هغه وروسته محکمه دغه سزاء ودغه مجرم ته ابلاغوي تر ابلاغ وروسته که چیري دغه مجرم دابتدائیه محکمي په فیصله قناعت نه درلودی نوموړي ته دځان څخه ددفاع، مرافعه طلبی او دابتدائیه محکمي پر فیصله د اعتراض کولو حق ورکول کیږي موضوع یي مرافعه محکمي ته ځي مرافعه محکمه بیا دنوموړي ټوله دوسیه او دابتدائیه محکمي فیصله او دده اعتراضات پر فیصله باندې کوري تر هغه وروسته که د ابتدائیه محکمي فیصله د شرعي اصولو سره برابره وه مرافعه محکمه یي تائیدوي تر تائید وروسته ودغه مجرم کس ته ابلاغوي تر ابلاغ وروسته که چیري دغه مجرم دمرافعه محکمي په فیصله قناعت نه درلودی نوموړي ته دځان څخه ددفاع، تمیز طلبی او دمرافعه محکمي پر فیصله د اعتراض کولو حق ورکول کیږي موضوع یي تمیز ته ځي.

او که دابتدائیه محکمي فیصله دشرعي اصولو سره برابره نه وه مرافعه محکمه یي ردوي په دغه صورت کي چي مرافعه محکمي د ابتدائیه محکمي فیصله تائید نه کړه مرافعه محکمه

موضوع بیرته هماغه ابتدائی ته استوي چي اول وار يې په نوموړي موضوع کي فیصله کړي وه اود فیصلي نقصانات ور ته ذکر کوي او د شرعي اصولوسره موافق دنقصاناتوڅخه دخلاصي فیصلي دکولو هدايت ورته کوي.

نوکه چي دوهمه فیصله ابتدائی محکمي وکړه بیرته يې مرافعه محکمي ته استوي مرافعه محکمه بيا دابتدائی محکمي دغه دوهمه فیصله گوري نوکه د ابتدائی محکمي دغه دوهمه فیصله د شرعي اصولوسره برابره وه مرافعه محکمه يې دغه فیصله تائیدوي تر تائید وروسته ودغه مجرم کس ته ابلاغوي تر ابلاغ وروسته که چیري دغه مجرم دمرافعه محکمي په تائیدي فیصله قناعت نه درلودی نوموړي ته دخان څخه ددفاع ، تمیز طلبی او دمرافعه محکمي پر فیصله د اعتراض کولو حق ورکول کيږي موضوع يې تمیز ته ځي.

او که د ابتدائی محکمي دغه دوهمه فیصله دشرعي اصولو سره برابره نه وه مرافعه محکمه يې ردوي تر ردولو وروسته مرافعه محکمه خپله د مجرم دموضوع تحقیق کوي وروسته خپله شرعي فیصله کوي.(دعدي محکمو اداري اصولنامه ماده ۱۸۹ وکتبره)

دمرافعه محکمي تر فیصلي وروسته مرافعه محکمه خپله فیصله و مدعی علیه ته ابلاغوي نوکه يې دمرافعي په فیصله قناعت ونه کړی بيا دخان څخه ددفاع او دتمیز طلبی حق ورکول کيږي موضوع يې تمیز ته ځي دتمیز عالي رياست بيا دنوموړي ټوله دوسیه او دابتدائی او مرافعه محکمو فیصلي او دده اعتراضات پر فیصلو باندې ټول گوري.

تر کتلو وروسته که دابتدائی او مرافعه محکمي په فیصلو کي کومه فیصله د شرعي اصولوسره برابره وه دتمیز عالي رياست هغه فیصله تائیدوي ودغه متهم کس ته ابلاغوي.

او که دابتدائی او مرافعه محکمو فیصلي دشرعي اصولو سره یوه هم برابره نه وه دتمیز عالي رياست يې ردوي.

په دغه صورت کي چي د تمیز عالي رياست یوه فیصله هم تائید نه کړه بیرته موضوع و مرافعي ته استوي اودمرافعه محکمي د فیصلي نقصانات ور ته ذکر کوي او دشرعي اصولوسره موافق دنقصاناتوڅخه دخلاصي فیصلي دکولو هدايت ورته کوي.

نوکه چي مرافعه محکمي دوهمه فیصله وکړه بیرته يې دتمیز عالي رياست ته استوي دتمیز عالي رياست بيا دمرافعه محکمي دغه دوهمه فیصله گوري نوکه دمرافعه محکمي دغه دوهمه فیصله د شرعي اصولوسره برابره وه دتمیز عالي رياست دغه فیصله تائیدوي او که دشرعي اصولو سره برابره نه وه بيا يې ردوي.

په دغه صورت کي چي د تمیز عالي رياست دمرافعه محکمي دوهمه فیصله تائید نه کړه دتمیز عالي رياست نوموړي موضوع دبل ولایت و مماتلي مرافعه محکمي ته استوي اودشرعي اصولوسره موافق د فیصلي دکولو هدايت ورته کوي تر هغه وروسته مماتله مرافعه محکمه خپله د متهم کس دموضوع تحقیق کوي وروسته خپله شرعي فیصله کوي او متهم کس ته يې اوروي نوکه دغه متهم کس دمماتلي مرافعي په فیصله قناعت ونه کړی بيا دخان څخه ددفاع او دتمیز طلبی حق ورکول کيږي موضوع يې تمیز ته ځي.

