



HUMAN
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“Education on the Front Lines”

Military Use of Schools in Afghanistan’s Baghlan Province



“Education on the Front Lines”

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Summary	1
Recommendations.....	4
To the Government of Afghanistan	4
To the Afghan Ministry of Defense and Ministry of Interior	5
To the Taliban and other non-state armed groups.....	5
To international donors and agencies supporting education in Afghanistan.....	6
Methodology.....	7
I. Background.....	9
Fighting in Baghlan since late 2015	11
II. Use of Schools for Military Purposes	15
III. Case Studies	20
Bibi Aina High School	20
Ahmadzai High School.....	21
Qalai Khwaja High School.....	23
Chashme Sher High School.....	24
Ghulam Jelani Jalali Middle School.....	25
Haji Mir Bakhsh Middle School	29
Khial Jan Shahid Primary School	31
Niazullah Primary School.....	31
Dand-e Ghor Primary School (Joy-e Naw)	34
Haji Yar Mohammed Kharoti Primary School.....	35
Nasrat Mina Primary School.....	36
Arab Tapa Primary School	36
IV. International Legal Obligations and Good Practice	38
Afghan Domestic Law	38
International Humanitarian Law	38

International Human Rights Law	40
UN Security Council Resolution	41
Armed Forces' Good Practice.....	42
Safe Schools Declaration.....	43
Acknowledgements	45
Annex I: Safe Schools Declaration	46
Safe Schools Declaration.....	46
Annex II: Guidelines	49
Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict....	49
Annex III: Letter to the Directorate of Education of Baghlan Province	52

Summary

Since the US-led military intervention in Afghanistan in 2001, foreign donors have invested heavily in education, building schools, supporting teacher training, and providing textbooks and other materials to schools across Afghanistan. But as the country's security situation has deteriorated, schools throughout Afghanistan have been under threat, not only from resurgent Taliban forces but also from the very Afghan state security forces mandated to protect them.

Increasingly, the country's security forces have been using schools—the only concrete-reinforced buildings in some villages—as their military bases during offensives against Taliban-held areas. Even if the buildings remain unscathed, military occupation interrupts children's education. But all too often, the schools become battlegrounds as the Taliban counterattack government positions, leaving the buildings damaged or in ruins and denying children an education until they can be rebuilt, if ever.

This use of schools has placed schools at risk of attack and students and teachers in harm's way. It is also contrary to the global Safe Schools Declaration, which Afghanistan endorsed in 2015. The declaration urges parties to armed conflicts “not to use schools and universities for any purpose in support of the military effort.”

Based on a research mission in April 2016, this report documents the occupation or other use for military purposes of 12 schools in one area of Baghlan province in north-eastern Afghanistan. Although conditions in Baghlan reflect the particular dynamics of the conflict in the northeast, where tensions between local security forces and government officials have erupted over military policy, security forces have used schools in other conflict-affected areas of the country as well, and statistics provided by the United Nations indicate that the problem is getting worse. The use of schools by Afghan security forces has severely harmed children's right to education in Afghanistan, affecting tens of thousands of school children at all levels of education, and thousands of teachers and education administrators.

For example, the Ustad Ghulam Jelani Jalali Middle School in the village of Postak Bazaar was first occupied by Afghan security forces in 2010. The Taliban attacked and gunned

down seven policemen inside a classroom. “Their blood just wouldn’t wash away,” a school official told Human Rights Watch, “so we had to chip it away from the wall with an axe.” In 2015, government forces were back at the school, setting up base with sandbagged positions on the second floor while students tried to continue their schooling below. Alarmed school officials managed to get a letter from the Kabul authorities ordering the government forces to leave, but the commander ignored them, saying that he was staying put. When the students needed to take exams, school officials again presented the letter to the commander, but his officers fired their guns in the direction of the assembled teachers and students, and they fled.

The Taliban, too, have used schools in Baghlan as bases. For example, a Swedish government-financed school in Omarkhail opened its doors in 2015 to 350 boys and girls. Soon afterward, Taliban fighters came to occupy the school, and were unwilling to leave when asked by village elders. In early 2016, government forces attacked the Taliban forces based at the school, raking the building with gunfire and mortar rounds. The Taliban fled, but the school compound was left in ruins less than a year after it had opened.

Incidents like these have become frequent occurrences, as school districts across the country find themselves on the front lines in country’s armed conflict. Either students attend schools being used by soldiers, putting themselves at grave risk, or they are deprived of an education until they can find facilities elsewhere.

One frequently noted achievement of the post-Taliban government in Afghanistan has been the increase in girls attending school. However, parents are especially unlikely to allow girls to attend school if the school is being used by the military or is believed to be at risk of attack. When parents perceive that a school or the route to the school is becoming more dangerous, or when a school closes and students are forced to travel farther to one that is still open, girls are far more likely than boys to be kept home by anxious parents.

Before 2001, decades of unrelenting conflict in Afghanistan had decimated the education system, depriving entire generations of an education. Under the Taliban government, the schools kept out girls and many others—and they focused on teaching the Taliban’s brand of Islam. When the Taliban government fell in late 2001, only about 775,000 children were in school, the World Bank estimated. Today some 8 million students are enrolled in school.

Since the US-led military intervention in Afghanistan, many donor countries focused a significant amount of their reconstruction efforts in trying to rebuild the country's ruined educational infrastructure. Between 2002 and 2012, the US Agency for International Development (USAID) invested US\$885 million in education projects in Afghanistan, and overall official development assistance (ODA) amounts to more than \$450 million.¹ More than 33 donors have invested \$400 million since 2009 in the government's World Bank-supported Education Quality Improvement Project.²

Although reconstruction efforts have often been marred by inadequate oversight, wasteful spending, and widespread corruption, over the years thousands of schools have been constructed or refurbished throughout Afghanistan, an effort often claimed as a key achievement in the 15 years since the US-led intervention in Afghanistan. That achievement is at risk so long as schools remain vulnerable to use by military forces and threatened with attack.

¹ "Afghanistan: Frequently Asked Questions," USAID, <https://www.usaid.gov/afghanistan/frequently-asked-questions>; Arne Strand, "Financing Education in Afghanistan: Opportunities for Action," (country case study for the Oslo Summit on Education for Development, July 6-7, 2015) <http://reliefweb.int/sites/reliefweb.int/files/resources/FINANCING%20EDUCATION%20IN%20AFGHANISTAN.pdf>.

² "Education Quality Improvement Program ii," Afghanistan Reconstruction Trust Fund, Active Portfolio Investment Projects, accessed June 17, 2016, <http://www.artf.af/portfolio/active-portfolio-investment-projects/human-development/second-education-quality-improvement-program>.

Recommendations

To the Government of Afghanistan

- Take concrete measures detailed below to deter the military use of schools by state security forces, including the Afghan military, police, and pro-government militias, consistent with UN Security Council Resolution 2225 (2015) and the Safe Schools Declaration, which the Afghan government endorsed in May 2015.
- Issue clear and public orders to the Afghan security forces, including the Afghan military, police, and pro-government militias, to curtail the military use of schools in line with the Safe Schools Declaration and the Guidelines on Protecting Schools and Universities from Military Use.
- Issue clear and public instructions to national and provincial authorities to monitor and report any use of schools by the Afghan security forces.
- Ensure that students deprived of educational facilities as a result of hostilities, the military use of their school, or the need for their school to be repaired or reconstructed, are promptly provided access to alternative schools in their vicinity.
- Address and remedy the disproportionate harm to girls' access to education as a result of hostilities and military use of schools. The Ministry of Education should adopt measures to assist girls who have been denied or risk losing access to education.
- The Ministries of Interior and Education should collect reliable data on military use of schools by both Afghan security forces and the Taliban and other armed groups. Data should include the names and locations of the educational institutions being used; the purpose for which they are being used; the duration of the use; the specific security force unit or armed group making use of the school; the enrollment prior to use and attendance during use; impact on students unable to attend school; actions taken by the authorities to end military use of the school; and the damages sustained during the military use of the school. All data should be disaggregated by gender to capture any disproportionate impact on girls.
- Establish and implement preventive measures, through training of the Afghan security forces, including the Afghan military, police, and pro-

government militias, to avoid the military use of educational facilities, and to vacate schools expeditiously where armed forces are using them.

To the Afghan Ministry of Defense and Ministry of Interior

- Issue clear, specific, and concrete orders to all Afghan security forces, including the Afghan military, police, and pro-government militias, to avoid use of schools and school property for camps, barracks, deployment, or as depots for weapons, ammunition, and materiel in accordance with the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict. Incorporate the Guidelines into military doctrine, operational orders, trainings, and other means of dissemination to encourage appropriate practice through the chain of command.
- Establish and implement preventive measures, including advance planning and the provision of necessary logistics and equipment, through coordination with the security forces and the Ministry of Education to avoid the military use of schools, and to vacate them expeditiously where armed forces are using them.
- Investigate and appropriately prosecute those individuals, regardless of rank, who are responsible for attacks on schools or damaging schools or school property in violation of international law.

To the Taliban and other non-state armed groups

- Immediately cease all attacks against schools that are not legitimate military objectives. Take appropriate disciplinary action against individuals who are responsible for such attacks.
- Order commanders to avoid use of schools and school property for camps, barracks, deployment, or as depots for weapons, ammunition, and materiel in accordance with the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict. Incorporate the Guidelines into military doctrine, operational orders, trainings, and other means of dissemination, to encourage appropriate practice through the chain of command.
- Immediately cease the use of inherently indiscriminate weapons such as landmines and improvised explosive devices near schools as well as other populated areas.

- Take appropriate disciplinary action against individuals who are responsible for attacks or threats against girls attending school and the staff of girls' schools.

To international donors and agencies supporting education in Afghanistan

- Work with the Afghan government to discourage the military use of schools, encourage occupying forces to vacate schools, and promote security force policies and practices that better protect schools.
- Make funding for schools contingent on Afghan government commitments that donor-supported schools will not be used by Afghan security forces. Monitor schools built or reconstructed by donor funds through regular check-ins with school officials and report military use of schools to the relevant authorities for their prompt action.
- Work with the Afghan government to ensure the implementation of its commitments under the Safe Schools Declaration, including through joint military training programs.

Methodology

Human Rights Watch conducted field research for this report in Afghanistan's Baghlan province in April 2016. We spoke to more than 20 school principals, teachers, and administrators representing 12 schools, as well as local families affected by the conflict. The people interviewed were identified with the assistance of Afghan nongovernmental organizations (NGOs). As travel to the affected schools was not possible because of security considerations, those interviewed traveled to the provincial capital, Pul-e Khumri.

Human Rights Watch also interviewed local officials and tribal representatives, United Nations officials, local and international journalists, and aid workers. We spoke to the provincial governor, Abdul Sattar Bariz, by phone. We also spoke to the former police chief of Baghlan, Muhammad Ewaz Nazari, who served in the province between February 4 and May 5, which covers the duration of the major security operation and most of the cases of military use of schools documented in this report. We also spoke to Noor Habib Gulbahari, Baghlan police chief since May 31, 2016.

Interviewees were informed about the nature and purpose of the research and how the information they provided would be used. Human Rights Watch obtained consent for each of the interviews. The interviews were conducted in Dari and English. No incentives were provided in exchange for interviews. Those who traveled to the provincial capital to be interviewed were reimbursed AFN 500 (US\$8) for their travel costs.

Because of the prevailing security conditions, it was not possible to request additional school representatives from the affected schools to make the journey to Pul-e Khumri, so most of the school case studies are based on a detailed account provided by a single school official, normally the principal or headmaster of the school. To check the accuracy of the information, we conducted a second interview by phone with those officials who had access to mobile phones a month after the original interview, to review the case studies and reconfirm the facts and chronology. In all cases, the accounts of military use of specific schools were internally consistent, and there were commonalities across the interviews with officials of different schools that lent credence to their claims.

