

THE PETER PECKARD MEMORIAL PRIZE 2018  
MAGDALENE COLLEGE

Dancing into Dystopia:  
The Culture and Practice of *Bacha Bāzī* in Afghanistan

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Word count: 7,765

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**Abstract**

*Bacha bāzī* is the colloquial reference in Afghanistan to what would contemporarily be known as pederasty. Same-sex paedophilia, restricted to adult men and adolescent boys, is most notably observed across south-eastern Afghanistan's rural Pashtun belt, and the countryside of northern Afghanistan among ethnic Tajiks. Following the 2001 invasion of Afghanistan, *bacha bazi* has evolved from an ancient and temporarily taboo practice into an institutionalised, normalised, and cultural practice within rural Pashtun and Tajik communities. This is demonstrated effectively by the fact that *bacha Baz* – the men either in charge of or participants in *bacha bazi* – do not view this form of child exploitation as either homosexuality (which is illegal and can prove fatal under Afghan law) or paedophilia, but rather as an essential element to an adult male publicly displaying and enhancing his power and social status. The international world order, composed of sovereign states within the reality of globalisation, reflects an uncompromising tension between human rights, state sovereignty, and the globalist tenets of modern politics. With reference to Hannah Arendt's theorising on human rights' lack of moral validity in the modern world, it is argued that the eradication of *bacha bazi* is contingent on engaging and understanding this tension. What is subsequently required is not past examples of international intervention, investment or development in Afghanistan, but rather a new law of humanity that philosophically establishes and politically secures human rights. In short, a new consideration of what it is to not only be human but to see 'dignity' as an innate and universal feature of the human condition has to precede any attempt to realise the rule of law in Afghanistan. Arendt's emphasis is on rehabilitating within international institutions and individuals an understanding and moral obligation to our commonality in the world. Understanding, moral obligation, and responsibility can never abolish *bacha bazi* from the outset; yet, they can nonetheless accompany and direct the actions within this struggle toward establishing and making durable the very 'rule of law culture' that can overcome the normalisation of sexual servitude in Afghanistan. It is argued that in order for *bacha bazi* and human exploitation to be eradicated, human dignity and human rights need to be not only formulated but morally grounded as possibilities worth locally *and* universally fighting for.

'I am convinced that a man who falls in love with a young man of this [youthful] age is generally prepared to share everything with the one he loves – he is eager, in fact, to spend the rest of his own life with him. He certainly does not aim to deceive him – to take advantage of him while he is still young and inexperienced and then, after exposing him to ridicule, to move quickly onto someone else.

As a matter of fact, there should be a law forbidding affairs with young boys. If nothing else, all this time and effort would not be wasted on such an uncertain pursuit – and what is more uncertain than whether a particular boy will eventually make something of himself, physically or mentally? Good men, of course, are willing to make a law like this for themselves, but those other lovers, the *vulgar* ones, need external restraint...'

The Speech of Pausanias, Plato's *Symposium*  
181D – 182A

### I. Introduction: '[T]o make a boy a woman'

According to the late German philosopher Hans-Georg Gadamer, 'history does not belong to us; we belong to it.'<sup>1</sup> To 'belong to history' is a remarkable phrase and, from Gadamer's perspective, it resonates possibilities which both bind us inextricably to one another yet simultaneously present our liberation from being determined by these bonds. Take, for example, the significance of Athenian homoeroticism in relation to the above phrase and the idea of 'mak[ing] a boy a woman'. As Pausanias's speech on the 'uncertain pursuit' of Heavenly Love or vulgar love of an Athenian citizen with a young boy suggests, Athenians knew of the ambiguities and contradictions that such love presented in defiance of overcomplicated legislation and the status quo of marriage. For instance, men married much later than women, yet any form of courtship was conducted publicly to avoid the dishonour 'love' could so easily bring to a male, female, and their family. In a classical society where the normative drives influencing most behaviour and practice were the opposing poles of 'honour and shame', sexual relations – although strictly regulated by cultural ideals and Athenian legislation – were, in fact, the most striking private and public exhibition of one's social standing. To participate in the zero-sum game of acquiring honour and avoiding shame or ridicule, what Cohen (1987: 12) called the "sexual competition for honour" was paramount to Athenian

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<sup>1</sup> Gadamer, H. G. (1960). *Truth and Method*. Trans., Marshall, D. G. and Weinsheimer, J. (1989). 2<sup>nd</sup> ed. London: Sheed & Ward Ltd., p.p. 267

males, but additionally characterised the ambiguities and contradictions of ‘love’.<sup>2</sup> Love was bittersweet, capable of bringing a man or woman substantial honour if sexual relations (theoretically) observed cultural ideals, yet easily able to become the source of his or her downfall and family’s dishonour if social reality trumped these ideals. Thus, an acceptance and subsequent reconciliation between a contradiction was reached: “sexual competition for honour”, then, had largely to be directed towards boys’ rather than females. For a man to gain honour (which is determined by his success in the sexual competition for it) he could not gain it through ‘love’ of a woman (whose honour was solely determined by her purity and marriage). Rather, by compensating this contradiction with pederasty, men (*erastes*) – who existed as citizens in the public sphere of the *polis* – would strive to gain honour by ‘making the boy a woman’; that is, engaging in the public courtship of young boys in the *agon* (struggle) for honour. Women – whom as a consequence of not being citizens were confined to the private sphere of the household – therefore ideally maintained the purity and resulting honour that defined them and influenced the family’s social standing. Some young boys (*eromenos*), then, became the linchpin of gaining honour and avoiding shame for adult males in that being transformed into a woman during pubescence brought honour to the adult male initiating the transformation. Importantly, however, once a young boy – dishonoured in his adolescence – reached adulthood he not only became a full public citizen of Athens, but his *own* honour would be reinstated in now being able to ‘show himself to be a man’ by taking up his duties as a citizen and engaging in the public sphere; something which could very likely include becoming an *erastes* himself.

