

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	570
Land:	Afghanistan
Kilde:	Child Soldiers International
Titel:	Briefing on the situation of underage recruitment and use of children by armed forces and insurgent groups in Afghanistan to the UN Security Council Working Group on Children and Armed Conflict
Udgivet:	Juni 2015
Optaget på baggrundsmaterialet:	2. oktober 2015

Briefing on the situation of underage recruitment and use of children by armed forces and insurgent groups in Afghanistan to the UN Security Council Working Group on Children and Armed Conflict

June 2015

Executive Summary

The Afghan National Police (ANP), including the Afghan Local Police (ALP), and three armed groups (*Haqqani* network, *Hezb-e-Islami* of *Gulbuddin Hekmatyar* and *Taliban* forces, including the *Tora Bora* Front, the *Jamat Sunat al-Dawa Salafia* and the *Latif Mansur* network) are listed as persistent perpetrators in the Annual Report of the Secretary-General to the Security Council on children and armed conflict for recruitment and use of children.¹

Commendable progress has been demonstrated by the Afghanistan government in implementing its “Road Map towards Compliance” following the [endorsement](#) on 24 July 2014 of a 15-point targeted plan aimed at expediting the implementation of the 2011 Action Plan to end underage recruitment and use. UNICEF led a countrywide assessment of the Afghan National Security Forces’ (ANSF)² age verification practices and procedures to identify gaps and inconsistencies. The outcomes of the workshop included draft guidelines on age assessment, which are waiting for an endorsement by the Inter-Ministerial Steering Committee on children and armed conflict. An awareness campaign using broadcast media has helped disseminate information on the risks of recruitment among vulnerable communities in the north affected by recent fighting. A national birth registration strategy endorsed by the Ministry of Interior with support from UNICEF in September 2014 is afoot to strengthen protection against underage recruitment.

However, field research conducted by Child Soldiers International in Afghanistan in May 2015 shows that despite this progress in implementing the road map, serious concerns remain:

- Recruitment of children by the ANP and the ALP is ongoing, albeit on a reduced scale.
- Inadequate age verification procedures, low levels of birth registration, and a prevalence of opportunities to falsify identity documents have contributed to on-going underage recruitment and use in the ANSF.
- The use of children by the ANP as “tea boys” and guards at check-points has continued.

¹ The ANP was listed as a party responsible for recruiting and using children in the UN Secretary General’s Annual Report to the Security Council, UN Doc. S/2010/181, 13 April 2010. The ALP was listed as a party responsible for recruiting and using children in the UN Secretary General’s Annual Report to the Security Council, UN Doc. S/2012/261, 26 April 2012. Persistent violators of the rights of children in armed conflict are parties to conflict who have been named and listed by the Secretary-General for five years or more in his annual report on children and armed conflict.

² The ANSF include the Afghan National Army and the Afghan National Police comprising of the Afghan Uniform Police (AUP), Afghan Border Police (ABP) and the Afghan Highway Police. The Afghan Local Police was approved by the Afghan government in July 2010 and established by presidential decree on August 16, 2010. Funded by the US military, the ALP has been created and deployed across the country to defend rural communities in areas where there is limited Afghan national army and police presence.

- Effective safeguards to prevent future recruitment have not been put in place and there has been no progress in producing a standardised training manual for the ANSF.
- Efforts to verify the presence of children in the ranks of the ANSF, demobilise and rehabilitate them have been stymied by access constraints and serious security concerns.

In the absence of robust and comprehensive oversight mechanisms, children continue to be formally and informally recruited and used in the ANSF.

Poverty continues to be the main driver behind underage recruitment with many children joining the ALP and ANP to support their families. In addition, a deep sense of filial responsibility and prestige, which comes from joining the national security forces, continue to provide a strong social incentive to enlist.

Armed opposition groups have also continued recruiting and using children to manufacture, transport and plant IEDs and conduct suicide attacks. Sexual violence against children in a climate where reporting remains low due to cultural stigmatisation and fear of reprisals, is pervasive. Accountability mechanisms, which could lead to investigations and prosecutions of offenders, and work as a deterrent for future recruitment, are woefully absent.

Detention of children on national security related charges continues to be widely practiced by authorities in Afghanistan. Once children are arrested, they are dealt with not as victims but as adult offenders. Ill-treatment and torture during interrogations, which are primarily focused on obtaining confessions, is common.

Peace negotiations between the Afghan government and the *Taliban* which began in Qatar in May 2015 offer a unique opportunity to address the issue of child soldiers and other violations against children. International pressure and assistance are required to ensure the armed forces and armed groups address child recruitment and use in their ranks. Prevention of the recruitment of children and their use in hostilities should be mainstreamed in the international assistance provided to Afghanistan, including technical assistance to strengthen the armed forces recruitment procedures, and the necessary age verification and monitoring and accountability mechanisms should be put in place to prevent underage recruitment. More broadly, the international community, through the UN and other initiatives supporting conflict resolution, should ensure that any peace processes address the protection needs of child soldiers in line with the UN operational guidelines on addressing children's issues in peace agreements.

Based on its research and analysis, Child Soldiers International encourages the UN Security Council Working Group on Children and Armed Conflict (SCWG) to incorporate the following key recommendations in its conclusions on the situation of children and armed conflict in Afghanistan.