Human Rights Watch cross-checked the information from school officials with information from NGO staff and analysts working in the area. We also spoke confidentially to a government advisor who works on security issues and who confirmed basic facts about most of the cases included in this report, as indicated in relevant citations.

The names of local officials and residents interviewed have been withheld for security reasons.

I. Background

Fighting between the Taliban and government forces in Afghanistan, which escalated following the withdrawal of most international forces in December 2014, continues to exact a devastating toll on civilians. Throughout 2015 the conflict intensified in the northeastern provinces of Kunduz and Baghlan, where the insurgents gained a foothold in districts close to provincial capitals. Back and forth ground fighting between government forces and the Taliban have left civilians vulnerable to abuses by both sides.

The ethnically diverse Afghan province of Baghlan, straddling the Hindu Kush mountains north of the capital, Kabul, was for years relatively untouched by armed conflict after the defeat of the Taliban government in late 2001. Regional commanders who had held power in the early 1990s before Taliban rule took over most of the important positions in the security sector and other local administrative offices.³ By 2008, factional fighting within the Baghlan provincial administration, exacerbated by power struggles among local strongmen and their ethnically based militias, created opportunities for Taliban inroads. While their gains were mostly in ethnic Pashtun communities, in Baghlan as in some other areas of the country's northeast the Taliban also successfully recruited ethnic Uzbeks and other non-Pashtuns.⁴

Government officials and local powerholders in Baghlan have long-exploited tensions between Pashtun communities, concentrated mostly in the province's Dand-e Ghor, Dand-e Shahabuddin, and Baghlan-e Jadid areas, and Tajiks who predominate in eastern areas of the province, particularly Andarab. Andarab has traditionally been a stronghold of Jamiat-e Islami-affiliated militias, part of a larger predominantly Tajik network loyal to the late defense minister Mohammed Fahim and Balkh Governor Atta Mohammed Noor, a powerful rival to former President Hamid Karzai and current President Ashraf Ghani.⁵

³ Jonathan Goodhand and Aziz Hakimi, "Counterinsurgency, Local Militias, and Statebuilding in Afghanistan," United States Institute of Peace, <https://www.usip.org/sites/default/files/PW90-Counterinsurgency-Local-Militias-and-Statebuilding-in-Afghanistan.pdf> (accessed June 20, 2016).

⁴ Antonio Giustozzi and Christoph Reuter, "The Insurgents of the Afghan North," Afghanistan Analysts Network, May 5, 2011, <http://www.afghanistan-analysts.org/wp-content/uploads/downloads/2012/10/AAN-2011-Northern-Insurgents.pdf> (accessed June 8, 2016).

⁵ Ibid; Deedee Derkson, "Non-State Security Providers and Political Formation in Afghanistan," Center for Security Governance (2016), pp. 22-23, accessed June 20, 2016, http://www.secgovcentre.org/files/www/CSG_Paper_3_NSSPs_in_Afghanistan_March_2016.pdf.

By 2009, many militias affiliated with the predominantly Tajik Jamiat-e Islami party that had been demobilized, although not disarmed, were able to remobilize under the auspices of Afghanistan's intelligence agency, the National Directorate for Security (NDS).⁶ To counter their influence, President Karzai appointed Pashtuns loyal to him to government positions, and Pashtun leaders in the province activated their own militias, some of whom were incorporated into the newly organized Afghan Local Police (ALP), an internationally backed militia force.⁷

Power struggles among these rival militias fanned ethnic tensions, with Tajik leaders accusing local Pashtun officials of tolerating the growing influence of the Taliban, and Pashtun leaders in Baghlan complaining about the dominance of Tajik "Andarabis" in the security forces. Abuses committed by these Andarabi-dominated militias against Pashtun communities also served as a recruitment tool for the Taliban. According to one analyst, "These [Tajik-Pashtun] tensions have helped pave the way for the Taliban insurgency to reach out to Pashtun tribesmen, recruiting them by encouraging them to 'take revenge' and fight against the Andarabis."⁸ However, Pashtun ALP have also been responsible for abuses against local civilians, "including beatings, murder, land grabbing, rape, and forced taxation."⁹

By 2009-2010, the mostly Pashtun-populated Dand-e Ghorri and Dand-e Shahabuddin areas to the immediate west of Pul-e Khumri, the provincial capital of Baghlan, had become strongholds of the resurgent Taliban.¹⁰ The area is of strategic importance to the Taliban, as it allows the insurgents to interrupt traffic on the main trans-Hindu Kush Highway, the only road connecting Kabul to the northern cities of Kunduz and Mazar-e Sharif.¹¹ A major electricity powerline bringing electricity from Uzbekistan to Kabul also

⁶ Derkson, "Non-State Security Providers," p. 22; Human Rights Watch, Just Don't Call it a Militia: Impunity, Militias, and the "Afghan Local Police," September 2011, <https://www.hrw.org/sites/default/files/reports/afghanistan0911webwcover.pdf>, pp. 27-28.

⁷ The ALP program began in 2010. Human Rights Watch has documented a pattern of widespread abuses and lack of accountability in the ALP program. See also Derkson, "Non-State Security Providers," p. 22.

⁸ Gran Hewad, "The 2015 Insurgency in the North (4): Surrounding the Cities in Baghlan," Afghanistan Analysts Network, October 21, 2015, <https://www.afghanistan-analysts.org/insurgency-in-the-north-4-baghlan/>.

⁹ Goodhand and Hakimi, "Counterinsurgency, Local Militias, and Statebuilding in Afghanistan," p. 31.

¹⁰ Ibid.

¹¹ Hewad, "The 2015 Insurgency in the North (4): Surrounding the Cities in Baghlan."

runs through the area, enabling the Taliban to disrupt the power supply to the capital and adjacent provinces.¹²

The Afghan government, concerned about the weakness of state security forces following the withdrawal of most international troops from Afghanistan at the end of 2014, established a little publicized program to support a new variant of local militia to counter the Taliban's advance. Known as the "People's Uprising Program" it is coordinated by the NDS.¹³ An international official familiar with the Uprising Program confirmed to Human Rights Watch that President Ghani had approved the expansion of the program to Baghlan province in early 2016.¹⁴

Following the Taliban's capture of Kunduz in September 2015, nearly a dozen former commanders from Baghlan joined hands to raise fighters to defend Pul-e Khumri from the Taliban, increasing the risk that fighting would exacerbate ethnic divisions in the province.

Fighting in Baghlan since late 2015

During an offensive that briefly took Kunduz in September 2015, the Taliban mobilized fighters from Baghlan province to join the attack. Taliban fighters from Baghlan province also managed to blunt the movement of reinforcements of Afghan army troops trying to reach Kunduz from Kabul, blocking them in northern Baghlan from September 29 to October 8.¹⁵

Before the Kunduz offensive in early September, Taliban fighters in Dand-e Ghori and Dand-e Shahabuddin had succeeded in wresting control of much of these areas from government forces, overrunning police posts and bringing significant territory under their control close to

¹² In early 2016, power pylons were repeatedly destroyed through explosions in the Dand-e Shahabuddin area, causing large-scale blackouts in Kabul and elsewhere. See Faragis Najibullah, "More Afghan Electricity Towers Destroyed, Raising Fears of New Battle Tactic," RFE/RL, May 2, 2016, <http://www.rferl.org/content/afghanistan-electricity-towers-destroyed-taliban/27545913.html>; David Jolly, "Taliban Sabotage Cuts Major Power Source for Afghanistan Capital," New York Times, January 27, 2016, http://www.nytimes.com/2016/01/28/world/asia/taliban-electricity-afghanistan-uzbekistan-kabul.html?_r=0.

¹³ Jessica Donati & Habib Khan Kotakhil, "Afghan Spy Agency Enlists Villagers to Hold Off Islamic State," Wall Street Journal, April 5, 2016, <http://www.wsj.com/articles/afghan-spy-agency-arms-villagers-to-hold-off-islamic-state-1459848602> (accessed May 2, 2016).

¹⁴ Human Rights Watch email communication with an international official, April 15, 2016.

¹⁵ Hewad, "The 2015 Insurgency in the North (4): Surrounding the Cities in Baghlan."

the city of Pul-e Khumri.¹⁶ After failing to retake Taliban-held areas with a ground offensive, government forces began intensively shelling these areas from Cement Hill, located between Pul-e Khumri city and Dand-e Ghori,¹⁷ causing large-scale displacement and the closure of schools.¹⁸ The Taliban responded by firing artillery and locally-made unguided rockets into Pul-e Khumri. Both sides were responsible for civilian casualties.¹⁹

In an attempt to stem the fighting, a five-member government delegation headed by the minister of borders and tribal affairs, Gulab Mangal, traveled to Baghlan on September 3. The delegation ultimately signed a memorandum of understanding with local Pashtun tribal leaders in the Dand-e Ghori area, in which the tribal elders agreed to ask the Taliban to cease attacks against the security forces in return for an end to government military operations in their area. An ensuing ceasefire agreement between the Taliban and the government allowed displaced persons to return to their homes, and gave farmers time to harvest their crops.²⁰

The Taliban's subsequent capture of Kunduz on September 28, which was not covered by the Baghlan ceasefire, reportedly allowed them to transfer weapons taken from military and police facilities to their strongholds in Dand-e Ghori and Dand-e Shahabuddin.²¹ While the ceasefire brought about a significant de-escalation in the fighting and relief to the civilian population, some Afghan politicians and media criticized the agreement on the grounds that it left the Taliban in control of a major strategic area, and in a stronger military position because they had a safe area in which to base their fighters and store weapons, and from which they could launch attacks on neighboring districts, including Kunduz.²²

¹⁶ Hewad, "The 2015 Insurgency in the North (4): Surrounding the Cities in Baghlan."; Joseph Goldstein & Jawad Sukhanyar, "Shaken by Taliban Victory in Kunduz, Afghans Flee Another Provincial Capital," *New York Times*, September 30, 2015, <http://www.nytimes.com/2015/10/01/world/asia/kunduz-afghanistan-taliban-fight.html>.

¹⁷ The hill is named after the Ghori Cement Factory, one of the largest industries in the country. See Hewad, "The 2015 Insurgency in the North (4): Surrounding the Cities in Baghlan."

¹⁸ Habib Rahman Sherzai, "Thousands of Students Out of School Due to Fighting," *Pajhwok Afghan News*, August 31, 2015, <http://www.pajhwok.com/en/2015/08/31/thousands-students-out-school-due-fighting> (accessed May 2, 2016).

¹⁹ Habib Rahman Sherzai, "25 Civilians Killed in Baghlan Conflict: Probe Team," *Pajhwok Afghan News*, September 7, 2015, <http://www.pajhwok.com/en/2015/09/07/25-civilians-killed-baghlan-conflict-probe-team> (accessed May 2, 2016).

²⁰ Hewad, "The 2015 Insurgency in the North (4): Surrounding the Cities in Baghlan."