دتمیز عالي رياست بيا دنوموړي کس ټوله دوسیه او دابتدائی او مرافعه محکمو فیصلي او دده اعتراضات پر فیصلو گوري نوکه د مماتلي مرافعه محکمي فیصله د شرعي اصولوسره برابره وه دتمیز عالي رياست دغه فیصله تائیدوي.

او که دشرعي اصولو سره برابره نه وه بيايي ردوي په دغه صورت کي چي د تمیز عالي ریاست دمماتلي مرافعه محکمي فیصله تائید نه کړه د تمیز عالي ریاست پخپله موضوع تحقیق کوي وروسته خپله شرعي فیصله کوي او متهم کس ته اوروې.

(دعدلي محکمو اداري اصولنامه ماده ۲۶۳، ۲۲۴)

وروسته دتمیز د عالي ریاست خپله فیصله دمحاکمو عالي ادارې ته استوي د محاکمو عالي اداره دخپل صلاحیت سره سم ددغه متهم کس سزاء کمولای او زیاتولای سي.

نو که دمحاکمو عالي ادارې دکم یازیات تعزیر (حبس) یا دایله کولو فیصله وکړه هغه فیصله اجراء کیري.

پورته ذکر سوی تفصیل ټول په هغه صورت کي دی چي ابتدائیه محکمه ماسوا دقتل څخه د حبس یا بل تعزیر فیصله وکړي.

او که ابتدائیه محکمي پر دغه متهم کس د قتل فیصله وکړه نو که دغه کس قناعت وکړي او که قناعت ونه کړي په دواړو صورتونو کي دغه فیصله مرافعه محکمي ته استول کیري مرافعه محکمه ټوله دوسیه او دابتدائیه محکمي فیصله گوري تر کتلو وروسته که مرافعه محکمي دابتدائیه محکمي فیصله تائید کړه تر هغه وروسته ټوله دوسیه دتمیز عالي ریاست ته استول کیري.

دتمیز عالي ریاست بیاټوله دوسیه ، دابتدائیه او مرافعه محکمو فیصلې گوري تر کتلو وروسته که دتمیز عالي ریاست دابتدائیه او مرافعه محکمو فیصلې تائید کړي بیا ټوله دوسیه دامارت دمشرتابه مقام ته استول کیري که دامارت دمشرتابه مقام د ابتدائي او مرافعي او دتمیز درې سره فیصلې تائید کړي بیا اجراء کیري.

او که د امارت د مشرتابه مقام دقتل فیصله په حبس یا بل تعزیر سره بدله کړه بیا دغه دحبس فیصله اجراء کیري .(دمحاکمو لائحہ ماده ۲۷ ، دمشرتابه فرمان)

دغه داسلامي امارت د محاکمو طرز عمل دی دمجرمینو په باب کښي چي د قرآن کریم ، سنت رسول الله صلی الله علیه وسلم او اقوال دسلف صالحینو په رڼا کي جوړ سوی دی.

یادونه:د امارت د مشرتابه مقام دبنديانو و ټولو مسئولینو ته یو فرمان صادر کړی دی چي بندي ته به تعذیب نه ورکوي ښه چلند به ورسره کوي دلوري ،تندی ، لمانځه ، اوداسه ، مریضی ، یخ او گرمی خیال به یي ساتي سیکاوی اوبې قدري به یي نه کوي دسزاء مرجع یي محکمه ده د بند دمودې تر پوره کولو وروسته به یي په بند کي نه ساتي.

(دمشرتابه فرمان نمبر ۱۰ ج:۵)

والسلام علی من اتبع الهدی

دمحاکمو عالي اداره



(left) Taliban community complaint box, Kunduz, Afghanistan, late 2018.

(Photo provided to Human Rights Watch)

(front cover) Two boys pass members of a Taliban Red Unit, an elite force, in Laghman province, Afghanistan, March 13, 2020.

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“You Have No Right to Complain”

Education, Social Restrictions, and Justice in Taliban-Held Afghanistan

The prospect of a peace agreement in Afghanistan has raised both hopes for an end to decades of fighting, but also concern about the protection of fundamental human rights after a peace deal is signed. Crucial are the rights of women, freedom of expression and media, and accountability for serious human rights abuses.

Based on 120 interviews with Taliban officials, commanders, and fighters, as well as teachers, doctors, elders, students, and other local residents in Taliban-held areas, *“You Have No Right to Complain”* focuses on the everyday experiences of people living in Taliban-held districts in Afghanistan and the impact Taliban policies have had on access to education and other rights and freedoms.

The report looks at local people’s efforts to bring complaints against Taliban officials and fighters, and spotlights the gap between official Taliban statements and the restrictive positions adopted by Taliban officials on the ground. Some practices, including entrenched impunity for abuses, mirror deficiencies by the Afghan government and make clear that reaching agreement on human rights in the peace talks will not necessarily result in their being implemented at the local level.

In any peace settlement that emerges, it will be critical for the Taliban to demonstrate that they are willing to accommodate diverse communities, tolerate dissent, and meet the demands of the communities they govern, including of women and girls, for the protection of fundamental rights.

Human Rights Watch calls on all governments supporting the peace talks to advocate forcefully to preserve fundamental human rights protections in any settlement, and to support the inclusion of women, civil society representatives, victims’ groups, and media in the talks and implementation mechanisms during and after the negotiations.