Key Recommendations

Recommendations to the Afghanistan government

- Implement the Joint Action Plan fully, and in particular: Strengthen recruitment procedures and oversight across all recruitment sites in the country; Ensure that all military and civilian personnel involved in military recruitment have received training and are aware of the prohibition on recruiting under-18s; Ensure that child protection units are created within ANP and ALP offices in all provinces in addition to the four already functioning;

- Identify, register and immediately discharge all children present in the ranks of the ANP, ALP and other pro-government armed groups; in particular, establish a central database with personal information of individual ANP and ALP recruits with the purpose of identifying and removing all those who are underage from the ranks;
- Provide unimpeded access to its military sites and other areas where children may be present to enable the UN Country Task Force on Monitoring and Reporting (CTFMR) to assist in identifying, registering and discharging all children present in the ranks of the ANSF;
- Endorse, adopt and implement age verification methods in line with best international practices; ensure that all military and civilian personnel involved in military recruitment have received child protection and age verification training;
- Address without delay existing widespread impunity on violations against the rights of children in the situation of armed conflict in Afghanistan; Develop legislation to prohibit and criminalise the recruitment of children into armed groups and their use in hostilities, in line with international law and standards, and ensure its implementation;
- Systematically conduct prompt and effective investigations into all credible reports of child recruitment and use; Suspend from duty police personnel suspected of these offences pending completion of investigations, and, if allegations are verified, take appropriate disciplinary actions against them;
- In collaboration with the UN and other child protection actors, collect authoritative data on the numbers of current and former child soldiers requiring assistance (including those over-18 on release). Conduct a full needs assessment of the nature, scope, duration, funding and expertise needed for the provision of “appropriate assistance” to former child soldiers, including rehabilitation, education and vocational training;
- Establish permanent infrastructures for quality temporary care of children, assistance to their physical and psychosocial recovery, and support to family reunification and social reintegration.

Recommendations to armed groups

- Release all under-18s in their ranks without fear of reprisal for the children and/or their families;
- Undertake a dialogue with the UN Country Task Force in Afghanistan to halt the recruitment and use of children as called for in Security Council resolutions 1539 (2004), 1612 (2005) and 1882 (2009);
- Take immediate and specific measures to put an end to and prevent the perpetration of sexual violence by members of their respective groups, in particular the practice of *bacha bazi*; take measures so that perpetrators are brought to justice; and publicly declare an end to such practice.

Recommendations to the international community and donors

- Provide flexible, timely and sufficient resources and support to the Afghanistan government and the UN Country Task Force to implement the Action Plan, particularly in strengthening age determination and vetting procedures, oversight of recruitment activities, as well as to provide follow-up services in the form of recovery and rehabilitation for children affected by armed violence.

1. The legal protection of children from recruitment and use in hostilities

Afghanistan's international law obligations

Afghanistan ratified the Convention on the Rights of the Child (CRC) in 1994, thereby committing itself to respecting, protecting and fulfilling the rights of children, including protecting children from taking direct part in hostilities (Article 38). In 2003 it also ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC), which contains an extensive set of obligations on states aimed at ending the recruitment and use of child soldiers. Afghanistan has not ratified ILO Convention 29 concerning forced labour, but it is a party to ILO Convention 138 concerning the Minimum Age for Admission to Employment and ILO Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. It is a party to the Rome Statute of the International Criminal Court, which requires states to criminalise the war crime of conscripting or enlisting children under the age of 15 years or using them to participate actively in hostilities. Afghanistan is also a party to the 1949 Geneva Conventions and its Additional Protocols.

Afghanistan's national law prohibits the recruitment of under-18s into the armed forces by virtue of Directive no. 30 of 2008, which states that the age of conscription to the armed services is a minimum of 18 years of age.³ Other legal provisions include: order number 8 of the 5/2/1389 in the Afghan calendar, which prevents the recruitment of underage children to the police force;⁴ and decree 2312 of 2003, which prohibits the recruitment of children below the age of 18 into armed forces.⁵ A presidential decree that criminalises underage recruitment into the ANSF was made into law and signed by President Ashraf Ghani in February 2015.⁶

The Juvenile Code was adopted in March 2005⁷ to provide support for the rehabilitation of children in conflict with the law, including physical, moral and welfare support. It recognises that all children have the right to use legal counsel during all stages of investigation and trial.⁸ Additionally, Afghanistan adopted the Law of Juvenile Rehabilitation Centers in 2009, which provides for the rehabilitation and education of children placed in juvenile detention centres.⁹

The responsibility of states to protect children from involvement in armed conflict does not end with its official armed forces or with those armed groups that are “associated” with or “allied” to states. Article 4.2 of OPAC defines the responsibility of states to prevent recruitment by armed groups. Specifically, states are required to “take all feasible measures to prevent” the recruitment and use of children by such groups.¹⁰

³ UN CRC, *Consideration of reports submitted by States parties under article 44 of the Convention: Convention on the Rights of the Child: initial report of State parties due in 1996: Afghanistan*, CRC/C/AFG/1, 13 June 2010, <http://www.refworld.org/docid/4dc7b8f42.html>.

⁴ UN Assistance Mission in Afghanistan (UNAMA), *Treatment of Conflict-Related Detainees in Afghan Custody*, January 2014.

⁵ International Committee of the Red Cross, *Report on the Critical Infrastructure Protection Program (CIP) in RC (N)*, November 2011.