²¹ *Ibid.*

²² Hewad, "The 2015 Insurgency in the North (4): Surrounding the Cities in Baghlan."; Chris Sands and Fazelminalah Qazizai, "Behind Kabul's Blackout, A Failed Attempt at Peace with the Taliban," *The National*, March 1, 2016, <http://www.thenational.ae/world/central-asia/behind-kabuls-blackout-a-failed-attempt-at-peace-with-the-taliban>; Hamid Shirzai, "Baghlan MPs Concerned Over Dand-e Ghori Deal," *Tolo News*, February 3, 2016, <http://www.tolonews.com/en/afghanistan/23607-baghlan-mps-concerned-over-dand-e-ghori-deal>; Abdul Wali Arian &

In late January 2016, the government announced a major military “clearance operation” to retake control of Dand-e Ghori and Dand-e Shahabuddin from the Taliban, drawing up a battle plan that involved some 2,000 security force personnel in a joint operation involving the Afghan National Army (ANA), the Afghan National Police (ANP), and the NDS.²³ The Taliban retaliated by destroying several power pylons in Dand-e Shahabuddin, severely disrupting power to Kabul for several weeks.²⁴ The offensive was led by the army’s 209th Shahin Corps, commanded by Lt.-Gen. Abdul Hamid.

As in the previous fighting, the government offensive involved over one month of heavy shelling from its positions on Cement Hill overlooking the Taliban-held areas, again causing civilian casualties and civilian displacement.²⁵ In early March, government forces took full control of Dand-e Ghori during a brief ground offensive.²⁶

Soon after taking Dand-e Ghori, the Afghan military withdrew many of the troops that had been brought in for the clearance operation, leaving the restive area in the hands of sharply reduced numbers of national police and army units, as well as the Afghan Local Police. The ALP have been deeply unpopular with the local population, who accuse them of extortion and other abuses. Barely a month later, by early April, the Taliban renewed attacks on government forces, quickly retaking government positions and forcing security forces to surrender or flee. In response, government forces retreated and resumed shelling Taliban-controlled areas. Fighting between Afghan National Security Forces (ANSF)²⁷ and

Abdullah Hamim, “Dand-e Ghori Officials ‘Regret’ Deal With Taliban”, Tolo News, January 31, 2016, <http://www.tolonews.com/en/afghanistan/23557-dand-e-ghori-officials-regret-deal-with-taliban>.

²³ Franz J Marty, “Afghan Forces Launch Clearing Operation in Northern Province of Baghlan,” IHS Jane’s Defence Weekly, January 27, 2016, <http://www.janes.com/article/57510/afghan-forces-launch-clearing-operation-in-northern-province-of-baghlan>; Yama Ahmadi, “Military Operation Launched in Baghlan,” Tolo News, January 26, 2016, <http://www.tolonews.com/en/afghanistan/23469-military-operation-launched-in-baghlan>.

²⁴ Sands and Qazizai, “Behind Kabul’s Blackout, A Failed Attempt at Peace with the Taliban”; Fazul Rahim, “Kabul Goes Dark After Taliban Attack on Key Power Line in Baghlan Province,” NBC News, January 27, 2016, <http://www.nbcnews.com/news/world/kabul-goes-dark-after-taliban-attack-key-power-line-baghlan-n505041>.

²⁵ Habib Rahman Sherzai, “Afghanistan: Over 350 Families Displaced by Conflict in Baghlan Province,” Al Bawaba News, February 22, 2016, <http://www.albawaba.com/news/afghanistan-over-350-families-displaced-conflict-baghlan-province-808554>.

²⁶ “Afghan Forces Take Full Control of Dand-e Ghori in Baghlan from Taliban,” Khaama Press, March 3, 2016, <http://www.khaama.com/afghan-forces-take-full-control-of-dand-e-ghori-in-baghlan-from-taliban-0233>.

²⁷ ANSF is a blanket term covering all official state security forces, including the Afghan National Army (ANA), the Afghan National Police (ANP), and the ALP.

Taliban forces continued in Dand-e Ghori districts, particular in the Surkh Kotal area along the highway leading to Mazar-e Sharif, through July 2016.²⁸

²⁸ “21 militants killed in Baghlan province of Afghanistan,” Financial Express, June 18, 2016, <http://www.financialexpress.com/world-news/21-militants-killed-in-baghlan-province-of-afghanistan/289640/> (accessed July 26, 2016); Lynn O’Donnell, “Afghan Officials Report Taliban Attacks, Uptick in Violence,” Associated Press, July 19, 2016, <http://www.military.com/daily-news/2016/07/19/afghan-officials-report-taliban-attacks-uptick-violence.html> (accessed July 26, 2016).

II. Use of Schools for Military Purposes

This report documents the use of schools in Baghlan province by Afghanistan national security forces during offensives into Taliban-held areas from late 2015 through May 2016. In most cases the security forces have used the schools as impromptu military bases, compelling students and teachers to vacate the schools, or to share the premises with security forces while they engage in operations against the Taliban. While using the schools, Afghan National Army (ANA) and Afghan Local Police (ALP) forces frequently damaged school facilities, textbooks, and furniture. In a number of incidents described below, once the schools were taken over, they became targets for Taliban attacks. Some schools have changed hands multiple times as control of territory has shifted between the government and the Taliban.

The Taliban, too, have used schools in the area as military bases. In some cases they have destroyed textbooks and other materials that they deem un-Islamic. The Taliban have also planted improvised explosive devices (IEDs) in or near schools that they have used.

In 2011 the late Taliban leader, Mullah Mohammad Omar, issued a decree instructing Taliban forces not to attack schools or schoolchildren.²⁹ At unofficial talks with Afghan government and civil society delegates in Qatar in 2015, Taliban representatives pledged to support girls' and women's access to school and university.³⁰ However, in its 2016 report, UNAMA documented 19 incidents where the Taliban and other insurgents "directly or indirectly limited girls' access to education in Afghanistan, through complete bans on education for girls, restrictions of girls' attendance beyond 4th or 6th grade or explicit prohibitions of girls attending school without a female teacher."³¹ Taliban and other insurgents also used violence to impede girls' access to education through threats and

²⁹ "Government hails Taliban decree on schools," IRIN News, March 29, 2011, <http://www.irinnews.org/report/92312/afghanistan-government-hails-taliban-decree-schools> (accessed June 20, 2016).

³⁰ Margherita Stancati, "Taliban Pledge to Amend Their Hard-Line Stance on Women's Rights," Wall Street Journal, May 7, 2015, <http://www.wsj.com/articles/taliban-amend-their-hard-line-stance-toward-womens-rights-1431016660> (accessed June 20, 2016).

³¹ United Nations Assistance Mission to Afghanistan (UNAMA), "Education and Healthcare at Risk: Key Trends and Incidents Affecting Children's Access to Healthcare and Education in Afghanistan," April 2016, https://unama.unmissions.org/sites/default/files/education_and_healthcare_at_risk.pdf (accessed June 20, 2016).

intimidations, school burnings, and use of IEDs, in a number of cases leading to the closure of schools.

On May 29, 2015, Afghanistan became one of the first countries in the world to join the Safe Schools Declaration, committing itself to a number of measures aimed at strengthening the prevention of, and response to, attacks on students, teachers, and schools, including by: collecting reliable data on attacks and military use of schools and universities, providing assistance to victims of attacks, investigating allegations of violations of national and international law and prosecuting perpetrators when appropriate, developing and promoting “conflict sensitive” approaches to education, and seeking to continue education during armed conflict.

Recognizing the risk that Afghanistan’s security forces pose to schools, in April 2016 Afghanistan’s minister of education wrote to the Ministry of Interior “urging Afghan security forces to refrain from using schools for military purposes in line with government commitments in line with the Safe Schools Declaration signed by the Government of Afghanistan in May 2015.”³² The letter noted:

The military use of schools and educational [centers] can put these premises at high risks of vulnerability. The military checkpoints/bases currently located in many schools in provinces, can convert schools into military targets of education enemies. Given the budget limitation of this ministry for reconstruction of these premises as a result of military use, please direct the concerned authorities to immediately vacate the schools from the military use in different provinces of the country.³³

Human Rights Watch also obtained a letter from Abdul Bashir Basharyar, the director of the City Department of Education for Pul-e Khumri to the Directorate of Education of Baghlan province, dated February 20, 2016, complaining that:

³² United Nations Assistance Mission to Afghanistan (UNAMA), “Afghanistan Midyear Report 2016 Protection of Civilians in Armed Conflict,” July 2016, http://unama.unmissions.org/sites/default/files/protection_of_civilians_in_armed_conflict_midyear_report_2016_final.pdf (accessed July 26, 2016).

³³ Letter from Dr. Asadullah Hanif Balkhi, Minister of Education, to Ministry of Interior Affairs, number 311, April 2016.

A military operation has been ongoing in the Dand-e Ghorī area for about 20 days, and the frontline of the soldiers is located in the Nasrat Mina village and its surrounding areas. In the early days of the fighting, soldiers arbitrarily took a number of goods, including four tents, two plastic mats and two students' chairs, to their trenches/barracks. During the taking of [these goods], the school's peon/attendant argued with them, as a result of which he was threatened and beaten to a certain extent/a little, and told that "we are the government's soldiers and this is government property and belonging."³⁴

Human Rights Watch asked the governor of Baghlan province, Abdul Sattar Bariz, about the military use of schools in the province. He replied:

The only military use of school was an instance during operations last year [in 2015] when the ANA based itself in a school to prevent it from being burnt by the Taliban. This was done upon my orders. We returned the school to the teachers after the operation ... We are against all military use of schools and places of worship. The headmasters and principals who claim their schools were used by the security forces are sincere people, but they have been deceived by [the Taliban]. They are told to say that their schools are used by security forces ... The claims that ALP are involved in military use of schools are deception. ALP, or the public uprisers, are not involved in fighting the war. They are local uprisers established to protect their areas. Nobody burns their own home, it is not logical that they would use the schools in their area.³⁵

Human Rights Watch also asked Ewaz Nazari, the former Baghlan police chief, who served from February 4 to May 5, 2016, about the military's use of schools in the province. He said:

I was in Baghlan for more than three months, and war is a detested phenomenon that leaves no school, clinic, or young or old safe. As far as I

³⁴ A translation of this letter is included in this report as Annex III.

³⁵ Human Rights Watch interview with Baghlan Provincial Governor Abdul Sattar Bariz, June 9, 2016. Governor Bariz was referring to the "People's Uprising Forces," a variant of local militias supported by the government to resist the Taliban.

remember, it was winter and until the end of Saur [April-May], I never closed any school. I was there from 16 Dalwa [February 5] until the 29 Saur [May 5]. I was present in the big operation, which resulted in the defeat of the Taliban in the Dalwa and Hout months [February-March]. At that point, it wasn't clear which school was open and which closed because fighting was going on. I was in charge of the police personnel and under no circumstances, not even for an hour, did I agree to police being present at schools. We never received any complaints from anyone. But after I was transferred out of Baghlan and I was in Kabul noises were being made ... about people not able to use schools for education. That was in Jawza [May/June] and I was in Kabul. People said that people couldn't go to school and there is war and schools were used illegally.³⁶

In addition, Baghlan Police Chief Noor Habib Gulbahari, who was appointed to that position on May 31, 2016, told Human Rights Watch:

As far as I have seen myself ... there was a school with ANA and we told them to get out so students could study. They got out. We don't know of other places where security forces used schools and we haven't received complaints from principals or others. I am willing to address such complaints when we get them.³⁷

In July 2016 a government security advisor told Human Rights Watch that not only did the ANSF use schools for military purposes, but that some were used as command centers for military operations. For example, in May 2016 both ANA and ALP forces, the latter under Commander Mubariz, began using Sorkh Kotal School in Baghlan province as a command center for operations in the area. The advisor said that "when the ANSF go back to their bases, students return to their lessons, but with fear."³⁸

³⁶ Human Rights Watch telephone interview with former Baghlan police chief Ewaz Nazari, July 12, 2016.

³⁷ Human Rights Watch telephone interview with Baghlan police chief Noor Habib Gulbahari, July 12, 2016.