Such practices and justifications for pederastic courtship are deemed to be of the past, archaic, and an example of the normalisation of paedophilic activity that our modern societies and internationally-accepted norms have banished to the depth of incivility and history. In appropriating an argument made by anthropologist Bronisław Malinowski (1929) on Trobriand sexuality, however, Classical Athens, the Trobrianders observed by Malinowski in the early twentieth-century, and the proliferation of pederasty in present-day Afghanistan all ‘belong to history’ in a

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<sup>2</sup> Cohen, David. (1987). Law, Society, and Homosexuality in Classical Athens. *Past & Present*. no., 117. Oxford: Oxford University Press., p.p. 12.

paramount way, demonstrating the vanity in distinguishing our modern world and norms from the premodern history that we carry into our lives. In short, cultural ideals of what “ought to be” are in contrast to the social reality; yet the strength of such ideals – epitomised by the acceptance and normalising of the contradictions between existing ideals and social reality by a people – is what typically creates a ‘compensatory structure’ that is, as a result, deemed functional. By considering this, the cultural complexities of Afghanistan ‘belong to history’ as well as our international moral code’s preoccupation with human rights and self-determination since 1945. The sexual exploitation of Afghan boys by the men publicly active and at the forefront of Afghanistan’s socio-politics and moral direction represents the presence of history – namely, the cultural complexities, traditions, and customs of Classical Athens – today. The same normative poles of honour and shame forming the basis of a compensatory structure of pederasty abound. This all represents the fragmentary continuation of a tradition into the present – that is, *bacha bazi* – which helps to compensate and reconcile the juxtaposition between the omnipresent ideals of honour against a concealed social reality of dishonourable child exploitation observed in the cracks of Afghan society’s wall of virtue. Pederasty and what is traditionally termed ‘*bacha bazi*’ in Afghanistan demonstrate that there is no need for one to practice what is preached if the meaningfulness of what is preached is not reliant on its cultivation through systematic practice. The human rights agenda, largely given credibility by the procedures of the United Nations (UN) and the semblance of responsibility upheld by the Universal Declaration of Human Rights (UDHR), additionally ‘belong to [a] history’ exemplified by the cultural complexities of Classical Athens or the Trobrianders of Malinowski’s research.

This analysis is intended to try and understand – although not simplify – *bacha bazi* and its metamorphosis from the traditionally boisterous performances of “dancing boys” since before the Middle Ages into the “boy play” of commercial child sexual exploitation in Afghanistan. *Bacha bazi* is rightly described by many commentators as Afghanistan’s “open secret”<sup>3</sup>, demonstrating a way in which power is exercised and prestige paraded as a cultural ideal for adult men, hiding the

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<sup>3</sup> Khan, Shivananda. (2008). *Everybody Knows, but Nobody Knows: Desk Review of Current Literature on HIV and Male-Male Sexualities, Behaviours, and Sexual Exploitation in Afghanistan*. London: NAZ Foundation International Ltd. – Institute of Development Studies., p.p. 19.

more sinister social reality of sexual slavery and paedophilia. It will eventually become clear that the proliferation of *bacha bazi* since the U.S. invasion of Afghanistan in 2001 is one of many consequences deriving from Afghanistan's compulsion into the institutions and principles of international human rights and developmental modernisation. How, then, is it possible for *bacha bazi* to be eradicated not simply in what is *preached* but essentially in *practice* when it has been able to thrive as a result of the very preaching and declarations whose superficial credibility permits the inactivity and unaccountability of national and international actors? To give an answer to this question it is important to critique the contradictions and moral dilemmas posed by our modern international order and our current conceptualisation of human rights. For any practice, custom, or tradition to be accepted or rejected, it has to necessarily be recognised as embodying some 'law to rule', and, as such, induce or deconstruct cultural change and norm creation. Afghanistan, in short, has no viable rule of law in place as *bacha bazi* demonstrates. In order for 'law to rule' in Afghanistan, however, reconceptualization and 'solutions' do not begin with Afghanistan but with globally confronting the reckless optimism of the UN, UDHR, and other human rights organisations. We belong to a history largely void of human rights – a fact of life that cannot be changed – and are confronted with present societies who, in the case of Afghanistan, define themselves through traditions and customs in conflict with the framework of modern politics, morality, and the rule of law imported onto its physical and cultural territory. Appreciating that it is this very framework which undermines the gradual eradication of *bacha bazi* is the essential missing piece to all previous attempts undertaken since the late twentieth-century.

## II. *Bacha Bāzī* in the Twenty First-Century: The Issue and its Paradoxes

It is important to note from the beginning that *bacha bazi* as it is contemporarily seen and understood in Afghanistan and by the UN has no clear definition and is not specifically defined in any document of national or international law<sup>4</sup>. When referred to in the annual Report of the Secretary-

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<sup>4</sup> Agence France-Presse and Asia One-AFP. (2017). *Bacha Bazi: Afghan Subculture of Child Sex Slavery*. Available at: <https://childhub.org/en/child-protection-news/afghanistan-bacha-bazi-afghan-subculture-child-sex-slavery> [Accessed: June 9<sup>th</sup>, 2018]. Budapest: Child Protection Hub for South-East Europe.