⁶ UNAMA, *Annual Report on Protection of Civilians*, February 2015:

<http://unama.unmissions.org/Portals/UNAMA/human%20rights/2015/2014-Annual-Report-on-Protection-of-Civilians-Final.pdf>

⁷ Juvenile Code, articles 4, 8, 11, 13-15, 22 and 30,

<http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/70278/97836/F566579256/AFG70278%20English.pdf>

⁸ UN CRC, *Consideration of reports submitted by States parties under article 44 of the Convention: initial report of State parties due in 1996: Afghanistan*, 13 June 2010, CRC/C/AFG/1, <http://www.refworld.org/docid/4dc7b8f42.html>.

⁹ Op.cit., UN CRC.

¹⁰ No formal relationship exists between armed insurgents and the Afghan state. The state endorses the presence of UNAMA in Afghanistan, with the understanding that part of UNAMA's mission is to encourage the *Taliban* to respect the rules of war.

In addition to the international law obligations binding on states, international human rights law increasingly recognises that where non-state actors, such as the *Taliban*, exercise *de facto* control over territory, they are bound by certain international human rights obligations.¹¹

2. Compliance with international commitments on child recruitment and use

In 2014, the country task force recorded 55 cases of recruitment by armed opposition groups, five cases by the Afghan National Security Forces and two cases by a pro-Government militia in Kunduz province.¹² This marks a decrease compared to 2013, when 97 children were reportedly recruited and used. These figures fail to accurately reflect the situation due to widespread underreporting.¹³ In the same period UNAMA reported “recruitment and use of children both in support and combat roles throughout the country”.¹⁴ There was one verified case of child recruitment attributed to the ALP in 2014, compared to 13 in 2013, seven in 2012 and six in 2011. However, given the high degree of underreporting, this trend may not accurately reflect the actual scale of child recruitment into those forces.¹⁵

Joint Action Plan

In 2011 the Afghanistan government signed the Action Plan for the Prevention of Underage Recruitment. In 2014, a 15-point road map toward compliance, meant to assist the Afghanistan government to achieve the Action Plan, was drafted up by the Office of the Special Representative of the Secretary-General for Children and Armed Conflict (OSRSG), UNICEF and UNAMA. The road map was endorsed at a high-level meeting of the Inter-Ministerial Steering Committee on Children and Armed Conflict.

The measures outlined in the road map include the criminalisation of the recruitment and use of children under 18 years; the development of a policy to ensure that children arrested and detained on national security charges are treated in line with international juvenile justice standards; and improved age-verification mechanisms. The road map was supported by UNAMA and UNICEF in their roles as co-chairs of the UN-led Country Task Force on Children and Armed Conflict.

In practice, the implementation of the road map has been partial. The Afghanistan government’s institutional ability to implement its international commitments and adhere to its own national laws and policies remains stretched. Presidential elections held in the country in April 2014 locked the country into a political stalemate for months during which there was little movement on legislative change or policies. The Inter-Ministerial Steering Committee on Children and Armed Conflict, which endorsed the road map, for instance, has not met regularly.¹⁶ The UN CTFMR has not been convened during this time either even though the regional Monitoring and Reporting mechanism has been active.¹⁷ Child

¹¹ See for instance, Report of the International Commission of Inquiry to investigate all Alleged Violations of International Human Rights Law in the Libyan Arab Jamahiriya A/HRC/17/44, 1 June 2011.

¹² UN Security Council, Report of the Secretary-General on children and armed conflict in Afghanistan, UN. Doc. S/2015/336, para. 18, 15 May 2015.

¹³ UN General Assembly (UNGA) *Annual Report of the Secretary-General on children and armed conflict*, para. 27 UN Doc. A/69/926 - S/2015/409, para. 27, 5 June 2015.

¹⁴ UNAMA, *Annual Report on Protection of Civilians*, February 2015:

<http://unama.unmissions.org/Portals/UNAMA/human%20rights/2015/2014-Annual-Report-on-Protection-of-Civilians-Final.pdf>

¹⁵ UN Security Council, Report of the Secretary-General on children and armed conflict in Afghanistan, UN. Doc. S/2015/336, para. 23, 15 May 2015.

¹⁶ The Inter-Ministerial Steering Committee on Children and Armed Conflict, established in 2010, is comprised of eight Ministries, the head of the NDS, and the Presidential Advisor on Education and Health.

¹⁷ Child Soldiers International confidential interview, May 2015.

Soldiers International has the following serious concerns about the Afghanistan government's compliance with the Joint Action Plan and implementation of measures outlined in the road map:

- Article 3 of the Law on criminalisation of underage recruitment¹⁸ prohibits the recruitment and use of children in “military installations” but it does not prohibit the recruitment and use of children in armed groups.
- Article 6 of the same Law provides that children who are currently part of “military installations” must be dismissed within a month. However, the law does not specify any actions for the rehabilitation and reintegration of these children, nor does it stipulate measures to grant them full reparations, to which they are entitled as victims of serious human rights violations.
- Recruitment procedures are not yet sufficiently rigorous to prevent the voluntary recruitment and use of children into the ANP and the ALP. Although there have been repeated political commitments by the government to end underage recruitment within its National Security Forces, there are ongoing reports that individual officers continue to informally use children for military purposes. The use of children as “tea boys” and guards at distant outposts by commanders continues despite directives and orders being issued by the Ministry of Interior prohibiting the use of children at ANP and ALP checkpoints, including in support roles, and stating that the perpetrators would be sanctioned. Information gathered by Child Soldiers International shows that this often stems from a lack of awareness of existing instructions, an absence of monitoring and oversight mechanisms and a lack of accountability procedures. (See below: Practices of underage recruitment and use by Afghan Security Forces.)
- In some instances, an absence of proof of age or falsification of age documentation allows for children to be recruited. Under the road map, the government committed to strengthening birth registration and age determination and verification procedures, but there are reports that physical/medical examinations are used to determine the age of candidates. These not only raise ethical concerns but are also unreliable. (See below: Age verification procedures.)
- Under the Action Plan, the Afghanistan government committed to “promptly investigate and verify all allegations and cases of recruitment and use of children and to prosecute perpetrators, with due regard to national and international standards. To Child Soldiers International’s knowledge no attempt has been made thus far to address the pervasive impunity which exists in relation to underage recruitment and use by armed forces. A transparent complaints mechanism and disciplinary procedures for incidents of underage association/recruitment of children have yet to be established.
- Child Soldiers International has serious concerns about the use of the ALP to “regularise” existing pro-government armed groups. UNAMA’s 2014 Annual Report on Protection of Civilians in Armed Conflict noted, “these armed groups will be incorporated wholesale into the ALP as formed fighting units, bypassing current ALP rules and safeguards on vetting and training”. To Child Soldiers International’s knowledge there has been no systematic attempt by the government to independently verify the presence of children in the ranks of existing pro-government armed groups with the aim of securing their release and reintegration. The Joint Action Plan signed between the UN and the Afghanistan government in 2011 regarding children associated with the ANSF covers pro-government armed groups that are a part of the armed forces, recognising the government’s

¹⁸ Law on Prohibition of Children Recruitment into Military Installations, on file with Child Soldiers International

responsibility for the actions of these units.¹⁹ Any assessment of the success of the implementation of the Joint Action Plan will require an evaluation of the way in which the government has addressed practices of child recruitment by pro-government armed groups.

3. Practices of underage recruitment and use by Afghan Security Forces

Military recruitment of children by the ANSF takes place within a context of high poverty, lack of employment and complex incentive structures. Both formal and informal recruitment and use of children by the ANP and ALP is known to take place.

“A boy will join the police if he is poor, an orphan, a son of a widow, a boy with younger brothers or sisters to support.”²⁰

Recruitment and use of children into the ANP and ALP is triggered by a complicated set of reasons including filial duty, patriotism and honour. However, the primary reason, which pressurises children to join the ANP and ALP, are economic difficulties. On average an ALP officer receives a monthly salary of 6,000-9,000 Afghanis a month (US\$103-155), as well as 4,000 Afghanis (US\$69) for food and training.²¹ An ANP officer may receive a monthly salary from 10,000 to 18,000 Afghanis (US\$172-310). However paltry, a steady source of income is coveted in Afghanistan, and the absence of vocational and educational opportunities continues to drive young children into joining the ANSF. Children are also attracted to the status that comes with having access to motorbikes, guns and walkie-talkies, a fact which is known to often be exploited by commanders.²²

Aside from formal recruitment, informal association of children with the ANP begins with volunteering as support staff, often to support the work of their older male siblings who are official police officers. These children perform a range of functions such as cooking, tea making, before eventually “picking up the gun.”²³ In most cases, children are provided basic weapons training before being allowed to handle weapons. Information gathered by Child Soldiers International shows that these children receive a stipend or a salary for the tasks they deliver. In the majority, a higher incidence of “use” of children is reported in areas more impacted by violence, including but not limited to Uruzgan, Helmand, Kandahar and northern provinces such as Kunduz and Badakhshan. Child Soldiers International received anecdotal reports of some commanders in these areas using children as “tea boys” or bodyguards during the day and for sexual exploitation at night. However, access constraints impede the collection of more comprehensive information that could form the basis of an analysis of specific patterns of violations against children in particular provinces.

Research conducted by Child Soldiers International in ANP check posts inside Tirin Kot city in Uruzgan province in May 2015 revealed that five out of ten ANP check posts in that province were staffed with visibly younger officers, who on questioning admitted they were under-18. They had been performing all responsibilities of a police officer, which included securing check points and engaging in combat for the

¹⁹ See Article 1 – Scope, Action Plan between The Government of the Islamic Republic of Afghanistan and the United Nations Country Task Force on Monitoring and Reporting regarding Children associated with National Security Forces in Afghanistan 1.1 This Action Plan applies to the ANSF which includes the ANP, the Afghan National Army (ANA) and the National Directory of Security (NDS) and pro-government militia groups.

²⁰ Child Soldiers International confidential interview with a local reporter in Kunar, May 2015.

²¹ Child Soldiers International interview with Major General Ali Shah Ahmadzai, head of the ALP, May 2015.

²² “They join for the guns and the glory.” Child Soldiers International interview with Dawood Gulzar, Member of Provincial Council of Zabul province, May 2015.

²³ Michael Vinay Bhatia and Mark Sedra, *Afghanistan, Arms and Conflict: Armed Groups, Disarmament and Security in a Post-war Society*, Contemporary Security Studies, 2008.

last few years.²⁴ Child Soldiers International's interviews with local journalists, community elders and other residents in Kunar, Logar, and Zabul province indicates that 10 per cent of law enforcement officials in these areas are suspected to be underage. While this information is by no means comprehensive, and accurate numbers of underage recruitment and use remains elusive in the absence of a responsible methodology to collect reliable data, these anecdotal accounts provide a snapshot of the scale of the problem.