³⁸ Human Rights Watch email communication with a government advisor, July 2016. The advisor also said that Sayid Jamaluddin School, formerly known as Bagh-e-Shamal School, was the command center during much of the fighting in these districts of Baghlan in 2015-2016, but as the frontlines had shifted, Sorkh Kotal School had replaced it as the center, and Sayid Jamaluddin School had reverted to normal use.

In its mid-year report for 2016, UNAMA documented the military occupation by the ANA alone of four schools in Baghlan, “including one primary school, one secondary school, and two high schools in the Dand-e-Ghori area of Pul-i-Khumri district, Baghlan province, impeding 3,500 students, including 200 girls, from access to education and 250 teachers, including 50 women, from exercising their right to work.”³⁹

UNAMA’s 2015 report on the protection of civilians noted that incidents of military use of schools by Afghan government forces in 2015 occurred in Badakhshan, Baghlan, Nangarhar, Kunduz, and Kunar provinces.⁴⁰

³⁹ United Nations Assistance Mission to Afghanistan (UNAMA), “Afghanistan Midyear Report 2016: Protection of Civilians in Armed Conflict,” July 2016, http://unama.unmissions.org/sites/default/files/protection_of_civilians_in_armed_conflict_midyear_report_2016_final.pdf (accessed July 26, 2016).

⁴⁰ United Nations Assistance Mission to Afghanistan (UNAMA), “Afghanistan Annual Report 2015: Protection of Civilians in Armed Conflict,” February 2016, http://unama.unmissions.org/sites/default/files/poc_annual_report_2015_final_14_feb_2016.pdf (accessed June 19, 2016).

III. Case Studies

Bibi Aina High School⁴¹

Bibi Aina High School, located in Omarkhail village in Dand-e Shahabuddin, enrolls over 1,170 boys. As in many schools in Afghanistan, classes take place both within the school building and in large semi-permanent tents. The village came under Taliban control in August-September 2015 and remained that way following the negotiated ceasefire between the Afghan security forces and the Taliban in September. However, the Taliban did not occupy the school during the ceasefire period, according to a school official.

During the January 2016 military clearance operation in Dand-e Shahabuddin, Afghan army forces occupied the school. According to the school official, the soldiers forcibly entered the school in order to search it. They then set up a military base 20 meters from the school from which they regularly engaged in firefights with Taliban forces. According to the school official, the army troops were soon followed by national police Special Forces, and were then joined by the Afghan Local Police, under a Pashtun commander, Juma-e Kandak, whose members allegedly looted school property and caused more damage. According to the school official:

When the ANA arrived, they broke the locks, and searched all of our rooms, they threw a lot of our books around. But the ALP did a lot more looting. I can't even begin to document all of the destruction they caused. We have lost a lot of chairs and desks, and the tents have been torn down.

The government security forces did not explicitly prohibit the students from attending the school, but regular gun battles at the immediately adjacent military position they had established scared off most of the students. The school official told Human Rights Watch that the school tried to convince the security forces to remove the military post, but in late April, the school official told Human Rights Watch that the ALP forces remained in place: “Even yesterday, they were firing from there in the direction of the Taliban, who are just

⁴¹ Except where we have cited below to a different source for a specific claim, all details about events at the school are from a Human Rights Watch interview with a Bibi Aina High School official, Pul-e Khumri, April 24, 2016.

300 meters away from the school, and the kids got scared,” the school official said. According to the official, the commander agreed that “it was better not to bring the kids to the school for a while,” and asked the school to relocate the students to a nearby abandoned house for lessons.

According to the school official, Afghan Special Forces troops, under a commander nicknamed “Khwaja,” still remained inside the school when Human Rights Watch contacted the school official again by phone on May 23. The ALP remained in control of the army-established base just 20 meters from the school. The school official told Human Rights Watch he had visited the governor just the day before to again ask for government action to remove the ALP from the school, to no avail.⁴² In July 2016, an NGO staff member with many years’ experience in the area confirmed to Human Rights Watch that the school remained under the control of the ALP, and no classes were being held.⁴³

Ahmadzai High School⁴⁴

Ahmadzai High School, home to some 1,600 male and female students, is located in Ahmadzai village, and is one of the largest schools in Dand-e Ghorī. According to a school official, the school opened in 2002 as a primary school, but the compound was destroyed in a US airstrike around 2010, apparently because it was being occupied by Taliban fighters.⁴⁵ The school, which included two large concrete buildings, was later rebuilt by the German Provincial Reconstruction Team, with assistance from the United States, according to the school official.

During the early 2016 military clearance operation in Dand-e Ghorī, about 200 Afghan army troops occupied the school and some nearby private compounds, using the school as their main headquarters for the area. According to a school official:

⁴² Human Rights Watch telephone interview with school official, Bibi Aina High School, May 23, 2016.

⁴³ Human Rights Watch email communication with an NGO staff member in Kabul, July 17, 2016.

⁴⁴ Except where we have cited below to a different source for a specific claim, all details about events at the school are from a Human Rights Watch interview with a Ahmadzai High School official, Pul-e Khumri, April 25, 2016.

⁴⁵ An analyst familiar with the area told Human Rights Watch that there were serious clashes in Ahmadzai village at the time because many of the Taliban’s prominent commanders in the north come from this area. He also confirmed that the school was used as military base during the clearance operation. Human Rights Watch email communication with an analyst in Kabul, July 17, 2016.

We asked the military to leave the school, and then contacted government officials. We received government letters ordering them to evacuate the school, and took these to the military officers. They responded to us saying, “This is an insecure area and we can’t just go into private homes. We have the right to use government property to base ourselves in.”

The school official explained a common rationale for the use of schools for military purposes:

Most of the houses in our area are mud houses, so the soldiers took control of the few concrete houses and also the school, which was built out of concrete. Also, the people were living in the homes in the area, so the military didn’t want to kick them out of their homes.

During the military clearance operation, Mullah Mohammed Alam, a prominent Pashtun commander associated with the NDS-organized “Uprising Forces,” also brought a group of about 80 fighters to the school where they remained for about 20 days until the Taliban counterattack in April, according to the school official.⁴⁶

In mid-April, a Taliban offensive forced the army soldiers and the Uprising Forces to abandon their base at the school. The school official said that the Taliban took control of the area around the school, but did not base themselves at the school.⁴⁷ However, heavy shelling of the area by government forces made the area around the school too unsafe to allow for teaching as of our interview with the official in late April. A first grade teacher at the nearby primary school, together with his two children, ages 10 and 5, were injured by a government mortar attack (see “Niazullah Primary School,” below).

⁴⁶ Human Rights Watch telephone interview with school official, Ahmadzai High School, May 23, 2016.

⁴⁷ Human Rights Watch interview with school official, Ahmadzai High School, Pul-e Khumri, April 25, 2016.

Qalai Khwaja High School⁴⁸

Qalai Khwaja High School is located in Qalai Khwaja village in Dand-e Ghorī. It has about 1,850 male and female students, and male and female teachers. According to a school official, the school had two buildings, a concrete structure that was financed by the UN Children's Fund (UNICEF) in 2009-2010, and an adjacent decades-old mud structure with six classrooms built by local residents. The Afghan Local Police built a base across the street from the school in 2011 or 2012. The commander, Faiz Muhammad, commanded 20 to 30 militia members, and was originally supported by US forces stationed at an outpost in the nearby village of Tape Qurghan. When US forces left the area two years later and the Afghan army took over responsibility from them, the area saw repeated rounds of fighting for control of the base. The base has changed hands between ALP and Taliban every two to three months since then. Attendance suffers every time fighting for control of the ALP base breaks out.⁴⁹

The Afghan army conducted a clearance operation in the area in early February 2016 after the ceasefire agreement with the Taliban collapsed. During the operation, the military carried out a controlled detonation of an IED that the retreating Taliban had placed near the school, and the explosion rendered six of the classrooms in the mud building unusable and shattered glass windows in both buildings.

An army contingent of about 20 to 30 soldiers, three Ranger vehicles, and one armored vehicle remained stationed in the school following the February clearance operation, according to a school official. The official said that army soldiers took over three classrooms in the concrete building, but that the Taliban recaptured the area soon after, driving the army contingent out in early March. After that, Taliban fighters, according to the school official commanded by Akhundzada Majid and Commander Kamil, occupied the school for about two weeks, but evacuated the building on March 25 when school administrators and local elders petitioned them to leave because a new school year had started on March 20.

⁴⁸ Except where we have cited below to a different source for a specific claim, all details about events at the school are from a Human Rights Watch telephone interview with Hayatullah, principal of Qalai Khwaja High School, Dand-e Ghorī, Baghlan, May 23, 2016.

⁴⁹ Human Rights Watch email communication with an NGO staff member in Kabul, July 17, 2016.

In March, Afghan government forces launched a second clearance operation in Dand-e Ghori. According to the school official, a mortar round believed to have been fired by government forces on Cement Hill fell on the roof of the school storeroom, destroying 800 books, two filing cabinets purchased for the new school year, more than 20 chairs, 5 tents, and 15 plastic mats. Additional artillery shells or mortar rounds also partially damaged three classrooms in the new building. After that operation, the Taliban temporarily withdrew from the area, but they soon fought their way back. When we last spoke to the school official in late May, he said the area remained under Taliban control but they had not interfered with the functioning of the school. An NGO staff member familiar with the area told Human Rights Watch that as of late July 2016, the entire village was under the Taliban control, and that the Taliban had destroyed the school's walls to prevent Afghan National Security Forces from deploying behind the walls when firing on the insurgents.⁵⁰

Chashme Sher High School⁵¹

Chashme Sher High School is located in the Chashme Sher village in Dand-e Ghori. The school has one building with eight classrooms and a laboratory. Six hundred students attend Chashme Sher, including girls who are educated up to grade three.

The school principal told Human Rights Watch that ALP units occupied the school during bouts of fighting over a five-to-six-month period between late 2015 and early 2016:

Whenever there was fighting, a group of ALP would come stay in our school because there was nowhere else for them to stay. They would leave the area on their own, but they plundered all of our books, computers, and chairs from the school. They did not do any damage to the school's physical structure.⁵²

The Afghan army deployed a unit of about 20 soldiers to the district in February, which as of late May was still stationed inside the school. When the new school year started on

⁵⁰ Human Rights Watch email communication with an NGO staff member in Kabul, July 17, 2016.

⁵¹ Except where we have cited below to a different source for a specific claim, all details about events at the school are from a Human Rights Watch telephone interview with Naveed, headmaster of Chashme Sher High School in Dand-e Ghori, Baghlan, May 23, 2016.

⁵² Human Rights Watch telephone interview with Abdul Rahman, principal, Chashme Sher High School, Baghlan, May 23, 2016.

March 20, students had to study in the presence of the soldiers, whose behavior with teachers and students was “very good,” according to a school official.⁵³

But with the Taliban’s new spring offensive, fighting broke out in the Chashme Sher area on May 13, forcing the school to close. The school official explained:

I left the area on Thursday, May 12 [to go home for the weekend]. Fighting started on Friday. The school clerk says the storeroom’s lock is broken, but I have not been able to visit the school to do inventory and see what has been lost or damaged. We can’t even go to the area because of the fighting.⁵⁴

The school official had not been able to visit the school since fighting broke out,⁵⁵ but a second official told Human Rights Watch he had received no reports of damage to the school’s physical structure.⁵⁶ An analyst familiar with the area told Human Rights Watch that in June the ANSF handed over the school to the provincial education department.⁵⁷ According to a government advisor working in the area, if the teachers fail to come to work the Taliban count their absent days and demand the teachers’ pay for those days.⁵⁸

Ghulam Jelani Jalali Middle School⁵⁹

As of May 2016, Ghulam Jelani Jalali Middle School, located in the Postak Bazaar area in Dand-e Ghori, had 800 students enrolled, 350 of whom were girls. The school has six female teachers, and a mixed student body of Pashtun, Tajik, and Hazara students. The school has a concrete building with a second, uncompleted story that school officials hope to develop into a high school. According to a school official:

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Human Rights Watch telephone interview with Naveed, headmaster, Chashme Sher High School in Dand-e Ghori, Baghlan, May 23, 2016.

