



The Afghanistan Justice Project

Candidates and the Past: The Legacy of War Crimes and the Political Transition in Afghanistan

The Afghanistan Justice Project

The Afghanistan Justice Project (AJP) was established in late 2001 as an independent research and advocacy organization whose objective is to document serious war crimes and crimes against humanity committed by all of the parties during the conflict in Afghanistan, 1978-2001. Our work has focused on some of the most egregious incidents of the different phases of the war – massacres, summary executions, systematic torture, mass rapes, and deliberate targeting of civilians in warfare. Our researchers interview a wide range of sources to determine the facts about specific incidents in order to establish an objective historical record and to press donors, and international and Afghan government and policy-makers to account for the crimes of the past.

The Afghanistan Justice Project's staff includes volunteer Afghan and non-Afghan researchers and legal experts. The Afghanistan Justice Project is independent and non-partisan, and has no official relationship to any government or intergovernmental body or other international organization. The organization's status as a non-profit foundation is pending the completion of registration procedures in the Netherlands. For more information about the Afghanistan Justice Project, see our website at www.afghanistanjusticeproject.org.

This short report includes some examples of the findings of the Afghanistan Justice Project's research into war crimes particularly from the post 1992 period. A full report that will cover in more detail this period as well as a number of incidents from the 1978-1992 period will be released early in 2005. What follows is an executive summary of this report with recommendations and the background and analysis of the cases documented by the Afghanistan Justice Project. There is also an appendix which provides a preliminary table of contents of the Afghanistan Justice Project's full report, to be published in 2005.

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Executive Summary and Recommendations

Afghanistan has been at war since April 1978. During every phase of the conflict—the revolution of April 1978 that brought to power the factionalized Marxist-Leninist People’s Democratic Party of Afghanistan, its radical reform measures and brutal crackdown on the uprisings that followed; the Soviet invasion of December 1979, occupation and counterinsurgency war; the Soviet withdrawal and the civil war; the repressive rule of the Taliban, and finally the U.S.-led intervention that ended it—different armed factions, both Afghan and foreign, committed crimes against humanity and serious war crimes. These war crimes have included large-scale massacres, disappearances and summary executions of at least tens of thousands of Afghans, indiscriminate bombing and rocketing that killed hundreds of thousands of civilians, torture, mass rape and other atrocities. In the twenty-seven years since the war began, there has been no serious effort, international or domestic, to account for these crimes.

To say that all of the armed forces that fought in Afghanistan committed war crimes is not to say that every single fighter has been guilty of such actions. What the Afghanistan Justice Project has documented are incidents in which senior officers and commanders ordered actions amounting to war crimes by their forces, or allowed such actions to take place and did nothing to prevent or stop them. The Afghanistan Justice Project’s intent in documenting these incidents is not to impugn the cause for which any of the armed groups fought, but rather to call for accountability where those actions amounted to war crimes. It is an issue of great concern to many Afghans: efforts by the Afghan Independent Human Rights Commission have indicated strong support among Afghans to address the legacy of the past. How that should take place remains a choice for the Afghans to make.

The Afghanistan Justice Project has documented a number of key incidents from the different phases of the war in Afghanistan. that are important because of the magnitude of the crime or because of the involvement of people who continue to wield power. In the summary that follows, we note what some of those incidents are, the command responsibility of the forces involved and witness statements on the abuses that took place. A few case studies of incidents are documented in this short report—almost all of them from the post 1992 period. Many more from the 1978-1992 period, as well as additional incidents from the later years will be included in the Afghanistan Justice Project’s full report, to be published in early 2005.

The incidents included in this report are:

- The Kerala Massacre by PDPA forces in 1979, in which nearly 1,000 men were killed apparently in reprisal for resistance activity in the area. It was the largest massacre of this period of the war.
- The assassination of Sayd Bahauddin Majrooh by Hizb-i Islami in February 1988. The assassination of the prominent poet and editor was one of a series of attacks on Afghan intellectuals in Pakistan in the late 1980s. According to evidence gathered by the Afghanistan Justice Project, at least one of the persons believed to be responsible for Majrooh’s murder continues to reside in Pakistan.
- Torture in mujahidin prisons. Torture was used by most of the major factions against political opponents and captured combatants. We focus on one facility that has not been discussed in other human rights reports: Lejdey, operated by the Shura-i Nazar faction in northeastern Afghanistan.