Once associated with armed forces, children inevitably get drawn into hostilities. Most child casualties occur from ground engagement, which continues to increase, between government security forces and insurgents. The *Taliban* and other insurgent groups continue to be responsible for most of the child casualties.²⁵

3.1 Age verification procedures

While the Afghanistan government has undoubtedly made some progress in developing age determination guidelines, no protocols have been developed to detect falsified documents and processes by recruitment centres to review and assess the age of applicants need to be strengthened.

In September 2014, a national birth registration strategy was endorsed by the Ministry of Interior with support from UNICEF to strengthen protection against underage recruitment. In 2006, four per cent of children had birth certificates; in 2015 under 50 per cent have identification cards.²⁶

This was followed in November by a workshop on age assessment procedures for recruitment for the ANSF and stakeholders, which resulted in a revised set of guidelines to improve and standardise age verification procedures across the security sector.²⁷ These guidelines provide a new methodology for assessing age (based on a historical inquiry and child-friendly interviews) instead of medical examinations, to determine the age of candidates. This is a welcome trend as medical tests not only raise ethical concerns but are also unreliable. The methodology is currently being discussed by the government, and upon endorsement, will be introduced to recruitment centres across the country.

As a consequence of these initiatives, in 2014 the pilot Child Protection Units²⁸ in the ANP in Badghis, Herat, Laghman, Nangarhar and Nimroz provinces reportedly prevented 48 underage applicants from recruitment; in the same year, the ALP reported the rejection of 55 children in 12 provinces.²⁹ However, an absence of capacity and dedicated resources has stymied efforts to expand these child protection units to all 34 provinces in Afghanistan. The recruitment of ALP personnel is conducted through the Ministry of Interiors at the provincial level.³⁰ Two community elders or members provide guarantees that the

²⁴ Child Soldiers International confidential interviews, Tirin Kot city, Uruzgan province, May 2015.

²⁵ UNGA, *Report of the Secretary-General, The situation in Afghanistan and its implications for international peace and security*, UN Doc. A/69/647 – S/2014/876, 9 December 2014: http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2014/876

²⁶ Interview with Lilit Umroyan, Child Protection Specialist, UNICEF, May 2015.

²⁷ UNGA, *Report of the Secretary-General, The situation in Afghanistan and its implications for international peace and security*, UN. Doc. A/69/801–S/2015/151, 27 February 2015, <http://unama.unmissions.org/Portals/UNAMA/SG%20Reports/SG-report-March2015.pdf>.

²⁸ Child Protection Units in ANP recruitment centres exist only in the four western provinces of Herat, Badghis, Ghor and Farah. Since their establishment in 2011, the four units have reportedly prevented 422 children (411 boys and 11 girls) from enlisting into the ANP, indicating a large scope for prevention activities in the 30 provinces where such units are not operational, UN Security Council, *Report of the Secretary-General on children and armed conflict in Afghanistan*, UN. Doc. S/2015/336, para. 18, 15 May 2015.

²⁹ UN Security Council, *Report of the Secretary-General on children and armed conflict in Afghanistan*, UN. Doc. S/2015/336, para. 23, 15 May 2015.

³⁰ The General Recruitment Commandantship in Ministry of Interior has the responsibility for recruiting people to police lines. Every qualified volunteer is expected to approach relevant administrative units with an application and National ID (citizenship card) who register the individual and ascertain their place of residence. A delegation headed by the Representative

applicants have not been involved in any criminal acts. Falsification of documents is illegal under the Afghanistan Penal Code but Child Soldiers International is not aware of any instances of investigation or prosecution of individuals for falsifying documents in relation to underage recruitment. In contrast, the procedure to obtain a fraudulent identity card is affordable and easy: for US\$150-250, a fraudulent identity card may be obtained.³¹ The statistics office clerk will look for a young man who has died or moved out of Afghanistan and reissue the dormant national identity card for a small bribe. With the new identity card, other steps can be easily maneuvered.

4. Recruitment and use in hostilities by armed opposition groups

The *Taliban* forces were first named in the list of parties that recruit and use children in situations of armed conflict on the agenda of the Security Council in 2007.³² In 2009, the *Taliban* forces were also held responsible for the killing and maiming of children, attacks on schools and hospitals, and the denial of humanitarian access to children.³³ In 2010, the *Haqqani* network, *Hezb-e-Islami* of *Gulbuddin Hekmatyar*, *Jamat Sunat al-Dawa Salafia* and *Tora Bora* Front were added to the list of parties which recruit and use children, the latter two as part of the *Taliban* forces.³⁴ The UN Secretary General's 2014 annual report on children and armed conflict lists the *Haqqani* network, *Hezb-e-Islami* of *Gulbuddin Hekmatyar* and the *Taliban* forces, including the *Tora Bora* Front, the *Jamat Sunat al-Dawa Salafia* and the *Latif Mansur* network as parties that recruit and use children in hostilities. These armed groups are considered persistent perpetrators since they have been continually named since 2010.