⁵⁶ Human Rights Watch telephone interview with Abdul Rahman, principal, Chashme Sher High School in Dand-e Ghori, Baghlan, May 23, 2016.

⁵⁷ Human Rights Watch email communication with an NGO staff member in Kabul, July 17, 2016.

⁵⁸ Human Rights Watch email communication with a government advisor, July 20, 2016.

⁵⁹ Except where we have cited below to a different source for a specific claim, all details about events at the school are from a Human Rights Watch interview with a school official of the Ustad Ghulam Jelani Jalali School, Pul-e Khumri, April 24, 2016.

They left the second story unfinished for now. Because it is a tall building, whoever is [militarily] in control of the area uses it. When the Taliban are in control, they use it. When the army is there, they also use it. However, in the blood and the dust, we continue to give our lessons.

The school official described to Human Rights Watch a long and often bloody litany of uses of the school for military purposes. When the Taliban first reappeared in the area in 2009, he said, they took over the school's second story as a military base, refusing to leave despite entreaties from school officials. The official told Human Rights Watch that the Taliban burned all the textbooks and teaching materials at the school that did not conform to their stringent Islamist doctrine. Government forces then counterattacked while the school was in session, causing the students to flee in a panic; one student suffered shrapnel injuries.

After the Afghan government security forces took control of the school in late 2009, members of the recently formed ALP, commanded by Jafar-e Ferqa and Said Habib Rahman, both ethnic Hazaras, occupied the school, looting some of the desks, chairs, and blackboards and destroying other school property. The school official decried the ALP as not being "honorable":

We spent 10 years collecting these things from the Ministry of Education, NGOs, and the aid organizations, and they took it all away. When I went to see the [ALP] officials, they chastised me and ordered me not to talk to everyone about the school being occupied, especially not to foreigners.

The school tried to function, moving some of the older girls to a different building, as many families had refused to send their girls to school because of the regular gunfire from ALP militia members deployed on the second floor. The Taliban had previously objected to male and female students and teachers studying together, which also played a part in the decision to relocate the female students, according to the school official.

In June 2010, the Taliban laid siege to the school while the younger boys and girls were attending classes. The Taliban fighters ultimately cornered and killed seven ALP members in one of the classrooms. The school official said: "The seven policemen were killed in the

classroom. Their blood just wouldn't wash away, so we had to chip it away from the wall with an axe.”

After the Taliban retook control of the area, their fighters slept in the school at night, but left the school before the school day started, according to a school official. They allowed female students to continue to attend the school, and female teachers to teach, and appointed an education control officer to check attendance at the school. As at Chashme Sher High School and some other schools under Taliban control, if the teachers fail to come to work the Taliban count their absent days and demand the teachers' pay for those days.⁶⁰ The Taliban gave the school officials a number to call in case any Taliban supporter gave them trouble, stressing that the female teachers should also report any such incidents.⁶¹

In the late summer of 2015, as the Taliban and government security again battled for control of Dand-e Ghor, a unit of about 10 ALP members under the command of Jafar-e Ferqa returned to the school and based themselves there. School officials contacted UNAMA as well as the education ministry in Kabul, and obtained a letter from the Kabul authorities instructing the ALP to leave the school building. However, when they showed the letter to Commander Ferqa, he refused to obey the order. A school official said:

When the letter came, the ALP commander told us he would leave under no circumstances. He said I should talk to no one about the situation. So they stayed on the second floor, and we continued to teach on the first floor.

As the time for final exams approached in 2015, school officials obtained a letter from the Ministry of Interior ordering the ALP to vacate the school so that students could take the exams. However, the ALP officers refused to allow the students and teachers to enter the building, and fired in their direction to force them to leave the area. The school official told Human Rights Watch:

The exam period was just before the ceasefire agreement, and the ALP fired at the students to make them scatter. The teachers stayed, and [the ALP] cursed us, saying no matter what you say or do, we will remain based here.

⁶⁰ Human Rights Watch email communication with a government advisor, July 20, 2016.

⁶¹ Human Rights Watch interview with school official of the Ustad Ghulam Jelani Jalali School, Pul-e Khumri, April 24, 2016.

We were trying to enter the school to hold the exams, the order from the Ministry of Interior in hand, but they refused to allow us to enter. The students and teachers were gathered and the ALP officers just came down and got incensed, and started firing in the direction of the students. No one was hit. So we moved to a nearby Hazara area to allow the students to take their exams.

Following the incident, tribal elders and school officials went to report the attack on the students by the ALP to the police commander of Baghlan, Jabar Pordeli. Commander Pordeli told them that the ALP “would never leave their base [at the school], that there was lots of Taliban activity and they would stay based there under any circumstances,” the school official said.

Despite repeated entreaties to the authorities by school officials and tribal elders, the ALP was still occupying the school as of late April when Human Rights Watch visited Baghlan province. Because of concerns of a renewed attempt by the Taliban to take the school from the ALP, school officials were unable to reopen the school for the beginning of the school year on March 23. The official we spoke with said:

Now, the Taliban are getting closer, and we have had to close the school because of security. All of the schools in the area have closed for the moment. The Taliban front line is now just 30 meters from the school. The students, out of fear, are not coming to school. We went to see the police chief again, and he just said that as with the prior agreement, the ALP stays on the second floor and we can use the school on the first floor. We then went to see the Taliban, and they said to give them a few more days to kick the ALP out of the school, or if they failed we can discuss an agreement not to target the school, so the school year can begin.

When contacted by Human Rights Watch one month later, on May 23, the school official said that the Taliban fighters had pushed the ALP from the area in April, and that the Taliban were now using the school as a base. Government security positions were set up just 300 meters away, leaving the school building in changed hands but still on the front lines.⁶²

⁶² Human Rights Watch telephone interview with school official, Ghulam Jelani Jalali High School, May 23, 2016.

Haji Mir Bakhsh Middle School⁶³

Haji Mir Bakhsh Middle School is located in Pul-e Sorong, in the Bagh-e Shamal area, and has an enrollment of approximately 500 boys and 350 girls. The school was constructed with the assistance of the UN Children’s Fund (UNICEF), and Afghanistan’s Ministry of Rural Rehabilitation and Development. The Hungarian Provincial Reconstruction Team (PRT) provided the school with 100 desks and chairs, and built a boundary wall around the building.⁶⁴

During the fighting and subsequent ceasefire in 2015, the school was not occupied by any military forces or armed group. However, school attendance was sharply down because of the insecurity in the area.

Following the collapse of the ceasefire agreement in early 2016, an army contingent from the 209th Shahin Corps participating in the clearance operation in Dand-e Ghorri was ambushed in the vicinity of the school, and immediately retreated there. The 40 or so army troops, commanded by an officer named Neamatullah, proceeded to establish a base within the school, blocking access to the school. A school official told Human Rights Watch:

They [the soldiers] sleep on the bottom floor, and have put sand bags and machine gun positions on the second floor of the building. They made holes in the walls of the school for firing positions.

The soldiers destroyed much of the furniture donated to the school by the Hungarian PRT. The school official told Human Rights Watch, “They have burned the desks and chairs for fuel. We were given 100 by the Hungarians, and now we don’t even have 15 left.” When they were allowed access to the school, the school officials managed to save the remaining desks by locking them in a room.

⁶³ Except where we have cited below to a different source for a specific claim, all details about events at the school are from a Human Rights Watch interview with a school official, Haji Mir Bakhsh Middle School, Pul-e Khumri, April 24, 2016.

⁶⁴ The Hungarian PRT was based in Baghlan from 2006-2012, and built or refurbished 20 schools during that time. See Government of Hungary, “Hungary in Afghanistan: The Performance of the HUN PRT,” <http://2010-2014.kormany.hu/download/8/06/b0000/The%20performance%20of%20the%20HUN%20PRT.pdf> (accessed July 26, 2016).

The school official said he had complained about the military's use of the school to the provincial educational authorities and the governor. The educational authorities said they would refer the case to their superiors in Kabul, while the governor told the school officials to "be patient."

During Human Rights Watch's April visit to Baghlan province, school officials said that the school remained occupied by army troops, now commanded by an officer called Nangialai. The school was then operating out of an abandoned building nearby. Given the availability of abandoned buildings in the area because of continuing insecurity, the school official asked: "There are a lot of [abandoned buildings], why don't they take one of those for their base instead of our school?" He said that the presence of the army troops at the school had a devastating impact on school attendance:

Almost none of the older girls are attending school right now, and only a few fourth and fifth grade girls. I receive a hundred phone calls from worried parents who ask me what is going on. I have to constantly reassure parents to send their students, especially the girls. Every day I get calls from worried parents, always "Should we come? Or should we not?"⁶⁵

In a telephone interview with Human Rights Watch a month later, the school official said:

I saw that they had destroyed the school's entry gate and much of the boundary wall. I was pained when I saw this destruction, and went to the corps commander in Pul-e Khumri to complain, who said he needed three days. But it has been a week, and we have heard nothing from him.⁶⁶

A government advisor told Human Rights Watch:

Students go to school with fear. The lessons continue and the army is present. When fighting begins the schools in Dand-e-Shahabuddin and

⁶⁵ Human Rights Watch telephone interview with a school official, Haji Mir Bakhsh Middle School, May 23, 2016.

⁶⁶ Ibid.

Dand-e-Ghori are closed, but when the fighting is over, the lessons start again.⁶⁷

Khial Jan Shahid Primary School⁶⁸

Khial Jan Shahid Primary School, located in Omarkhail village in Dand-e Shahabuddin, enrolled about 350 boys and girls as of April 2016. The school's construction was funded by the Swedish government and UNICEF, and was inaugurated in 2014. During the ceasefire period, Taliban fighters occupied the building, using it as a base for about five months. According to a school official, "our village elders went to talk to the Taliban to convince them not to use the [school] building, but the Taliban didn't listen to them."

During the military clearance offensive in early 2016, government forces attacked the Taliban fighters based at the primary school, shelling the building with mortars and raking it with gunfire. The military managed to force the Taliban fighters to abandon the school, but the intense battle left the school compound almost completely destroyed. According to the school official: "It was a really good building for a school, but it has been destroyed almost completely."

Following the battle over the school, a contingent of ALP under Pashtun commander Mullah Mohammed Khan occupied the building. As of April, the ALP continued to occupy the remains of the school building, establishing a checkpoint just 20 meters away. The area, including the school, has since reverted to Taliban control.

Niazullah Primary School⁶⁹

Niazullah Primary School is located in Niazullah village in Dand-e Ghori, and enrolls some 300 boys and girls. Constructed with the financial support of UNICEF, the school consists of a single concrete building. During the early 2016 military clearance operation, a

⁶⁷ Human Rights Watch email communication with a government advisor, July 20, 2016.

⁶⁸ Except where we have cited below to a different source for a specific claim, all details about events at the school are from a Human Rights Watch interview with a school official, Khial Jan Shahid Primary School, Pul-e Khumri, April 24, 2016.