General on Children and Armed Conflict in Afghanistan, the practice of *bacha bazi* has been relegated to a single descriptive paragraph, explained to be a cultural trait of Afghanistan in which “boys [are] kept cloistered and used for sexual and harmful social entertainment by warlords and other armed group leaders.”<sup>5</sup> The report assures readers that this form of child exploitation is “strongly condemned” by government officials, religious and cultural leaders, military personnel deployed to Afghanistan, and the practice of Islam in Afghanistan. However, not only does evidence support that claim that the Afghan government is known to condone and even prosecute the child victims of *bacha bazi*. State officials and members of the Afghan National Army have been able to invest and participate in this form of child sexual trafficking with considerable rates of impunity. The 2017 Report of the Secretary-General recorded instances of a twelve-year-old boy, a sixteen-year-old boy, and three other boys sexually abused and prostituted by male perpetrators serving in the Afghan National Defence and Security Forces, the Afghan National Police, the Afghan Local Police (one victim of whom was violated and prostituted at an Afghan National Police and Afghan Local Police joint checkpoint), and the Afghan National Army.<sup>6</sup> This has all occurred in the context of efforts made by the UN Security Council since 2001 to develop Afghanistan into a modern republic characterised by imported institutional models charged with enhancing the political legitimacy and authority of the Afghan state. In September 2001, the US Central Intelligence Agency team deployed to Afghanistan brought with them US \$10 million in cash which, in the military operations and years since, has established a trend in which hundreds of millions, tens of billions, and hundreds of billions have, indeed, purchased the bricks and cement required to materialise efforts in state-building. Yet, while purchasing these bricks and cement – and subsequently establishing the appearance of authority, counterinsurgency, and legitimacy – Afghan officials have also used this ‘new money’ to recreate themselves as millionaires whose financial position and social status enables their arbitrary use of power over these institutions. There is a seemingly relentless agitation between the rural, informal and almost anarchic world in which *bacha bazi* exists relative to the urban and modern institutions made weak by the lack of checks-and-balances in place.

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<sup>5</sup> United Nation General Assembly and United Nations Security Council. (2008). Report of the Secretary-General on Children and Armed Conflict in Afghanistan. November 10<sup>th</sup>, p.p. 14.

<sup>6</sup> Ibid.

The contradiction of modernisation and its place in Afghan socio-politics is palpable in trying to understand this agitation. This raises the question of how it is possible to induce the eradication – the *death* – of *bacha bazi* through modern institutions that purport to have already codified human rights, children’s rights, and ‘legitimacy’ into the body politic. Modernity since the seventeenth-century has been at the forefront of ‘the living myth of the significance of human life’<sup>7</sup>, aspiring toward the immortality of institutions, creations, and ourselves. Afghanistan, akin to all states exposed to modernisation through globalising processes, has inevitably incorporated some of its features, even within those alienated rural enclaves where *bacha bazi* and pre-modern processes still exist. In fact, it is largely because of the clash and indigestible mix of modernity and Afghan’s ethnic traditions that *bacha bazi* has increased drastically since the 2001 US-led invasion. In a fixation with immortality, progress, and ascent, what is ‘new’ and ‘beautiful’ is in synthesis with the proliferation of what Bauman called the ‘culture of waste’ that is the unintended effect of modernisation. *Bacha bazi* is cheered on by this fact of life for many adolescent boys in Afghanistan. In short, this traditional practice of ‘dancing boys’ has been increasingly merged into a ‘culture of waste’. This is constitutive of modernisation, globalisation, the commodification of bodies – young and perfect bodies whose immortal beauty is maintained as a result of being able to easily and (according to modernity) justifiably dispose of the old, reinvigorating ‘beauty’ through the dispensability of what may taint its purity – and what Bauman creatively denotes to be ‘liquid modernity’.<sup>8</sup> We are a civilisation of excess, waste and its disposal, and what lingers over our contemporary world is a thick sooty ‘spectre of redundancy’ exemplified by the reinvigorated tradition of *bacha bazi* today. Young boys are exploited and replaced, and their futures – compromised if not ruined by the dishonour and humiliation of child prostitution – does not prove to be a concern of Afghanistan’s modern institutions or the codified human rights standards that promise their protection.

It is likely impossible to clearly define what modern *bacha bazi* is beyond the simplified categories and morally-laden press releases of indignation presented in the annual Report of the Secretary-General on Children and Armed Conflict. I will, as a consequence, describe this “cultural practice” from a

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<sup>7</sup> Becker, Ernest. (1973). *The Denial of Death*. New York: Free Press: An Imprint of Simon & Schuster., p.p. 7.

<sup>8</sup> Baumann, Zygmunt. (2004). *Wasted Lives: Modernity and its Outcasts*. Cambridge: Polity Press., p.p. 96 – 97.

subjective point of view, based on research and particular reference to Afghan journalist Najibullah Quraishi's revelatory documentary, *The Dancing Boys of Afghanistan* (2010).<sup>9</sup> What I observed from these findings was young, mostly undereducated, poor, and impressionable boys caught in a tangled web demonstrative of Bauman's description of a consumer 'culture of waste.' Metaphorically as well as literally, once these young boys start to dance they cannot stop until thrown off their stage and subsequently replaced. Such a way of life seems fashioned around a pungent obsession with 'beauty', its direct link to honour, and the belief of its immortality exacerbated in the modern age. These boys are beautiful objects *in the moment* and therefore, almost by definition, they are disposable, impermanent, and therefore rightfully exploitable. They are products of Afghanistan's history, and, more specifically, *waste* products which can be utilised for a fleeting and perverse means of acquiring new money, egregious displays of patriarchy, and exclusive entertainment. The impermanency characteristic of this form of exploitation is demonstrated most starkly by a boy's sudden ascent to adulation, only to have his status as an object of waste reinforced once he grows pubic hair, his voice breaks, and his once youthful representation of 'perfection' needs immortalising by another fresh, naïve, and beautiful male body.