From the post 1992 period:

- The bombardment and rocketing of Kabul by all parties to the conflict, 1992-1995. We focus particularly on the organization of operations by Hizb-i Islami, with a discussion of some of the other indiscriminate attacks carried out by other parties. As the rocketing and shelling continued for more than three years, we include here a limited analysis that will be expanded in the final report.
- The Afshar massacre and mass rape in Kabul by Abdul Rasul Sayyaf's Ittihad-i Islami and Jamiat/Shura-i Nazar forces under the command of Ahmad Shah Massoud in February 1993. This massacre and mass rape of mainly Hazara civilians took place in Afshar, Kabul, at a time when there was little international interest in the Afghan war. Some of those responsible for the killings and rapes that took place hold positions of power today.
- Torture, hostage-taking and summary executions by Hizb-i Wahdat commanders in Kabul and Mazar-i Sharif 1992-1998.
- Sexual assaults and other abuses against civilians by Junbish commanders in the north 1992-1998
- The massacre of Taliban forces by Junbish forces under Gen. Abdul Malik Pahlawan in June 1997. The analysis on this incident includes testimony from two survivors. At least 3,000 men, mostly conscripts, were systematically executed in what was perhaps the single largest massacre of the war. The incident was never fully investigated by the UN, and those responsible continue to reside in Afghanistan.

From the Taliban period:

- Taliban massacres in Sar-i Pul and Gosfandi in 1999. The Taliban's culpability for war crimes against Afghans—as opposed to the involvement of their top leadership with international terrorists—never received much international attention, despite the fact that some Taliban leaders responsible for these crimes may be in U.S. custody, and others may be in Pakistan.
- Summary executions by the Taliban in the districts of Bagram, Kalakan, Qarabagh, and Mir Bachakot in 1999.
- Mass burnings and destruction of means of livelihood in Shamali by the Taliban in 1999.

These dossiers represent only part of the Afghanistan Justice Project's work. An expanded edition of these and additional dossiers will form the core of our final report to be published in 2005. In each case, the Afghanistan Justice Project has attempted to include not only direct witness testimony about the events that took place but an analysis of the command and control of troops responsible for the operations.

In some cases this has proved more problematic than in others. For example, the years that have passed since the coming to power of the PDPA and the Soviet occupation have made it more difficult to locate key witnesses to specific incidents. The historical accounts that exist from this time tend to focus on macro-level political developments with general accounts of field operations. The Afghanistan Justice Project hopes to have a more comprehensive account of incidents from this period in our final report. Conversely, there are few historical accounts of any kind about the fighting in Kabul 1992-1996 and the situation elsewhere in the country, despite the relatively recent nature of the events. Thus, the Afghanistan Justice Project has attempted to fill a gap in documenting the nature of the fighting, the shifting patterns of command and control in different areas, and the abuses that resulted. Finally, while certain

aspects of the Taliban regime have been subject to international criticism, that scrutiny has not led to detailed documentation of field operations during which the Taliban committed war crimes. The post September 11, 2001, focus on global terrorism has further diminished concern about the Taliban's record of war crimes.

Recommendations

Afghanistan is about to hold its first direct presidential election. Some time in the first half of 2005, the country will hold parliamentary elections. The Afghanistan Justice Project believes that before the new president makes appointments to his cabinet or to the Supreme Court, the record of any individuals who may be candidates for these posts should be subject to public scrutiny. Those against whom there exists credible evidence of responsibility for war crimes should not be granted positions in the cabinet, and those allegations should be thoroughly investigated. Furthermore, the militias of commanders against whom there exists credible evidence of responsibility for war crimes should be demobilized. In this regard, the Afghanistan Justice Project recommends that the new president ensure the demobilization of the 10th division in Kabul. The Afghanistan Justice Project also believes that before the parliamentary elections take place, the records of individuals who may be candidates should also be made public.

The main purpose of the Afghan Justice Project is to contribute to establishing an objective record of abuses perpetrated by the range of actors in the Afghanistan conflict. The decision on how to hold perpetrators to account and address the needs of victims must be part of the political process in Afghanistan.

The views of Afghans interviewed by the Afghanistan Justice Project—from those who suffered the repression and brutality of the earliest years under the PDPA to those who suffered under the Taliban, and in some cases, those who survived to suffer during both regimes—invariably reflected the need for justice. There was equally an understanding that what might answer that need in any given context varied.