⁶⁹ Except where we have cited below to a different source for a specific claim, all details about events at the school are from a Human Rights Watch interview with a school official, Niazullah Primary School, Pul-e Khumri, April 25, 2016.

contingent of some 20 Army Special Forces turned the school into a base and deployed in the immediate area surrounding the school.⁷⁰ A school official said:

They occupied the primary school during the big clearance operation, and the soldiers are still inside the school. There is a company of some 300 soldiers in the area. There are about 50 or 60 of them inside the school. They have also pitched tents at a nearby mosque, and parked an armored vehicle at a second mosque.

The school remained occupied by military forces in April, and a school official confirmed during a telephone interview that some 20 Afghan soldiers remained at the school as of late May.⁷¹ Two military tanks were parked inside the school compound at that time. A group of “Uprising Forces” commanded by Mullah Mohammed Alam had also been based at the school, but had left the area by late May.

In mid-April, following negotiations with school officials, the military commander briefly allowed the students remaining in the area to attend school, although the troops were still deployed at the school. When fighting intensified around the school the next week, the commander ordered the school area off-limits to everyone except his troops. The school official explained:

They told us first to continue with our schooling even while the soldiers were based within the school. We went there for about a week, and saw what the situation was like, and then decided we could not teach because we were afraid something might happen and someone might get hurt, so we told the students to go home. We’ve been on leave since then. Some 16 students tried to transfer to other nearby schools, while others remain enrolled with us. But now, most of the students have fled the area because of the fighting. They are all displaced. At most, we still have 50 students in the village.⁷²

⁷⁰ Human Rights Watch interview with a government advisor, July 2016.

⁷¹ Human Rights Watch telephone interview with a school official, May 3, 2016.

⁷² Human Rights Watch telephone interview with a school official, Niazullah Primary School, May 23, 2016.

According to the school official, the heavy clashes in the area have left much of the school compound severely damaged:

It was a very nice school ... But they fired mortars from the [Cement] hill, and about 80 percent of the school is now damaged. We had six toilets and they are all destroyed. Our boundary wall is destroyed. The administrative office and some of the classrooms are damaged. The soldiers treat us well, but they have broken nine of our chairs. I told them, “We sat on those chairs for nine years and didn’t break them. You sat for two months and you destroyed them.” I told them of the money we spent buying those chairs. They said, “We belong to this nation and we are from Afghanistan, so it is our right to sit on these chairs.” I told them, “Sure, sit on the chairs, but sit in the right way.”⁷³

Heavy fighting continued in the area of the school through April. On April 23, an errant government mortar round fired from government positions on Cement Hill injured Malim Farouq, 40, the first grade teacher for girls at the school, as well as his 10-year-old son, Emal, and his 5-year-old son, Shebar, who received severe shrapnel wounds to the neck and head.⁷⁴

In mid-May, another government-fired mortar round from Cement Hill injured a fifth-grade student from the school, Sher Ali, 13, and lightly wounded his brother, a student at Ahmadzai High School; his two sisters, students at the Dand-e Ghori madrassa; and their father. The family, displaced by the fighting, had returned to their home near the school to collect some of their belongings when the shell hit their home.⁷⁵ In addition, artillery and mortar shells hit the school yard, damaging desks, tables, chairs and study materials inside the building.⁷⁶

⁷³ Ibid.

⁷⁴ Human Rights Watch interview with Malim Farouq, Pul-e Khumri hospital, April 23, 2016.

⁷⁵ Human Rights Watch telephone interview with a school official, Niazullah Primary School, May 23, 2016.

⁷⁶ Human Rights Watch email communication with a government advisor, July 20, 2016.

According to an analyst familiar with the area, the head of the education department in the province reported in July 2016 that, due to the security situation, there were no classes and no students in the school.⁷⁷

Dand-e Ghor Primary School (Joy-e Naw)⁷⁸

Dand-e Ghor primary school was originally built to house a high school, but has functioned only as a primary school for the last few years. It consists of a walled compound with a one-story building with eight classrooms and eight tents, but enrolls only 380 students because of the insecurity in the area.

During the early 2016 military clearance operation, soldiers of the army's 209th Shahin Corps occupied the school as a base. A school official said in April:

The ANA was inside the school, and we couldn't even approach them. The teachers went to see the commander, and he told them: "We are here [at the school] until the battle is finished, and during this period, do not approach the school because it is on the front lines of the battle."⁷⁹

The head of the provincial education department reportedly complained to ANSF officials about the army's use of the school.⁸⁰

In April 2016, the Taliban retook control of the area, and the army abandoned their base at the school. The school official said that the Taliban has not used the school as a base for their fighters, but as of late April, the ongoing shelling and fighting in the area had prevented the school from reopening, "On March 23, we were supposed to reopen for the new school year," said the official. "But for the moment because of the ongoing insecurity, no one is coming to the school."⁸¹

⁷⁷ Human Rights Watch email communication with an NGO staff member in Kabul, July 17, 2016.

⁷⁸ Except where we have cited below to a different source for a specific claim, all details about events at the school are from a Human Rights Watch interview with a school official, Dand-e Ghor Primary School, Pul-e Khumri, April 25, 2016.

⁷⁹ Ibid.

⁸⁰ Human Rights Watch email communication with an NGO staff member in Kabul, July 17, 2016.

⁸¹ Ibid.

Haji Yar Mohammed Kharoti Primary School⁸²

Areas of Baghlan, like many other parts of Afghanistan, are so impoverished that schools do not even have dedicated buildings, and operate out of donor-donated tents or rooms provided by the community. At the Haji Yar Mohammed Kharoti Primary School in Wazirabad, two teachers try to provide a primary education to some 150 boys and 130 girls out of two donated rooms in a building rehabilitated by UNICEF, and a tent in the courtyard purchased by the villagers.

In early February, after the military launched its clearance operation in Dand-e Ghorī, army troops from the Paktia-based 209th Thunder Corps occupied private homes adjacent to the school, and soon expanded their presence into the two rooms used by the school and its sole tent.

When the two teachers asked the Afghan army officers to evacuate the school compound at the start of the new school year in late March, the officers told the teachers to find themselves another tent in which to teach. The students were too afraid of the soldiers to come to class in the school's original location, so the teachers relocated the school to a nearby mosque, where classes continued. A school official told Human Rights Watch:

We have petitioned the government for a building for the school, and also for more teachers for our 300 students as we have only two, but they never pay attention to our plight ... The soldiers tell us that they will leave today, then they say it will be tomorrow. Then they said their tour of duty would end soon, and then they will leave. They told us the students can come study during the day, but we saw that the security situation was too bad and so didn't send the students to the school.

As of July 2016, the area was under Taliban control, and although the school was not being used as a base, there were no classes and no students.⁸³

⁸² Except where we have cited below to a different source for a specific claim, all details about events at the school are from a Human Rights Watch interview with a school official, Haji Yar Mohammed Kharoti Primary School, Pul-e Khumri, April 24, 2016.

⁸³ Human Rights Watch email communication with an NGO staff member in Kabul, July 17, 2016.

Nasrat Mina Primary School⁸⁴

Nasrat Mina Primary School, located in Arab Tapa, enrolls some 200 students, teaching them out of five tents provided by the Directorate of Education. During the early 2016 military clearance operation in Dand-e Ghori, troops from the army's 209th Shahin Corps took four of the school's tents to the nearby military base they established in the area.⁸⁵ They turned the fifth tent, formerly used for the school's administration, into an ANA military post during the day; it was also used by both the army and the National Directorate of Security at night. A school official told Human Rights Watch that school officials wrote to the Directorate of Education and met with the governor, but through late April, Afghan security forces continued to occupy the tents, effectively shutting down the primary school. An analyst familiar with the area told Human Rights Watch in July 2016 that the army had left the school and classes had resumed.⁸⁶

Arab Tapa Primary School⁸⁷

Arab Tapa Primary School, located in Arab Tapa, enrolls some 190 students, who used to be housed in five tents surrounded by a boundary wall.⁸⁸ During the army clearance operation in early 2016, the school was closed because of the security situation in the area. In early April, Taliban forces tried to retake the area around the school from government forces. Although the school compound itself was not occupied by any armed forces, the school was right in the midst of the battle: "The school found itself in a very dangerous location, with the Taliban firing from one side and the government from the other side," a school official recounted. During the fire exchanges, all five tents were hit by explosions and gunfire, and were destroyed. In late April, the school official told Human Rights Watch that all of the school's students remained out of school, and that many had fled the area with their families to displaced persons' camps on the outskirts of Pul-e Khumri town. "We are trying to find a school that will take them," he said.

⁸⁴ Except where we have cited below to a different source for a specific claim, all details about events at the school are from a Human Rights Watch interview with a school official Nasrat Mina Primary School, Pul-e Khumri, April 24, 2016.

⁸⁵ Ibid.

⁸⁶ Human Rights Watch email communication with an NGO staff member in Kabul, July 17, 2016.

⁸⁷ Except where we have cited below to a different source for a specific claim, all details about events at the school are from a Human Rights Watch interview with a school official Arab Tapa Primary School, Pul-e Khumri, April 24, 2016.

⁸⁸ With exceptions noted in the footnotes, all of the details about events at this school are from a Human Rights Watch interview with a school official, Arab Tapa Primary School, Pul-e Khumri, April 24, 2016.

As of July 2016, the school was still on the front line between ANSF and Taliban forces.⁸⁹ Taliban were present in the area, but the school was functioning without interference.⁹⁰

⁸⁹ Human Rights Watch email communication with an NGO staff member in Kabul, July 17, 2016.

⁹⁰ Human Rights Watch email communication with a government advisor, July 20, 2016.

IV. International Legal Obligations and Good Practice

Afghan law, international humanitarian law (the laws of war), and international human rights law all include provisions applicable to the protection of schools from attack and military use. Good practice regarding schools, students, and teachers in armed conflict have also been developed through the Safe Schools Declaration.

Afghan Domestic Law

Afghanistan's 2004 Constitution states that "education is the right of all citizens of Afghanistan."⁹¹ The Constitution also requires that the state "shall adopt necessary measures for promotion of education in all levels,"⁹² and "shall devise and implement effective programs for balancing and promoting of education for women, improving of education of nomads and elimination of illiteracy in the country."⁹³

International Humanitarian Law

International humanitarian law, also known as the laws of war, is the body of law that regulates conduct in international and non-international armed conflicts. It applies to all parties to the Afghan conflict, including government security forces, militias, and the Taliban and other non-state armed groups. Parties are bound by treaty law, including the 1949 Geneva Conventions and its additional protocols, and customary laws of war.⁹⁴

Children and schools are protected from under the laws of war. Under the Second Additional Protocol to the Geneva Conventions (Protocol II), which applies during non-international armed conflicts such as the conflict in Afghanistan, children are afforded

⁹¹ "Constitution of the Islamic Republic of Afghanistan" (2004/1382), chapter 2, art. 43, <http://www.afghanembassy.com.pl/afg/images/pliki/TheConstitution.pdf>.

⁹² *Ibid.*, chapter 1, art. 17.

⁹³ *Ibid.*, chapter 2, art. 23.

⁹⁴ See International Committee of the Red Cross (ICRC), *Customary International Humanitarian Law*, (Cambridge: Cambridge University Press, 2005).

special protections and it is a “fundamental guarantee” that children shall receive an education, in keeping with the wishes of their parents.⁹⁵

The laws of war only permit attacks on opposing military forces and other military objectives; attacks against civilians and civilian objects are prohibited.⁹⁶ Schools are civilian objects unless they are being used for military purposes.⁹⁷ Military purposes would include the basing or deployment of combatants or the storage of weapons and materiel. In case of doubt, schools are presumed not to be in use for military purposes.⁹⁸

Attacks against schools that are deliberate, or cause indiscriminate or disproportionate civilian loss, and are committed willfully are war crimes.