Political and economic globalisation has been acknowledged by many economists to be the single greatest facilitator of human trafficking<sup>10</sup>, the increased marginalisation of rural populations which unintentionally benefits such human exploitation, and the impoverishment and heightened ambiguity of secure existence experienced by women and children in less developed regions.<sup>11</sup> Afghanistan's "open secret" is no exception to this. The abolition of *bacha bazi* requires not increased foreign direct investment, foreign aid, or the further importation of democratic institutions or human rights. It is unlikely that Afghanistan will ever be a democracy in the twenty-first century; however, this does not mean that Afghanistan cannot begin to qualitatively realise a rule of law *culture* that cultivates and habituates the perception of the human dignity and the law as above those who are subject to it. This

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<sup>9</sup> *The Dancing Boys of Afghanistan.*, documentary film produced by Clover Films, Windsor, (distributed by PBS Frontline, 1 Guest Street, BOSTON, MA 02135, 2010). 52min, 13sec.

<sup>10</sup> Shelley, Louise. (2010). *Human Trafficking: A Global Perspective*. New York: Cambridge University Press., p.p. 40.

<sup>11</sup> Stiglitz, Joseph. (2003). *Globalisation and its Discontents*. New York: W. W. Norton.

will unavoidably prove to be a long-term and strenuous effort on the part of, primarily, the international community's and UN's reckoning with grounding human rights and a Responsibility to Protect Doctrine (R2P) into the moral framework of its conduct, and, secondly, aiding Afghanistan in this essential direction.

### **III. The International Community: Human Rights and Intervention**

Human rights, as defined by the Universal Declaration of Human Rights, refers to a core belief that “all human beings are born free and equal in dignity and rights” as a result of all humanity being “endowed with reason and conscience”; a belief which obliges us to “act toward one another in a spirit of brotherhood” (Article I). This principle extends into all areas of life, politics, and society where, for instance, “no one shall be held in slavery or servitude; slavery and servitude shall be prohibited in all their forms” (Article IV).

The Universal Declaration of Human Rights (UDHR) is a document that can be seen and evaluated in two ways. The most common view of this non-binding declaration is to identify it through the lens of what Hannah Arendt derides to be “reckless optimism”; that is, a promise that human rights are fixed and are self-sufficient in realising and repairing all worldly injustices put before them.<sup>12</sup> The inevitable consequence of this view is the “reckless despair” when we observe that such optimism has unrealistically burdened human rights as any post-Cold War genocide or civil conflict demonstrates. To realise that human rights are not omnipotent, that humanity has been thrown into a Hobbesian state of nature where degradation and misery prevail has disastrous implications. In its extreme articulation, reckless despair is nihilistic; yet in its more commonly experienced and less extreme articulation, it typically leads to the moral relativism which justifies inaction, passivity, and absconding responsibility.

The alternative and second view of human rights begins with an understanding of the paradox it presents. The UDHR was adopted by the UN General Assembly three years after the end of The Shoah which bore witness to the murder of approximately six million European Jews (Yad Vashem, 2018) and

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<sup>12</sup> Parekh, S. (2008). *Hannah Arendt and the Challenge of Modernity: A Phenomenology of Human Rights*. Oxon: Routledge: An Imprint of Taylor & Francis Group., p.p. 7.

eleven million non-Jewish minorities (Niewyk & Nicosia, 2000: 40). Arendt's analysis into totalitarianism, The Shoah, and the post-1945 world concludes that fascism's "re-evaluation of values" only made more blatant Friedrich Nietzsche's proclamation of God's death and the prevalent sway of modernity which began in the seventeenth-century. In signifying 'the end of transcendence as the dominant way to justify our actions, explain reality, and understand the meaning of our lives', modernity gradually began to abolish and eventually – as The Shoah demonstrated – completely abolished the transcendent ground which previously made meaningful and securely anchored moral value systems in a set, unquestionable foundation<sup>13</sup>. The paradox is that at the moment when the solid foundation needed to justify and give meaning to actions was completely abolished, the UDHR was formulated within a modern world at odds with the fundamental requirement of human rights; namely, to be fixed into a sociocultural foundation that is secure, and, as such, can in no way be morally or politically challenged by a Final Solution or an egregious "cultural practice" such as *bacha bazi*.

It is no coincidence, therefore, that the justification of *bacha bazi* being both not homosexuality or paedophilic human exploitation gained credibility as a "cultural practice" and "open secret" following the importation of modern institution building, warfare, and the programmatic financing of structural adjustment of Afghanistan by the World Bank until mid-2009 (Guerrero *et al*, 2009).<sup>14</sup> In fact, the proliferating presence of *bacha bazi* has been riding the wave of US-led transformational intervention since 2001. This developmental and modern intervention has included the introduction of a 28 per cent mandatory female quota within both houses of Afghanistan's parliamentary system; a higher mandatory percentage in both the United States and Canada. It has also included the implementation of former Director of the Central Intelligence Agency (CIA) General David Petraeus's counterinsurgency theory which purports that if Afghanistan's economic development achieves the sophistication and status of, for instance, Norway, Sweden, or Finland, support and popular leanings toward insurgents such as the

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<sup>13</sup> Parekh, S. (2008). Hannah Arendt and the Challenge of Modernity: A Phenomenology of Human Rights. Oxon: Routledge: An Imprint of Taylor & Francis Group., p.p. 2 – 3.