Thus, the strategy for “transitional justice” must take into account both national concerns and the international obligation to address impunity. A comprehensive strategy should include the following elements:

- provision for further documentation of war crimes
- vetting for official appointments
- publication of war crimes records in advance of elections
- appropriate mechanisms for truth-telling, conditional amnesty and, for the most egregious crimes against humanity, prosecution. Prosecutions have a limited and specific role to play in transitional justice in Afghanistan, and should focus on the main perpetrators of the worst war crimes and crimes against humanity.

Finally, any initiative for transitional justice should include provision for victim compensation and forfeiture of property acquired by commanders who gained these assets as a result of their war crimes.

On the basis of the evidence assembled by the Afghanistan Justice Project, and the experience of undertaking this documentation, we contribute the following findings and recommendations to the discussion on transitional justice.

Challenge of documentation

Enormous difficulties exist in establishing an authoritative and objective record of past abuses in Afghanistan. Such difficulties include the dearth of documentary evidence, the difficulties in locating many key witnesses, fear of retribution from war criminals who retain positions of military power and political influence, and the atrophy of public institutions that could contribute to official truth telling. International and Afghan actors cannot develop a meaningful strategy for transitional justice without addressing these problems.

Stopping current abuse

Efforts at transitional justice must be part of a comprehensive strategy to combat ongoing violations. In the course of our documentation of past war crimes, we received numerous reports of torture, arbitrary detention, summary executions, looting and extortion that had taken place after 2001. In some cases, witnesses describing incidents from ten years past would note that the same commander was committing similar crimes today. In the process of laying out the priorities of the new government after the presidential elections, the head of state should make a credible commitment to protecting citizens of Afghanistan from a repetition of the patterns of abuse that are documented here. It is in part by accounting for the crimes of the past that the new administration can begin setting standards for the future use of state power--an exercise that would enhance the legitimacy of the political process and the government. International partners of Afghanistan should offer practical support to implement these measures and focus on effective checks on torture, arbitrary detention and summary executions. The design of such checks should be informed by lessons from past abuses. One important step in this regard is the demobilization of militias that have a past or current record of abuse.

Vetting for discretionary appointments

An essential part of the process of establishing legitimate administration in Afghanistan is the removal of war criminals from positions of authority. Under Afghanistan's centralized system, the president and government are vested with a high degree of discretionary power to appoint officials throughout the country, with few of the checks that exist in other democracies. The new president should pledge to establish an administration that does not include anyone involved in war crimes, and should explicitly refrain from appointing people against whom there is credible evidence of involvement in war crimes to senior positions in the administration or military. International support is needed for developing a vetting procedure to review allegations of war crimes in a fair and transparent manner.

Information in the public domain in advance of elections

In light of current electoral law and the absence of credible judicial processes, there is no prospect of any official system for vetting candidates for parliamentary, provincial and district elections who may be responsible for war crimes. Therefore civil society organizations and donors should help to ensure that credible information on allegations of candidates' involvement in war crimes is in the public domain and readily accessible, and should also ensure that there is an opportunity for right of reply and clarification. The Afghan authorities should provide all due legal protection and security for those involved in this process of popular accountability.

War criminals in U.S. custody

The lack of transparency on the part of the U.S. about detainees it has in custody has made it impossible to determine whether any Taliban commanders responsible for war crimes against Afghans may be detained and eventually released without any attempt to hold them accountable for their crimes. The Afghanistan Justice Project has been able to document credible allegations of involvement in crimes against humanity against both former and

current detainees. The failure to investigate or prosecute detainees against whom there is evidence of involvement in crimes against humanity only reinforces a pattern of impunity.

Background and Summary

The PDPA coup and Soviet Occupation

Afghanistan's quarter-century of war began on April 27, 1978, when the People's Democratic Party of Afghanistan (PDPA), a small, faction-riven Marxist-Leninist party, launched a coup, overthrowing and killing then President Muhammad Daoud Khan and most of his family.¹ The PDPA then embarked on an ambitious and ruthless campaign to transform Afghanistan into a modern socialist state. During this period, the forces of the PDPA, principally the intelligence services, in addition to the regular army and police, committed war crimes on a massive scale.² The attempted reforms, and the repressive measures the PDPA undertook to bring them about, sparked resistance, particularly in the countryside. The PDPA crushed the uprisings, but, lacking popular support to carry out its political agenda, found itself in a situation that was spiraling out of control. A year after the coup, the regime faced widespread mutinies in the army.