The laws of war require that the parties to a conflict take precautions against the effects of attacks against civilians. To the extent that schools are civilian objects, parties to an armed conflict shall, to the maximum extent feasible, a) avoid deploying military forces within or near densely populated areas, including where schools are likely to be located; b) endeavor to remove the civilian population, individual civilians, and civilian objects under their control from the vicinity of military objectives; and c) take the other necessary precautions to protect those schools under their control against the dangers resulting from military operations.⁹⁹

A school that becomes a military objective may be subject to attack from opposing forces. However, attacks on military targets must be discriminate, they have to distinguish

⁹⁵ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of NonInternational Armed Conflicts (Protocol II), 1125 U.N.T.S. 609, entered into force December 7, 1978, art. 4. Afghanistan ratified protocol II in 2009.

⁹⁶ Military objectives are defined as personnel and objects that are making an effective contribution to military action and whose destruction, capture, or neutralization offers a definite military advantage at the time. They would include enemy fighters, weapons, and ammunition, and objects being used for military purposes. See ICRC, Customary International Humanitarian Law, rule 8.

⁹⁷ See Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), adopted June 8, 1977, 1125 U.N.T.S. 3, entered into force December 7, 1978, art. 52(1). This rule is also part of customary law for international and non-international armed conflicts. See also, ICRC, Customary International Humanitarian Law, rules 9 and 10.

⁹⁸ See Protocol I, art. 52(3). The principle of presumption of civilian character in case of doubt is also contained in Amended Protocol II to the Convention on Certain Conventional Weapons.

⁹⁹ See Protocol I, art. 58(a), (b), and (c). These rules are also part of customary law. See ICRC, Customary International Humanitarian Law, rules 22-24. See also ICTY, Kupreškić et al. case, Judgment, Trial Chamber, 14 January 2000, secs. 524-525.

between civilians and combatants, they must be proportionate, and the expected harm to civilians cannot exceed the anticipated military gain from the attack. A military force that occupies a school in a war zone and permits classes to continue will be putting students and teachers at unnecessary risk. Locating military objectives (an armored vehicle, for example) in a school courtyard also increases the risk that the school will suffer incidental damage from attacks against nearby military targets.

Schools also benefit from special protection as cultural property under customary international law, and each party to a conflict must respect and protect buildings dedicated to education that are included in the scope of cultural property.¹⁰⁰ This implies a duty of special care to avoid damage to buildings dedicated to education, unless being used for military purposes, as well as the prohibition of all seizure of, or destruction or willful damage done to, institutions dedicated to education.¹⁰¹

International Human Rights Law

International human rights law guarantees all individuals, including students, teachers, academics, and all education staff, the right to life, personal liberty, and security.¹⁰² Governments shall also ensure, to the maximum extent possible, the survival and the development of children.¹⁰³

In all actions concerning students under the age of 18, the “best interests of the child” shall be a primary consideration.¹⁰⁴

Everyone has the right to education.¹⁰⁵ With a view to achieving the full realization of this right, governments shall make primary education compulsory and available free to all, and

¹⁰⁰ ICRC, Customary International Humanitarian Law, rules 38-40. There are a number of national laws and military manuals that include educational institutions as objects enjoying a special protection alongside other cultural objects.

¹⁰¹ Ibid. See also the Regulations Respecting the Laws and Customs of War on Land annexed to the Fourth Hague Convention of 18 October 1907 (the 1907 Hague Regulations), art. 56.

¹⁰² International Covenant on Civil and Political Rights (ICCPR), adopted December 10, 1948, G.A. Res. 217A (III), U.N. Doc. A.810 at 71 (1948), arts. 6, 9, and 10.

¹⁰³ Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex 44, U.N. GAOR Supp. (No. 49) at 5, U.N. Doc. A/54/49 (Vol.1) (2000), entered into force December 22, 2000, art. 6.

¹⁰⁴ CRC, art. 3(1).

¹⁰⁵ International Covenant on Economic, Social, and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976, art. 13; and CRC, art. 28.

secondary education generally available and accessible to all.¹⁰⁶ The material conditions of teaching staff shall be continuously improved.¹⁰⁷ Governments shall also take measures to encourage regular attendance by children at schools and the reduction of child dropout rates.¹⁰⁸ With respect to children, governments shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation.¹⁰⁹

The Convention on the Rights of the Child, a core international human rights treaty that guarantees the right to education for children, contains no provision for derogation or suspension such as during a state of emergency or wartime.¹¹⁰

In 2011, the Committee on the Rights of the Child, upon reviewing Afghanistan's implementation of the convention, said that it was "particularly concerned that, in the prevailing conditions of conflict, schools have been used as polling stations during elections and occupied by international and national military forces." It recommended that Afghanistan "use all means to protect schools, teachers and children from attacks, and include communities, in particular parents and children, in the development of measures to better protect schools against attacks and violence."¹¹¹

UN Security Council Resolution

In June 2015, the United Nations Security Council unanimously adopted Resolution 2225, which expressed "deep concern that the military use of schools in contravention of applicable international law may render schools legitimate targets of attack, thus

¹⁰⁶ ICESCR, art. 13(2)(a)-(d); and CRC, art. 28(a)-(d).

¹⁰⁷ ICESCR, art. 13(e).

¹⁰⁸ CRC, art. 28(e).

¹⁰⁹ CRC, art. 4.

¹¹⁰ Similarly, the ICESCR provides no derogation provision; however, article 4 permits states to limit rights when proscribed by law to the extent compatible with the nature of the right and for the purpose of promoting general public welfare. The Committee on Economic, Social, and Cultural Rights has noted that in regard to the right to education, "[Article 4] is primarily intended to be protective of the rights of individuals rather than permissive of the imposition of limitations by the State. Consequently, a State party which closes a university or other education institution on grounds such as national security... has the burden of justifying such a serious measure in relation to each of the elements identified in article 4." UN Committee on Economic, Social, and Cultural Rights, General Comment No. 13—The Right to Education, (1999), U.N. Doc. E/C.12/1999/10 (1999), para. 42.

¹¹¹ Consideration of reports submitted by States parties under article 44 of the Convention Concluding observations: Afghanistan, CRC/C/AFG/CO/1 (2011), paras. 61-62.

endangering the safety of children.” The resolution encouraged all UN member states “to take concrete measures to deter such use of schools by armed forces and armed groups.”¹¹²

Armed Forces’ Good Practice

There are examples of protections for schools instituted in other countries that have experience with armed conflict. The Afghan government should consider them as examples of good practice when developing its own protections for schools from military use through legislation or military orders and regulations.

In the Philippines, the armed forces are required to observe this strong protection:

All [Armed Forces of the Philippines] personnel shall strictly abide and respect the following: ... Basic infrastructure such as schools, hospitals and health units shall not be utilized for military purposes such as command posts, barracks, detachments, and supply depots.¹¹³

In Nepal, the government armed forces and Maoist fighters made the following commitment as part of their peace agreement in 2006:

Both sides agree to guarantee that the right to education shall not be violated. They agree to immediately put an end to such activities as capturing educational institutions and using them ... and not to set up army barracks in a way that would adversely impact schools.¹¹⁴

In 2012, the UN Department of Peacekeeping Operations instituted the requirement for troop-contributing forces that: “Schools shall not be used by the military in their operations.”¹¹⁵

¹¹² Security Council Resolution 2225, June 18, 2015, S/Res/2225 (2015), para. 7.

¹¹³ Philippines, Armed Forces of the Philippines Letter Directive No. 34, GHQ AFP, November 24, 2009, http://www.protectingeducation.org/sites/default/files/documents/philippines_armed_forces_letter_directive_no_34.pdf, para. 7.

¹¹⁴ Nepal, Comprehensive Peace Agreement Concluded between the Government of Nepal and the Communist Party of Nepal (Maoist) (2006), <http://un.org.np/node/10498>.

¹¹⁵ UN Department of Peacekeeping Operations, United Nations Infantry Battalion Manual, 2012, <http://www.un.org/en/peacekeeping/documents/UNIBAM.Vol.II.pdf>, section 2.13.

The armed forces of Colombia have issued the following order:

Considering International Humanitarian Law norms, it is considered a clear violation of the Principle of Distinction and the Principle of Precaution in attacks and, therefore a serious fault, the fact that a commander occupies or allows the occupation by his troops, of ... public institutions such as education establishments.¹¹⁶

South Sudan is currently considering a proposal to amend legislation to make military use of schools by members of the national armed forces an indictable offense, with penalties including court martial, dismissal from service, and relief from command.¹¹⁷ In September 2014, the acting chief of general staff in South Sudan's Sudan People's Liberation Army (SPLA) issued an order to all units "to reaffirm" that "all SPLA members are prohibited from...occupying or using schools in any manner." It states any SPLA member who violates the directive is subject to the "full range of disciplinary and administrative measures available under South Sudanese and International law."¹¹⁸

Finally, 18 non-state armed groups, including groups from Burma, India, Iran, Sudan, Syria, and Turkey, have signed deeds of commitment developed by the nongovernmental organization Geneva Call, pledging: "We will ... avoid using for military purposes schools or premises primarily used by children."¹¹⁹

Safe Schools Declaration

On May 29, 2015, Afghanistan became one of the first countries to join the Safe Schools Declaration (see Annex I) at an international conference held in Oslo, Norway. The Safe Schools Declaration describes the immediate and long-term consequences of attacks on

¹¹⁶ Colombia, General Commander of the Military Forces, Order of July 6, 2010, No. 2010124005981 / CGFM-CGING-25.11.

¹¹⁷ Letter from Kuot Jook Alith, legal advisor, Ministry of Defense and Veteran Affairs, South Sudan, "Subject: Proposal for the Amendment of SPLA Act 2009 Section 22 Eligibility for Enrollment, Child Recruit, and Occupation of Schools and Hospitals," to the Minister of Defense and Veteran Affairs, September 19, 2014. On file with Human Rights Watch.

¹¹⁸ Order 557/9/2014 from Lieutenant General Thomas Cirillo Swaka, Acting Chief of Staff of the Sudan People's Liberation Army of South Sudan (SPLA), September 11, 2014; see also General Order 0001 of General James Hoth Mai, Chief of General Staff of the SPLA, August 14, 2013

¹¹⁹ Geneva Call, Deed of Commitment under Geneva Call for the Protection of Children from the Effects of the Armed Conflict (2010), http://www.genevacall.org/wp-content/uploads/dlm_uploads/2013/12/DoC-Protecting-children-in-armed-conflict.pdf, art. 7.

students, teachers, schools, and universities, and the military use of schools and universities, during times of armed conflict. It contrasts those consequences with the positive and protective role that education can have during armed conflict.

By endorsing the declaration, the Afghan government committed to a number of measures aimed at strengthening the prevention of, and response to, attacks on students, teachers, and schools, including: collecting reliable data on attacks and military use of schools and universities; providing assistance to victims of attacks; investigating allegations of violations of national and international law and prosecuting perpetrators where appropriate; developing and promoting “conflict sensitive” approaches to education; and seeking to continue education during armed conflict.

Through joining the Safe Schools Declaration, Afghanistan also endorsed the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict and committed to “bring them into domestic policy and operational frameworks as far as possible and appropriate.”

These guidelines were the product of consultation among expert representatives from the ministries of foreign affairs, defense, education, and the armed forces from countries around the world, along with representatives of human rights and humanitarian organizations.

The guidelines are not legally binding, but draw upon existing obligations under both international humanitarian law and international human rights law. By also drawing upon examples of good practice already applied by some parties to armed conflict, the guidelines reflect what is practically achievable and acknowledge that parties to armed conflict are invariably faced with difficult dilemmas requiring pragmatic solutions.