<sup>14</sup> The World Bank. (2009). Implementation, Completion, and Results Report on Grants to the Islamic Republic of Afghanistan for the Programmatic Support for Institution Building II (PSIB II) and the Programmatic Support for Institution Building III (PSIB III): Poverty Reduction, Economic Management, Finance and Private Sector Development South Asia Region. Available at: <http://documents.worldbank.org/curated/en/533721468179061047/pdf/ICR9280Box341962B01PUBLIC071221091.pdf> [Accessed: June 30<sup>th</sup>, 2018].

Taliban or Al-Qaeda would inadvertently diminish. As a result, the US tasked itself with reforming the Afghan National Army, the United Kingdom with counter-narcotics and DDR (disarmament, demobilisation, and rehabilitation), Germany and US-based private military contractor Military Professional Resources Inc. with reforming the Afghan National Police (ANP), and Italy with establishing the legal institutions and court system deemed capable of realising the rule of law.<sup>15</sup> However, rather than introducing the rule of law in Afghanistan, these forms of institutional importation and modernisation through financial investment have deeply magnified the rift between competing parties and models of legitimacy.<sup>16</sup>

This dilemma of legitimacy is effectively captured by the formal-informal dichotomy with regard to the delivery of justice. State-based legal processes and rules are in conflict with the local *jirga* or *shura* (informal legal procedures) that practice their own form of justice. This directly relates to *bacha bazi* and its proliferation since the legal reforms in Afghanistan. The UN Security Council's Resolution 1383 (2001) gave further credibility to the 2001 Bonn Agreement established with the objective of rebuilding and recreating the Islamic Republic of Afghanistan. In theory, *bacha bazi* should have been made illegal under this agreement and the institutional reforms it induced. For instance, the resolution initiated key processes which led to the drafting of the 2004 Afghan Constitution that has endorsed international human rights standards as established under the UDHR.<sup>17</sup> Tens and hundreds of billions has been invested into Afghanistan, creating millionaires out of Afghan officials, ministers, their brothers, male cousins, sons, and nephews. This is in a country where, according to the formal legal system, the official minimum wage for such officials and high-flying figures tasked with Afghanistan's coveted public-sector jobs stands at US \$72 per *month*.<sup>18</sup> It is no wonder, then, that – according to a 2017 survey conducted by the non-profit Asia Foundation across all Afghanistan's thirty-four provinces

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<sup>15</sup> Miakhel, Shahm Mahmood. (2011). Human Security and the Rule of Law: Afghanistan's Experience. In: Mason, Whit. (2011). (ed.). The Rule of Law in Afghanistan: Missing in Inaction. Cambridge: Cambridge University Press., p.p. 91 – 93.

<sup>16</sup> Wilder, Andrew. (2007). Cops and Robbers? : The Struggle to Reform the Afghan National Police. Kabul: Afghanistan Research and Evaluation Unit., p.p. 108 – 110.

<sup>17</sup> Maley, William. (2011). The Rule of Law and the Weight of Politics. In: Mason, W. (2011). (ed.). The Rule of Law in Afghanistan: Mission in Inaction. Cambridge: Cambridge University Press., p.p. 69.

<sup>18</sup> Luttwak, Edward N. (2018). War of Error: The Incompetence of American Intelligence Services in Afghanistan. *The Times Literary Supplement* (no. 6013). June 29<sup>th</sup>., p.p. 24 – 25.

– 83.7 per cent of Afghans identified corruption as being a major problem in Afghanistan as a whole and something which, as a result of having to confront it in their daily lives, heightened perceptions of illegitimacy and loss of faith the formal legal, political, and economic sector. However, it is notably urban residents (89.6 per cent) who identify corruption as a major problem relative to rural residents (66 per cent); a difference which is arguably the result of rural residents’ greater use of the informal sector and, as a result, exemplifies why *bacha bazi* is so normalised in rural areas. 64.6 per cent of respondents used an informal village, neighbourhood or local *jirga / shura*, whereas only 39.5 per cent used a formal legal institution for dispute resolution. The survey also gathered respondents’ opinions of the institutions they preferred to use. Revealingly, local *jirga / shura* courts were described as fair, legitimate, and trustworthy by 81.5 per cent of respondents; local *jirga / shura* courts were described as representing the norms and values of the people by 77 per cent of respondents; and the informal sector was described as the most effective in delivering and upholding justice by 74.2 per cent of respondents (Afghan Center for Socio-Economic and Opinion Research [ACSOR], 2017).<sup>19</sup>

The conclusions drawn from this survey, in line with preceding surveys conducted by The Asia Foundation since 2009, reflect perhaps ‘the single greatest failure’ of foreign transitional intervention. In short, the US-led coalition (and its foreign policy) is quite willing to prioritise the bolstering of strongmen and corrupt Afghan officials in a bid to procure national allies with whom to easily deal<sup>20</sup> at the expense of assisting in creating and entrenching a “culture of impunity for the powerful”. Traditional legitimacy trumps the formal modern instalments of legitimacy in Afghanistan, and this is largely a consequence of the delegitimising effects caused by an arbitrary government, judicial system, and law enforcement since 2001. Unconstrained power – and therefore political illegitimacy – facilitates and nurtures a flourishing range of evils exemplified by *bacha bazi*. The modernisation of the Afghan state has alienated its people from their rulers, demonstrating the lack of the rule of law and a greater willingness to violate the alleged protection of human rights adopted by the Afghan Constitution.