In a worrying trend, the *Taliban* continued to recruit children to carry out suicide attacks and to plant improvised explosive devices (IEDs), and used them in active combat and as spies.³⁵ In the case of Kunduz province where fighting has been the most fierce in recent months, families have been forced to offer up young sons to the local armed groups.³⁶ Children are regularly used to manufacture, transport, and plant improvised explosive devices and conduct suicide attacks.³⁷

The issue of children being used as suicide bombers is a national problem with the majority of Afghanistan's 34 provinces experiencing attacks by the *Taliban*. In 2014 alone there were suicide attacks by children in Nangahar, Baghlan, Faryab province, and directed at former president Hamid Karzai in Kandahar province. These are of course just the known cases. Further, in Kabul underage *Taliban* fighters executed two complex attacks (one at the Serena Hotel and another at the French Institute).³⁸

Apart from the *Haqqani* network in the southeast and *al Qaeda* in Kunar and Nuristan, it is difficult to get information on the armed opposition groups. A 2008 study found that underage recruitment was widespread in the eastern province of Jalalabad, as well as northern provinces. (The study found that

of General Recruitment Commandantship and including representatives from NDS, Counter Crime Division, General Directorate of Population and Statistics and Health Services Directorate are assigned to study and check the papers of the volunteer, assess their physical appearance and criminal record and conduct drug and biometric tests.

³¹ Child Soldiers International confidential interview with a local journalist from Kunar province, May 2015. Name withheld for security reasons.

³² UNGA, *Report of the Secretary General on children and armed conflict*, UN Doc. S/2000/757, 21 December 2007.

³³ UNGA, *Report of the Secretary General on children and armed conflict*, UN Doc. S/2009/158, 26 March 2009.

³⁴ UNGA, *Report of the Secretary General on children and armed conflict*, UN Doc. S/2010/181, 13 April 2010.

³⁵ UNGA, *Report of the Secretary General on children and armed conflict*, UN Doc. S/2015/409, para. 27, 18 June 2015.

³⁶ Afghanistan Analysts Network, *Security in Kunduz Worsening Further: The Case of Khanabad*, October 2014:

<https://www.afghanistan-analysts.org/security-in-kunduz-worsening-further-the-case-of-khanabad/>

³⁷ UNAMA, *Annual Report on Protection of Civilians in Armed Conflict*, February 2015:

<http://unama.unmissions.org/Portals/UNAMA/human%20rights/2015/2014-Annual-Report-on-Protection-of-Civilians-Final.pdf>

³⁸ UN Secretary General, Letter dated 9 June 2014 from the Chair of the Security Council Committee established pursuant to resolution 1988 (2011) addressed to the President of the Security Council.

most combatants joined out of necessity. One recruit said the decision was “because we needed a small salary for ourselves.”³⁹

Recruitment of children into armed opposition groups (*Taliban* and other groups) is highest in provinces where the insurgency is the strongest: southern provinces such as Kandahar and Helmand, as well as eastern provinces that share a border with Pakistan, such as Pakiya, Khost, and Paktika.⁴⁰

5. Unlawful and arbitrary detention of children

The 2005 Juvenile Code prohibits harsh punishment against children and requires the state to take special measures to protect the rights of children. It “guarantees the right to legal representation” and requires that “children should be treated differently from adults and prescribed shorter time limits for detention.”⁴¹ According to Article 5 of the Afghan Juvenile Code, “children who have not completed the age of 12 are not criminally responsible.”

The CRC stipulates that the detention of a child should be used as a last resort. It also provides the rights to: family visits and contact with family while in detention; legal assistance; be presumed innocent; be informed promptly and directly of charges; have matters determined without delay; and not to self-incriminate and be compelled to give testimony.⁴²

However, the detention of children on national security related charges continues to be widely practiced by authorities in Afghanistan. According to the Ministry of Justice, 258 boys were held in Juvenile Rehabilitation Centres across the country in 2014 on national security-related charges, including association with armed groups.⁴³ 44 out of 105 child detainees interviewed by the UN between February 2013 and December 2014 reported ill treatment or torture.⁴⁴

As of February 2015, even after some of these discrepancies were pointed out in a joint UNAMA and Office of the United Nations Higher Commissioner for Human Rights (OHCHR) report,⁴⁵ the NDS failed to strengthen existing policies and practices for determining the age of detainees; failed to ensure that children are given legally required considerations and protections; and failed to separate children from adult detainees. The following NDS facilities held child detainees: Laghman (6), Kabul (7), Herat (1), Pakiya (2), Farah (2), Badakhshan (1), Kapisa (1), Kandahar (1), Kunduz (3), Logar (2), Nangahar (2), and Takhar (1). All children here reported instances of torture. In Farah, child detainees were subject to beatings, electric shocks, and sleep deprivation. At the ANP and the Afghan National Border Police, 16 out of the 93 cases of torture involved children (17 per cent). The torture took place in Kandahar (5 children), Herat (3), Baghlan (2), Logar (2), and one each in Helmand, Jawzjan, Kunduz, and Pakiya.⁴⁶

³⁹ Michael Vinay Bhatia and Mark Sedra, *Afghanistan, Arms and Conflict: Armed Groups, Disarmament and Security in a Post-war Society*, Contemporary Security Studies, 2008.

⁴⁰ Child Soldiers International interview with Lilit Umroyan, Child Protection Specialist, UNICEF, May 2015.

⁴¹ Juvenile Code, articles 4, 8, 11, 13-15, 22 and 30, available at:

<http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/70278/97836/F566579256/AFG70278%20English.pdf>

⁴² CRC, articles 37 (b)-(c) and 40 (2) (b).

⁴³ UNGA, *Annual Report of the Secretary General on children and armed conflict*, UN Doc. A/69/926 - S/2015/409, para. 29, 5 June 2015.

⁴⁴ UNGA, *Annual Report of the Secretary General on children and armed conflict*, UN Doc. A/69/926 - S/2015/409, para. 29, 5 June 2015.