The guidelines begin with the overarching admonition that, “Parties to armed conflict are urged not to use schools and universities for any purpose in support of the military effort. While it is acknowledged that certain uses would not be contrary to the law of armed conflict, all parties should endeavor to avoid impinging on students’ safety and education.” The guidelines then provide six guidelines for responsible practice (see Annex II).

V. Acknowledgements

This report was researched and written by Peter Bouckaert, emergencies director at Human Rights Watch, with the assistance of Ahmad Shuja, Afghanistan assistant researcher. It was edited by Patrica Gossman, Afghanistan senior researcher; Phelim Kine, deputy Asia director; Heather Barr, senior researcher, Women’s Rights Division; and Bede Sheppard, deputy director, Children’s Rights Division. James Ross, legal and policy director, and Joseph Saunders, deputy program director, provided legal and program reviews.

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Annex I: Safe Schools Declaration

Safe Schools Declaration

The impact of armed conflict on education presents urgent humanitarian, development and wider social challenges. Worldwide, schools and universities have been bombed, shelled and burned, and children, students, teachers and academics have been killed, maimed, abducted or arbitrarily detained. Educational facilities have been used by parties to armed conflict as, inter alia, bases, barracks or detention centres. Such actions expose students and education personnel to harm, deny large numbers of children and students their right to education and so deprive communities of the foundations on which to build their future. In many countries, armed conflict continues to destroy not just school infrastructure, but the hopes and ambitions of a whole generation of children.

Attacks on education include violence against educational facilities, students and education personnel. Attacks, and threats of attack, can cause severe and long lasting harm to individuals and societies. Access to education may be undermined; the functioning of educational facilities may be blocked, or education personnel and students may stay away, fearing for their safety. Attacks on schools and universities have been used to promote intolerance and exclusion – to further gender discrimination, for example by preventing the education of girls, to perpetuate conflict between certain communities, to restrict cultural diversity, and to deny academic freedom or the right of association. Where educational facilities are used for military purposes it can increase the risk of the recruitment and use of children by armed actors or may leave children and youth vulnerable to sexual abuse or exploitation. In particular, it may increase the likelihood that education institutions are attacked.

By contrast, education can help to protect children and youth from death, injury and exploitation; it can alleviate the psychological impact of armed conflict by offering routine and stability and can provide links to other vital services. Education that is ‘conflict sensitive’ avoids contributing to conflict and pursues a contribution to peace. Education is fundamental to development and to the full enjoyment of human rights and freedoms. We will do our utmost to see that places of education are places of safety.

We welcome initiatives by individual States to promote and protect the right to education and to facilitate the continuation of education in situations of armed conflict. Continuation of education can provide life-saving health information as well as advice on specific risks in societies facing armed conflict.

We commend the work of the United Nations Security Council on children and armed conflict and acknowledge the importance of the monitoring and reporting mechanism for grave violations against children in armed conflict. We emphasize the importance of Security Council resolution 1998 (2011), and 2143 (2014) which, inter alia, urges all parties to armed conflict to refrain from actions that impede children's access to education and encourages Member States to consider concrete measures to deter the use of schools by armed forces and armed non-State groups in contravention of applicable international law.

We welcome the development of the *Guidelines for protecting schools and universities from military use during armed conflict*. The Guidelines are non-legally binding, voluntary guidelines that do not affect existing international law. They draw on existing good practice and aim to provide guidance that will further reduce the impact of armed conflict on education. We welcome efforts to disseminate these guidelines and to promote their implementation among armed forces, armed groups and other relevant actors.

We stress the importance, in all circumstances, of full respect for applicable international law, including the need to comply with the relevant obligations to end impunity.

Recognizing the right to education and the role of education in promoting understanding, tolerance and friendship among all nations; determined progressively to strengthen in practice the protection of civilians in armed conflict, and of children and youth in particular; committed to working together towards safe schools for all; we endorse the *Guidelines for protecting schools and universities from military use during armed conflict*, and will:

- Use the Guidelines, and bring them into domestic policy and operational frameworks as far as possible and appropriate;
- Make every effort at a national level to collect reliable relevant data on attacks on educational facilities, on the victims of attacks, and on military use of schools and universities during armed conflict, including through

existing monitoring and reporting mechanisms; to facilitate such data collection; and to provide assistance to victims, in a non-discriminatory manner;

- Investigate allegations of violations of applicable national and international law and, where appropriate, duly prosecute perpetrators;
- Develop, adopt and promote ‘conflict-sensitive’ approaches to education in international humanitarian and development programmes, and at a national level where relevant;
- Seek to ensure the continuation of education during armed conflict, support the re-establishment of educational facilities and, where in a position to do so, provide and facilitate international cooperation and assistance to programmes working to prevent or respond to attacks on education, including for the implementation of this declaration;
- Support the efforts of the UN Security Council on children and armed conflict, and of the Special Representative of the Secretary-General for Children and Armed Conflict and other relevant UN organs, entities and agencies; and
- Meet on a regular basis, inviting relevant international organisation and civil society, so as to review the implementation of this declaration and the use of the guidelines.

Annex II: Guidelines

Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict

Parties to armed conflict are urged not to use schools and universities for any purpose in support of their military effort. While it is acknowledged that certain uses would not be contrary to the law of armed conflict, all parties should endeavour to avoid impinging on students' safety and education, using the following as a guide to responsible practice:

Guideline 1: Functioning schools and universities should not be used by the fighting forces of parties to armed conflict in any way in support of the military effort.

- a) This principle extends to schools and universities that are temporarily closed outside normal class hours, during weekends and holidays, and during vacation periods.
- b) Parties to armed conflict should neither use force nor offer incentives to education administrators to evacuate schools and universities in order that they can be made available for use in support of the military effort.

Guideline 2: Schools and universities that have been abandoned or evacuated because of the dangers presented by armed conflict should not be used by the fighting forces of parties to armed conflict for any purpose in support of their military effort, except in extenuating circumstances when they are presented with no viable alternative, and only for as long as no choice is possible between such use of the school or university and another feasible method for obtaining a similar military advantage. Other buildings should be regarded as better options and used in preference to school and university buildings, even if they are not so conveniently placed or configured, except when such buildings are specially protected under International Humanitarian Law (e.g. hospitals), and keeping in mind that parties to armed conflict must always take all feasible precautions to protect all civilian objects from attack.

- a) Any such use of abandoned or evacuated schools and universities should be for the minimum time necessary.

- b) Abandoned or evacuated schools and universities that are used by the fighting forces of parties to armed conflict in support of the military effort should remain available to allow educational authorities to re-open them as soon as practicable after fighting forces have withdrawn from them, provided this would not risk endangering the security of students and staff.
- c) Any traces or indication of militarisation or fortification should be completely removed following the withdrawal of fighting forces, with every effort made to put right as soon as possible any damage caused to the infrastructure of the institution. In particular, all weapons, munitions and unexploded ordnance or remnants of war should be cleared from the site.

Guideline 3: Schools and universities must never be destroyed as a measure intended to deprive the opposing parties to the armed conflict of the ability to use them in the future. Schools and universities—be they in session, closed for the day or for holidays, evacuated or abandoned—are ordinarily civilian objects.

Guideline 4: While the use of a school or university by the fighting forces of parties to armed conflict in support of their military effort may, depending on the circumstances, have the effect of turning it into a military objective subject to attack, parties to armed conflict should consider all feasible alternative measures before attacking them, including, unless circumstances do not permit, warning the enemy in advance that an attack will be forthcoming unless it ceases its use.

- a) Prior to any attack on a school that has become a military objective, the parties to armed conflict should take into consideration the fact that children are entitled to special respect and protection. An additional important consideration is the potential long-term negative effect on a community's access to education posed by damage to or the destruction of a school.
- b) The use of a school or university by the fighting forces of one party to a conflict in support of the military effort should not serve as justification for an opposing party that captures it to continue to use it in support of the military effort. As soon as feasible, any evidence or indication of militarisation or fortification should be removed and the facility returned to civilian authorities for the purpose of its educational function.

Guideline 5: The fighting forces of parties to armed conflict should not be employed to provide security for schools and universities, except when alternative means of providing essential security are not available. If possible, appropriately trained civilian personnel should be used to provide security for schools and universities. If necessary, consideration should also be given to evacuating children, students and staff to a safer location.

- a) If fighting forces are engaged in security tasks related to schools and universities, their presence within the grounds or buildings should be avoided if at all possible in order to avoid compromising the establishment's civilian status and disrupting the learning environment.

Guideline 6: All parties to armed conflict should, as far as possible and as appropriate, incorporate these Guidelines into, for example, their doctrine, military manuals, rules of engagement, operational orders, and other means of dissemination, to encourage appropriate practice throughout the chain of command. Parties to armed conflict should determine the most appropriate method of doing this.

Annex III: Letter to the Directorate of Education of Baghlan Province

Islamic Republic of Afghanistan
Ministry of Education
Directorate of Education of Baghlan Province
General Directorate of Human Resource Development
Department of Education, Pul-e Khumri City

Letter number: 6873

Date: 1/12/1394 [20 February 2016]

To the respected Directorate of Education of Baghlan province:

In relation to Letter No. 45 dated 25/11/1394 [14 February 2016] [about] Nasrat Mina Primary School, the below is written:

Respectfully: As you know better, a military operation has been ongoing in the Dand-e Ghor area for about 20 days, and the frontline of the soldiers is located in the Nasrat Mina village and its surrounding areas. In the early days of the fighting, soldiers arbitrarily took a number of goods, including four tents, two plastic mats and two students' chairs, to their trenches/barracks. During the taking of [these goods], the school's peon/attendant argued with them, as a result of which he was threatened and beaten to a certain extent, and told that "we are the government's soldiers and this is government property and belonging."

This matter is dispatched to your respected office through this letter.

The above has been quoted and reported to you. In this regard, the concerned authorities are benevolently placed to decide as they see fit.

With respect,

Abdul Bashir Basharyar

Director of City Department of Education

[SIGNED]

[IN HANDWRITTEN NOTE:]

Noted

1/12/1394 [20 February 2016]

To the respected Directorate of Protection:

Immunity. Take action in accordance to the law in this matter

Director of Education

[SIGNED]

“Education on the Front Lines”

Military Use of Schools in Afghanistan’s Baghlan Province

Afghan security forces are increasingly using schools as bases during military operations in Taliban-held areas, putting children at risk and depriving thousands of their education. As the country’s security situation has deteriorated in recent years, schools throughout Afghanistan have been under threat by both state and insurgent forces, which use the schools to deploy troops and weaponry.

Education on the Front Lines: Military Use of Schools in Afghanistan’s Baghlan Province, is based on interviews with more than 20 school principals, teachers, and administrators, as well as local families affected by the conflict in Baghlan province in north-eastern Afghanistan. The report documents the occupation or other military use of 12 area schools. Although conditions in Baghlan reflect the province’s particular dynamics, Afghan security forces are increasingly using schools in other conflict-affected areas throughout the country. As school districts across Afghanistan find themselves on the front lines of the country’s armed conflict, students either risk their lives attending schools being used by soldiers, or are deprived of an education until they are provided facilities elsewhere.

The increase in girls attending school has been a noted achievement of the post-Taliban government in Afghanistan. However, parents are especially hesitant to allow girls to attend school if the school is being used by soldiers or threatened by fighting. So long as schools remain vulnerable to military use or attack, the fragile gains of education in Afghanistan, particularly for girls, are at risk of reversal.



An Afghan policeman stands guard at the entrance of a local school sponsored by Japan’s International Cooperation Agency in Kandahar City May 11, 2010.

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