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<sup>19</sup> Akseer, Tabasum., Rieger, John., and Warren, Zachery. (2017). (ed.). *Afghanistan in 2017: A Survey of the Afghan People*. San Francisco, CA: The Asia Foundation., p.p. 101 – 103.

<sup>20</sup> Suhrke, Astri. (2008). *Democratising a Dependent State: The Case of Afghanistan*. *Democratization*. vol. 15 (3). London: Informa Plc.: Taylor & Francis Group., p.p. 635 – 636.

#### IV. Normative Moral Relativism in a Zeitgeist of ‘Boy Play’

The uncompromising subjugation of Afghan women is widely known, and little has improved since a Thomson Reuters Foundation experts’ survey identified Afghanistan as being one of the five most dangerous countries for women and girls in 2011. As of 2018, Afghanistan is polled as the world’s second most dangerous country for women according to the survey’s 548 experts on women’s issues.<sup>21</sup> This statistic, however, does not include *bacha bereesh* (boys without beards) who have systematically been used to compensate for the rigorously enforced division between men and women in the public and private spheres respectively.

*Bacha bazi* is intrinsically related to the inferior position of Afghan women in both the public socio-political sphere and within their almost complete relegation to the private sphere. Boys (referred to by international military personnel as “chai boys” or tea boys) wear makeup, cosmetics, and – when dancing for their masters or his friends at exclusive gatherings – are adorned in silks, jewels, and bright women’s clothing not only to enhance the spectacle of the dance, but to also encourage those bidding to take the boy home to increase their bids. A boy’s master – *bacha baz* – is typically in charge of his sexual relations whether they are exclusive or prostituted among the social circle of the man. Sometimes, if young boys are given to a *bacha baz* by their parents, a *bacha baz* will provide the family with some kind of financial support or special payment until the boy physically comes of age.<sup>22</sup>

The Northern Atlantic Treaty Organisation (NATO) and Dutch military personnel, when interviewed by Michelle Shut and Eva van Baarle (2017), spoke of similar encounters with “chai boys” who wore makeup and purposefully exhibited a feminine disposition when conducting “chores” such as making and serving tea to affluent / influential Afghans and their guests, as well as acting as servants or waiters to their masters who many interviewees notably identified as being army commanders and high-ranking police officers.

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<sup>21</sup> Thomson Reuters Foundation. (2018). Thomson Reuters Foundation Annual Poll: The World’s Most Dangerous Countries for Women. *Thomson Reuters*.

<sup>22</sup> Shut, Michelle., and Baarle, Eva. (2017). Dancing Boys and the Moral Dilemmas of Military Missions: The Practice of Bacha Bazi in Afghanistan. In: Bah, Abu Bakarr. (2017). (ed.). *International Security and Peacebuilding: Africa, the Middle East, and Europe*. Bloomington, IN: Indiana University Press., p.p. 77.

Gender-based and sexual violence in conflict zones has been a significant matter of concern for the UN and NATO investigating war crimes committed against women and girls or by international peacekeepers. Yet, substantially little attention has been paid to sexual violence committed by Afghan men against Afghan boys, and how international organisations and military personnel should respond to the issue when confronted with it. For instance, in 2009, Travis Shouten (a corporeal of the Canadian Armed Forces) made public his witnessing and knowledge of an Afghan child boy's abuse and rape by members of the Afghan National Security Forces (ANSF) within a Canadian compound on the outskirts of Kandahar. Both the Canadian Armed Forces and NATO ignored his report based on the generally held position that *bacha bazi* – particularly as it is deemed to be an institutionalised “cultural practice” by rural Afghans – is a culturally and morally critical situation.

Normative moral relativism is currently the established although unclear guideline that military personnel are encouraged to adopt when confronted with local conduct which they morally condemn. *Bacha bazi* is thus condoned and tolerated by the very member-states who have adopted the Universal Declaration of Human Rights which prohibits sexual slavery and has recently been strengthened by the ratification of the 1989 United Nations Convention on the Rights of the Child (UNCRC). The prevalence of modern norms directing the actions of international bodies and their personnel in Afghanistan is a further reflection of the paradoxical nature of human rights in the modern world. Modernity places moral relativism at the forefront of advancing the networks of globalisation and international politico-economic relations. Human rights, however, necessitate a foundation of moral certainty – a clear and binding position on what is right and wrong determining all action – in order to realise their potential and validity. As abovementioned, Hannah Arendt initially brought to focus this omnipresent dilemma of practical (applied) ethics and human rights in the modern world. Moral relativism and its toleration of *bacha bazi* unavoidably creates a moral and political impasse, and it was Arendt who most thoroughly appreciated that although the Rights of Man have been formulated and (superficially) codified by the likes of the UDHR or UNCRC, human rights have never actually been ‘philosophically *established* or grounded’. This juxtaposition of our modern engagement with human rights epitomises the practical inaction of military personnel when faced with the contradictory reality

of international humanitarian intervention's exposure to *bacha bazi*.<sup>23</sup> The alienating implications of modernity – as is exemplified by the lack of commonality between the Afghan state, its citizens, and international forces – is directly linked to the merely formulated accomplishments of human rights which, if in fact *established* as the guiding principle behind all moral actions, would recognise the universality and commonality of human dignity as the paramount instigator of practical (applied) ethics. Normative moral relativism therefore extends drastically beyond a capacity for tolerance and cultural plurality. Rather, moral relativism is of political significance and – in the case of attempting to eradicate *bacha bazi* – is a marked disadvantage to this objective in that it tends to encourage people's participation in a nonchalant disregard for human life and, consequently, creates the "living corpses"<sup>24</sup> and wasted, inhuman lives that are, for instance, embodied by Mediterranean migrants and refugees, communities caught in civil conflict, and Afghanistan's dancing boys. Human rights must necessarily overcome modernity – not, that is, vainly attempt to thwart modernity, but attempt to ground themselves securely and overbearingly as the new "transcendent ground" on which all actions are evaluated. Therefore, to use moral relativism as an excuse to not confront *bacha bazi* – as the UN, NATO, and military personnel have systematically been doing – is to relinquish one's moral obligation to human dignity, making superfluous the Responsibility to Protect Doctrine (R2P) as a result of it not being abided to in the first place. Moral change, certainty, and judgement is highly problematic and to addressing and condemn *bacha bazi* must somehow come to terms with this issue.