Internal divisions within the PDPA contributed to the bloodshed. The party was divided into two factions, Khalq (masses) and Parcham (flag). After the coup, the new PDPA leadership, dominated by the Khalq (masses) faction, purged the party of leading members of the Parcham (flag) faction, executing at least hundreds, imprisoning others and exiling some as ambassadors abroad.³

Khalq leaders, particularly one of the vice-presidents, Hafizullah Amin, pushed forward an agenda of reform and repression designed to eliminate all opposition and transform the very structure of Afghan society.⁴ Mass arrests and executions of known opponents began shortly after the coup and targeted those who opposed the regime and its reforms: former government officials, religious leaders, tribal leaders, teachers and other intellectuals, and political activists: Maoist, Islamist and ethnically based. The PDPA's vice-president, Hafizullah Amin, was the driving force behind the government's efforts to crush the opposition. Despite the scale of atrocities that took place during this period, 1978-79, very little documentation of many of the incidents exists. An analysis of one of the largest massacres of this period, one that occurred in Kerala in Kunar province, is included in the case studies the follow. While illustrative, it represents only one among many war crimes committed during this time currently under investigation by the Afghanistan Justice Project.

Repression took other forms. The PDPA bombed areas of resistance, killing many civilians. The Afghanistan Justice Project has investigated the PDPA campaigns against local resistance in Logar, Bamyan and Nangrahar. In each case the campaigns included bombing of villages in resistance-held areas. In most cases the bombing was indiscriminate and disproportionate, killing many civilians. Witnesses interviewed by the Afghanistan Justice Project have described search operations that followed during which men were arrested and later disappeared. Mass arrests were common in the cities as well, and the fate of many of those arrested was often execution in Pul-i Charkhi, the prison on the outskirts of Kabul, or at other facilities.

For example, Ahmad Shah Ahmadzai, who served as minister in the Mojaddedi and Rabbani government 1992-96, and as candidate for the presidency in 2004, provided testimony on the disappearance of sixteen members of family and acquaintances in the aftermath of the communist coup. He testifies that in 1978 officers of the intelligence service arrested his brother Akbar Khan, his brother-in-law Adam Khan and his paternal cousin Khan Aqa, all residents of Malang village of Khak-e-Jabar district, Kabul. In the initial days of their detention, they were

in the custody of Babrak Shinwari, a leader of the PDPA youth wing. Thereafter, all three disappeared. The family was not able to trace or ascertain their fate. They concluded that the men must have been transferred to Pul-i Charki and executed. During the same period PDPA intelligence officials disappeared numerous acquaintances of Ahmad Shah from the Khak-e-Jabbar area, including the following thirteen men : Haji Shadawla Khan, Haji Khayali Khan, Haji Mohammad Siddiq (an elder of Malang village), Habibullah son of Mohammad Siddiq, Jalandar son of Mohammad Siddiq, Malik Abdul Khaliq, Mir Aqa and his brother Shahzad Mir, Mohammad Siddiq, Toran Mohammad Omar son of Juma Gul, Moalim Jalil son of Ziauddin, Daoud son of Nadir, and Mohammad Rahim son of Zarifgul.

The repression sparked uprisings and mutinies within the Afghan army that threatened to destabilize the regime. The mutiny at the Herat garrison in March 1979 was possibly a turning point for Soviet policy; the PDPA government's response to it remains one of the most serious war crimes of that era. The Herat mutiny was led by a number of resistance commanders, including Ismail Khan, who was until September 9, 2004, the governor of Herat province. The resistance forces briefly took control of Herat, reportedly killing 60-100 Soviet advisors and their families.⁵ The unexpected strength of the mutiny compelled the PDPA authorities to send to Herat newly acquired Soviet equipment to crush the uprising. Afghans living in Herat at the time described seeing aircraft shooting indiscriminately at anyone in the streets. The bombing was also extensive, and left thousands of civilians dead.⁶ PDPA officials also summarily executed suspected supporters of the resistance. The Herat uprising inspired similar mutinies, and the rapidly unraveling situation prompted to Soviet Union to invade on December 27, 1979