⁴⁵ UNAMA and OHCHR, *Update on the Treatment of Conflict Related Detainees in Afghan Custody: Accountability and Implementation of Presidential Decree 129*, February 2015:

http://unama.unmissions.org/Portals/UNAMA/human%20rights/2015/UNAMA%20Detention%20Report%202015_revised.pdf

⁴⁶ Op.cit., UNAMA and OHCHR.

No policy exists in Afghanistan on dealing with children who are arrested on national-security related charges. While the NDS maintains that they have instructed all of its departments to introduce children to Juvenile Rehabilitation Centres (JRCs) in the relevant provinces, problems with assessing the ages of child offenders with missing ID cards continue. Forensic and medical examinations are carried out to determine age. An absence of insufficient and systematic age assessment procedures has led to many child offenders to be dealt not as victims but as adult offenders at the time of arrest and during interrogation. The progressive juvenile justice standards that exist in Afghanistan do not appear to apply to children accused of terrorism charges. Cases of currently detained children have not been reviewed, and the process remains slow.

In the majority, children are separated from adults in detention, but if a child is detained on national security charges, the NDS takes over and begins interrogation. This means most probably children are kept in NDS facilities without specialised juvenile wards.⁴⁷ In the absence of any external oversight and monitoring, the number of illegal detentions remains unknown. UNICEF is currently assisting the government to develop a road map that includes a judicial review, in order to determine which detentions are unconstitutional.

In August 2013, the Afghanistan Ministry of Justice signed a memorandum of understanding with the UN Development Programme and the Afghanistan Independent Bar Association to implement a legal aid grant facility that will provide free defence counsel to detainees. The Legal Aid Grant Facility opened in all courts in Herat, Balkh, Nangahar, and Helmand Provinces in March 2014.

6. Disarmament, demobilization and reintegration

The Afghanistan government has thus far failed to implement proactive mechanisms to identify, verify and release children from the ANSF. Government funded services to provide former child soldiers with psychosocial support, economic reintegration programme, livelihood assistance, or vocational training are paltry. The Ministry of Labor, Social Affairs, Martyrs and Disabled has taken some responsibility for providing limited services to children who have been released from the police after their applications have been denied but these measures need to be strengthened.

Varying welfare bodies have provided limited support but no systemic efforts exist on the institutional level.⁴⁸ Neither UNICEF nor the ICRC conduct comprehensive work on providing effective rehabilitation and reintegration services to former child soldiers.

7. Other violations against children

Sexual violence against children remains a feature of the conflict but continues to be underreported owing to a climate of impunity as well as fear of reprisals and stigmatisation.⁴⁹ In 2014, the country task force documented 40 reports of sexual violence involving 27 boys and 24 girls, the vast majority of which were attributed to the Afghan National Police and the Afghan Local Police.⁵⁰

In some cases, the use of boys for sexual exploitation is known to have contributed to in-fighting among commanders and fuelled conflict. In the case of Commander Matin (who goes by the sobriquet Matinak), an ALP commander in Kunduz province, a dispute broke out in September 2014 when one of

⁴⁷ Child Soldiers International confidential interview, May 2015.

⁴⁸ Child Soldiers International confidential interview, May 2015.

⁴⁹ UNGA, *Annual Report of the Secretary-General on children and armed conflict*, UN Doc. A/68/878-S/2014/339, 15 May 2014.

⁵⁰ UN Security Council, *Report of the Secretary-General on children and armed conflict in Afghanistan*, UN Doc. S/2015/336, para. 36, 15 May 2015.

Matinak's *bachaye berisha* (a sexually abused boy) ran away to the warring Commander Qadirak. The clash between two factions led to casualties on both sides. The Afghanistan Analysts Network, a Kabul-based research organisation, reported that the boy was returned to Matinak after local elders intervened.⁵¹ A parliamentarian from Zabul province told Child Soldiers International that during his tenure as a member of the High Peace Council, most of the mediation cases involved a fight between commanders over their *bachaye berishas*.

"In six of my districts, they do not have a school. Most children are either with the police or the *Taliban*."⁵²

Children have been abducted for their alleged involvement in spying on behalf of the Afghanistan government or international forces, for recruitment, sexual abuse and as reprisals against family members working or allegedly supporting the Afghanistan government or international forces. In 2014, 111 incidents of abduction, involving 242 children (235 boys and seven girls) were reported, of which the UN was able to verify 53 incidents affecting 93 boys and seven girls.⁵³

Conclusions and recommendations

Peace negotiations between the Afghan government and the *Taliban* which began in Qatar in May 2015 offer a unique opportunity to address the issue of child soldiers and other violations against children. International pressure and assistance are required to ensure the armed forces and armed groups address child recruitment and use in their ranks. Prevention of the recruitment of children and their use in hostilities should be mainstreamed in the international assistance provided to Afghanistan, including technical assistance to strengthen the armed forces recruitment procedures, and the necessary age verification and monitoring and accountability mechanisms should be put in place to prevent underage recruitment and use. More broadly, the international community, through the UN and other initiatives supporting conflict resolution, should ensure that any peace processes address the protection needs of child soldiers in line with the UN operational guidelines on addressing children's issues in peace agreements.

After nearly four years, the issue of child soldiers in Afghanistan is again before the SCWG. This represents a significant opportunity for political engagement with the Afghanistan government and to exercise pressure to ensure the strengthening of measures to protect children from unlawful recruitment and prevent further violations.