## V. Ignorance and Responsibility:

Although clearly out of place in this discussion, Saint Augustine of Hippo provides, what can be argued to be, a reconciliation between morality and judgement which, as a principle, should be recognised in the guidelines on how NATO forces and military personnel ought to act in response to *bacha bazi* when deployed to Afghanistan. In Book XIX of his magnum opus *Dei civitate Dei*, Augustine described the position of all individuals tasked with making moral judgement.<sup>25</sup> Judges and

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<sup>23</sup> Arendt, Hannah. (1951). *The Origins of Totalitarianism*. New York: Meridian Books (1978)., p.p. 447.

<sup>24</sup> Parekh, S. (2008). *Hannah Arendt and the Challenge of Modernity: A Phenomenology of Human Rights*. Oxon: Routledge: An Imprint of Taylor & Francis Group., p.p. 4.

<sup>25</sup> Book XIX, Chapter 6.

their subsequent judgements are always shrouded in ignorance. A deployed soldier of the Royal Netherlands Army does not know for certain the broader, complex networks which culturally and politically facilitate *bacha bazi* and will not, in her judgement, know with unquestionable certainty that she is taking the right or most appropriate line of action. It is impossible to know the conscience, moral worth, guilt or innocence of who is being judged, and this position of ignorant uncertainty which “judges” such as the UN and NATO have acknowledged they possess has fuelled the moral relativism and tolerant inaction that permits the normalisation of pederasty. International actors have, in a sense and as justified by moral relativism, “resign[ed] their office” as moral judges, instead choosing to preoccupy themselves with a plethora of nation-building efforts and ‘Sustainability Goals’ dictated by economic, military, and strategic judgements instead. If this proves to be the continued and defining stance of foreign policy in Afghanistan, it is assured that gender-based violence inflicted by men against women and children, human sexual exploitation, and *bacha bazi* will flourish as traditionally valid forms of behaviour for generations to come. McConnell (1979: 482) described how Augustine proposed what he phrased as a “non-ideal theory of justice” in order to prepare oneself for ‘the imperfections of the world’ and a judge’s practical obligation to it.<sup>26</sup> This theory, if applied to the occurrence of *bacha bazi* in Afghanistan, would hold that although the international community can never resolve to do *true* justice, will act in ignorance, and be forced to determine what is right or wrong from a morally subjective position, it still has an obligation to intervene under the tenets of the R2P doctrine on behalf of vulnerable children.

Over the long-term, this would essentially require the UN and its member-states to appreciate that in order for perpetual peace to become a durable feature of global politics and for human rights to be secured in a universally established moral foundation, the R2P doctrine and the universal obligations codified by international law need to be *above* sovereignty and moral relativity. Human dignity must be at the core of cultivating the practical (applied) ethics of all actors participating in our common world and political processes; something which necessitates a qualitative reconceptualization of moral responsibility and international policy beyond the constraints imposed by modernity. The most practical

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<sup>26</sup> McConnell, Terrence C. (1979). Augustine on Torturing and Punishing an Innocent Person. *Southern Journal of Philosophy*. vol., 17 (4). Hoboken, NJ: Wiley-Blackwell., p.p. 481 – 482.

place to initiate this reconceptualization is through the training and guidelines given to those military personnel deployed to and on the ground in Afghanistan who will potentially encounter child sex trafficking in direct and everyday instances. Such personnel have also proved to be the one direct and personal link with recognised access to not only Afghan civilians, but specifically to those isolated and rural communities in which *bacha bazi* is most concentrated.

## VI. Conclusion

As abovementioned, any society attempting to curb arbitrary power needs a rule of law culture arguably even more so than the legal institutions themselves. Thus, the rule of law has to be durable which can only be achieved by its strength demonstrated by its continuity. Yet it also needs to be adaptable so as to complement rather than compromise an ever-changing people and social context. With reference to Gadamer and his attempts to hermeneutically interpret not only texts but everyday life, human beings perceive their “traditions” – or “prejudices” – as truths, particularly in those instances where we fail to recognise the synonymy between tradition and truth. Tradition, from this perspective, has a significant twofold potential in being both considered a truth-claim by those who act upon it, and also characteristically alterable due to not in fact being true. The cultural practice of *bacha bazi* is normal in Afghanistan: It is a “tradition” and social truth. However, cultures are, by definition, not static and changeable; something which the historical evolution of attitudes and cultural interpretations of pederasty in Ancient Greece demonstrates.<sup>27</sup> Any durable rule of law culture, then, is never fixed, true, or a representation of a final solution. Rather, any successful rule of law culture can be described as *enduring mortally* rather than *immortally*.