The Soviet occupation brought about a shift in tactics in the war. Soviet forces assassinated Amin, and installed Babrak Karmal, from the rival Parcham wing of the party in his place. Aware of the need to build support for the party, the Soviets ended the mass slaughter of intellectuals, religious leaders and others and instead adopted more systematic means of intelligence gathering and more selective targets of repression. The secret police, the *Khidamat-i Ittila'at-i Dawlati* (State Information Services), or KhAD, was modeled on the Soviet KGB. It engaged in widespread detention and torture of suspected mujahidin supporters.⁷ In the countryside, the bombing became routine and indiscriminate, killing countless civilians; in the early 1980s most refugees arriving in Pakistan reported they had fled because of the bombing. The indiscriminate bombing constituted a grave breach of international humanitarian law.⁸ The Afghanistan Justice Project is currently undertaking further research into incidents from this period.

The Najibullah government and mujahidin resistance 1988-1992

The period between the withdrawal of Soviet forces in 1988-1989, and the collapse of Najibullah's government in 1992 saw several significant changes in the patterns of abuse by all parties to the conflict. The government invoked an Islamic identity for the state, and adopted some reforms in the law to relax the absolute control of the state. Arrests decreased but did not cease. Bombings of resistance strongholds in the countryside, while less frequent, continued, killing many civilians.⁹ At the same time, divisions within the resistance became more marked, as the various parties vied more openly for what they saw was the eventual—if not imminent—change of power in Kabul. This period also saw the increased prominence, and virtual autonomy, of militias ostensibly loyal to the communist regime, but whose allegiance was based primarily on cash payments.

In the years between the withdrawal of the Soviet forces and the collapse of the Najibullah government, a number of mujahidin groups also committed war crimes. Many of those based in Pakistan who had the support of Pakistani military and intelligence agencies operated

with impunity and had considerable control over the Afghan refugee population. One of the most powerful of these was Hizb-i Islami, headed by Gulbuddin Hikmatyar. Hizb-i Islami was favored by the Pakistani Inter-Services Intelligence (ISI), the military intelligence agency that was responsible for, among other things, funneling CIA-provided arms to mujahidin factions. These mujahidin maintained secret detention facilities in Pakistan; persons detained there included Afghan refugees who opposed the mujahidin leaders, or who worked for foreign NGOs. Mujahidin forces inside Afghanistan also maintained detention facilities where torture was used systematically. A discussion of detention and torture by the mujahidin, with some specific examples, is included in the case studies.

During this time there were a number of attacks on NGOs, notably those who employed Afghan women. There were also a number of attacks on Afghan intellectuals and political figures who opposed the policies of some of the mujahidin groups.¹⁰ One incident, the assassination of the prominent poet and editor Sayd Bahauddin Majrooh in February 1988, is included as a case study in this report.

The Najibullah government was dependent on funds from the Soviet Union to survive, and as those payments dwindled and then ceased with the collapse of the Soviet Union, the militias that had cooperated with the regime became another force in the power struggle that ensued. Once the U.S. and the U.S.S.R. (then Russia) agreed to terminate aid to the mujahidin and the Najibullah government, respectively, U.N.- brokered negotiations to reach agreement on a transitional government began in earnest. However, with the cessation of aid, Najibullah lost the support of many of the militias that had cooperated with his government, the most important of which were the northern militias, particularly that of the Uzbek general Abdul Rashid Dostum. On March 18, under pressure from the U.N., Najibullah announced his intention to step down. On April 16, forces in control of the airport revolted against Najibullah, and prevented him from leaving, as had been arranged by the U.N. By that time, the northern alliance of a number of mujahidin parties, notably those loyal to Ahmad Shah Massoud, a Tajik commander from the Panjshir valley, together with the Uzbek militia forces of Gen. Dostum, had taken control of Mazar-i Sharif and other strategic areas north of Kabul. These gains in the north prompted Khalqi Pashtuns in Kabul, together with Pashtun mujahidin leaders, and their Pakistani patrons, to move on Kabul as well. Fearing a coup by Hizb-i Islami, the northern alliance entered Kabul on April 25.