Child Soldiers International encourages the SCWG to reiterate recommendations issued as part of their conclusions on children and armed conflict in Afghanistan in 2011 in its recommendations to the Afghanistan government, leaders of armed groups, and the donor and international community. The consideration of the UN Secretary General's report on children and armed conflict in Afghanistan should offer an opportunity to assess the capacity of the UN Country Task Force to monitor and report and of national human rights and child protection organisations to support the implementation of the Joint Action Plan and more broadly address the issue of child soldiers in the country.

⁵¹ Afghanistan Analysts Network, *Security in Kunduz Worsening Further: The Case of Khanabad*, October 2014: <https://www.afghanistan-analysts.org/security-in-kunduz-worsening-further-the-case-of-khanabad/>

⁵² Child Soldiers International interview with Dawood Gulzar, Member of Provincial Council of Zabul province, May 2015.

⁵³ UN Security Council, Report of the Secretary-General on children and armed conflict in Afghanistan, UN. Doc. S/2015/336, para. 40, 15 May 2015.

Child Soldiers International encourages the SCWG to make the following recommendations:

Recommendations to the government of Afghanistan

- Implement the Joint Action Plan fully, and in particular:
 - Strengthen recruitment procedures and oversight across all recruitment sites in the country;
 - Ensure that all military and civilian personnel involved in military recruitment have received training and are aware of the prohibition on recruiting under-18s;
 - Ensure that child protection units are created within ANP and ALP offices in all provinces in addition to the four already functioning;
 - Identify, register and immediately discharge all children present in the ranks of the ANP, ALP and other pro-government armed groups; in particular, establish a central database with personal information of individual ANP and ALP recruits with the purpose of identifying and removing all those who are underage from the ranks;
 - Provide unimpeded access to its military sites and other areas where children may be present to enable the UN CTFMR to assist in identifying, registering and discharging all children present in the ranks of the ANSF;
 - Allow national and international child protection bodies regular access to all detention facilities at all levels, including those of the NDS, and ensure due process for all juveniles detained for alleged association with armed groups;
 - Draft and widely disseminate simplified guidelines on national standards on juvenile justice in line with best international practices, and at the same time strengthen oversight and accountability measures to ensure compliance with these guidelines;
 - Initiate a dialogue with the UN CTFMR to jointly develop a strategy to access the armed groups listed in the UN Secretary-General's annual report on children and armed conflict through intermediaries, including independent humanitarian organisations, in order to advocate for and ensure the safe release and reintegration of children associated with these groups.

Age verification

- Endorse, adopt and implement age verification methods in line with best international practices; ensure that all military and civilian personnel involved in military recruitment have received child protection and age verification training;
- Strengthen measures to make birth registration accessible in law and in practice, in order to strive towards universal birth registration;
- Institute civil and military sanctions for falsification of ID cards "Tazkera".

Accountability

- Address without delay existing widespread impunity on violations against the rights of children in the situation of armed conflict in Afghanistan;

- Develop legislation to prohibit and criminalise the recruitment of children into armed groups and their use in hostilities, in line with international law and standards, and ensure its implementation;
- Widely disseminate legislation prohibiting and criminalising child recruitment and use in armed forces to all members of the armed and security forces;
- Systematically conduct prompt and effective investigations into all credible reports of child recruitment and use;
- Suspend from duty police personnel suspected of these offences pending completion of investigations, and, if allegations are verified, take appropriate disciplinary actions against them;
- If sufficient admissible evidence is gathered, bring to justice those alleged to be responsible for child recruitment or use by the ANP and ALP, including those with command responsibility and others who assist in the unlawful recruitment of children;
- Regularly make public information on the number of investigations and prosecutions, of disciplinary actions taken and the outcome of these proceedings;
- Promptly implement measures to improve the conduct, oversight, accountability and field-level monitoring and mentoring of the ALP;
- Disband all local defence forces operating outside the government of Afghanistan's control.

Reintegration and rehabilitation

- Ensure that all disarmament, demobilisation and reintegration programmes and security sector reform take into account the specific needs of children affected by the armed conflict and the protection of their rights;
- In collaboration with the UN and other child protection actors, collect authoritative data on the numbers of current and former child soldiers requiring assistance (including those over-18 on release). Conduct a full needs assessment of the nature, scope, duration, funding and expertise needed for the provision of "appropriate assistance" to former child soldiers, including rehabilitation, education and vocational training;
- Establish permanent infrastructures for quality temporary care of children, assistance to their physical and psychosocial recovery, and support to family reunification and social reintegration.

Recommendations to armed groups

- Release all under-18s in their ranks without fear of reprisal for the children and/or their families;
- Undertake a dialogue with the UN Country Task Force in Afghanistan to prepare, adopt and implement without delay time-bound action plans to halt the recruitment and use of children as called for in Security Council resolutions 1539 (2004), 1612 (2005) and 1882 (2009);

- Take immediate and specific measures to put an end to and prevent the perpetration of sexual violence by members of their respective groups, in particular the practice of *bacha baaži*; take measures so that perpetrators are brought to justice; and publicly declare an end to such practice.

Recommendations to the international community and donors

- Provide flexible, timely and sufficient resources and support to the Afghanistan government and the UN Country Task Force to implement the Action Plan, particularly in strengthening age determination and vetting procedures, oversight of recruitment activities, as well as to provide follow-up services in the form of recovery and rehabilitation for children affected by armed violence.