It is perhaps important at this point to return again to Ancient Greece as an example of the difficult task in eradicating pederasty. Athens and Thebes – like Afghanistan – institutionalised the so-called “cultural practice” of boy play for centuries. Although the practice was criticised (as it is contemporarily criticised as an “open secret” in Afghanistan), pederasty remained commonplace in Ancient Greece for

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<sup>27</sup> Schut, Michelle., and Baarle, Eva. (2017). Dancing Boys and the Moral Dilemmas of Military Missions: The Practice of Bacha Bazi in Afghanistan. *In: Bah, Abu Bakarr. (2017). (ed.). International Security and Peacebuilding: Africa, the Middle East, and Europe. Bloomington, IN: Indiana University Press., p.p. 92 – 93.*

thousands of years, representing the status symbol which feminised boys give their increasingly masculinised masters. Yet, following the rise of Christianity and ‘Saint Paul’s strong criticism of homosexuality’ there occurred a major although lengthy social shift against paedophilia.<sup>28</sup>

This is not to say that Christianity or Saint Paul’s standing were at the root of eradicating boy play. Rather, the cultural shift away from normalising and institutionalising pederasty as an honour system arguably demonstrates its standing to be largely dependent on the accepted zeitgeist.<sup>29</sup> Thus, in present-day Afghanistan, *bacha bazi* is secured as a reality of social life because the zeitgeist – characterised by a formal-informal dichotomy, the alienation of rural ethnic communities, arbitrary power and corruption, and a prevalent atmosphere of political illegitimacy – accommodates it. To simplify, survival is the predominant force directing actions and the current spirit of Afghanistan. What is therefore required is that a zeitgeist in which a rule of law culture predominates is increasingly promoted and striven for by international bodies and the Afghan state.

Ancient Greece and the rule of law culture represent radical claims and processes in dealing with forms of human exploitation. To promote and put this acknowledgement into political action, legal theory would suggest that the Afghan Constitution be applied *horizontally* rather than *vertically*; that is, the Afghan Constitution should uphold the legal claim that “all social actions are open to constitutional review”, making all interactions between private legal actors a “constitutional issue.”<sup>30</sup> This is a defining feature of South Africa’s post-Apartheid Constitution which enshrines an ethical principle of dignity in legal life’, making it such that every individual is *legally* required to treat others with dignity in all their practical interactions. *Bacha bazi*, if interpreted under the horizontal application of the Afghan Constitution, would become a “constitutional issue” whereby equality and dignity can be *legally* imposed, diminishing the distinction between the private and public spheres and establishing morality’s authority in daily life in the name of upholding a commitment to universal human dignity.

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<sup>28</sup> Percy, William A. (1996). *Pederasty and Pedagogy in Archaic Greece*. Chicago: University of Illinois Press.

<sup>29</sup> Schut, Michelle., and Baarle, Eva. (2017). *Dancing Boys and the Moral Dilemmas of Military Missions: The Practice of Bacha Bazi in Afghanistan*. In: Bah, Abu Bakarr. (2017). (ed.). *International Security and Peacebuilding: Africa, the Middle East, and Europe*. Bloomington, IN: Indiana University Press., p.p. 84.

<sup>30</sup> Wart, Johan van der. (2005). *Sacrifice and Law: Towards a Post-Apartheid Theory of Law*. Johannesburg: Wits University Press., p.p. 39.

Afghanistan, representative of any historic and present society, is culturally *sensitive* rather than *culturally* determined. Determinism – like reckless optimism – is eventually despairing, whereas sensitivity is well-suited to digging out the middle ground between the two extremes of optimism and pessimism. To horizontally apply the Afghan Constitution is to not fall prey to either excessive optimism or despair. Afghanistan *is* a country where law does not rule and any accepted restraints on arbitrary power were made obsolete decades ago. Sadly (although not despairingly), this is likely to be the existential reality of several generations of Afghans to come although, inevitably, not the reality of *all* generations to come. Social change and cultural sensitivity is qualitative and fundamentally strenuous and long-lasting. It is continually in need of cultivation and habituation, and to dedicate an entire country, its norms, religious practices, and physical and conceptual institutions to this venture is reliant not only on Afghans and local ecologies. It is also, importantly, dependent not simply on the networking and actions of the international community with and in relation to Afghanistan, but especially on the reconceptualisations and reprioritisations within the international politico-economic order. To substitute a moral obligation and disposition toward upholding universal human dignity for this pervasive “culture of waste” and its morally relative and atomising implications is paramount to any strength of law and eradication of human exploitation. *Bacha bazi* represents more than a problem that needs a means-end solution. It has a philosophical and ethical element that needs rehabilitation and serious consideration; something which our contemporary climate and its materially driven objectives have so far successfully undermined.

It is such understanding, moral expectations, obligations, and traditions that make rules, political and legal institutions, and particularly a rule of law culture *meaningful* and effective. The significance of *praxis* – that is, something reminiscent of an Aristotelian understanding of habituation and the lifelong cultivation of moral virtue in order to live *well* – is at the core of this consideration. A practical philosophy directing the moral claims and actions of international bodies and international legislation must be envisioned as a key component to any initiative in eradicating *bacha bazi*. To condition a rule of law culture into the behaviour of the Afghan state and – as a direct consequence of this acknowledgement – its civilian population’s everyday disposition, will give human rights and dignity the validity that can begin to initiate the demise of gender-based and sexual violence. In short, ‘where

thickly institutionalised constraints do exist...they are often *not* noticed, for they are internalised, by both the powerful and those with less power, as *the normal way to behave*. Limits are not tested, because people [cultivate a disposition in which they] cannot *imagine* that they should be.’<sup>31</sup>

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<sup>31</sup> Krygier, Martin. (2011). Approaching the Rule of Law. In: Mason, Whit. (ed.). (2011). *The Rule of Law in Afghanistan: Missing in Inaction*. Cambridge: Cambridge University Press., p.p. 30.

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