The civil war period of 1992-1996

Within a few months of the collapse of the government of President Najibullah, Kabul was engulfed in civil war. During this conflict, the multiple factions that had participated in the struggle against the PDPA regime and the Soviet occupation, along with the militias, fought for control of territory within and around the capital, as well as elsewhere in the country. Despite intermittent efforts by the U.N. and some of the neighboring countries to mediate, it proved impossible to win sufficient support for any political agreements on power-sharing to achieve stability.¹¹

During this period, forces allied with all of the major factions in Kabul committed war crimes. While some of these may have represented the actions of individual commanders acting on their own, in many cases documented by the Afghanistan Justice Project, the atrocities were carried out on the orders or with the direct knowledge of senior commanders and party leaders. A summary of the fighting of this period, which, unlike later years has not been well documented, follows.

After negotiations with some of the commanders formerly allied with Najibullah, the forces of Ahmad Shah Massoud entered Kabul. Other mujahidin forces also entered the city and claimed control of institutions and neighborhoods. A number of units from Najibullah's government joined Massoud's forces; others joined other factions or simply fled.¹²

Fighting began almost immediately, principally between Massoud's forces and the Hizb-i Islami forces of Gulbuddin Hikmatyar. Massoud's forces together with Dostum's launched rockets and artillery at Hizb-i Islami strongholds while Hizb-i Islami rocketed the airport, Macrorraion and areas around the palace, defense ministry, and the Kabul garrison. The rocket fire by Hizb-i Islami was indiscriminate and killed hundreds of civilians.¹³ A case study on indiscriminate rocketing and bombardment is included in this report. While this fighting was going on, various armed groups in the city executed some suspected members of the former government and engaged in looting.

On April 26, leaders in Pakistan signed the Peshawar Accords, which established a transitional government and a timetable for elections. Massoud became defense minister. However, the power of the new Islamic State of Afghanistan (ISA) was limited: by the time most of the mujahidin parties had agreed to the Accords (the Iran-backed Shia parties were excluded, setting the stage for some of the conflict that followed), rival factions had already established a hold on different parts of the capital and its environs. Outside Kabul the divisions replicated themselves, as commanders seized territories, established checkpoints and operated as a law unto themselves. In some urban areas, notably Herat and Mazar-i Sharif, a functioning administration was maintained, but these were the exception.

Massoud's objective during the tenure of the ISA was to defeat the forces fighting against him (these began with Hikmatyar's Hizb-i Islami, then later included the Shia party Hizb-i Wahdat and Gen. Dostum's Junbish-i Milli forces), and expand and consolidate the ISA's control of territory within and around Kabul. In the first year, his principal foe was Hizb-i Islami, whose rocket attacks killed thousands of civilians between 1992 and 1995, according to humanitarian agencies working in the city. However, Hikmatyar was not the only leader ordering such attacks: every major armed faction in Kabul had an arsenal of heavy weaponry that they used in battles that raged in the streets of Kabul during this period. Those with planes, including Massoud and Dostum, bombarded particularly south and west Kabul during different periods of the war. Hizb-i Wahdat also used heavy artillery in its battles with Ittihad and Massoud. These attacks, the vast majority of which were indiscriminate and resulted in tens of thousands of civilian casualties, represented grave breaches of the laws of war because they were undertaken "to spread terror among the civilian population," or because they caused "loss of civilian life, injury to civilians, damage to civilian objects . . . excessive in relation to the concrete and direct military advantage anticipated."¹⁴ The Afghanistan Justice Project has documented some of these attacks, and has obtained information about the locations around the city from which the weapons were fired, and under whose orders. A summary version appears in the case studies below; a full analysis will be included in the Afghanistan Justice Project's final report.

In June 1992, conflict broke out between Sayyaf's Ittihad-i Islami, headquartered in Paghman, west of Kabul, and Hizb-i Wahdat. In the course of the fighting, Ittihad and Hizb-i Wahdat forces abducted combatants and civilians, executing many and "disappearing" others who were also apparently executed, perhaps after first being detained for their potential exchange value. All of these abuses constitute grave war crimes.¹⁵ Some of the abuses are discussed in the case studies, below. Responsibility for the abuses rests with the senior leadership of both parties who were aware of the hostage taking and disappearances: Sayyaf and his top commanders, and

Mazari (who died in 1995 (see below), and his deputy, Karim Khalili, along with other senior Wahdat commanders.

Both Ittihad and Wahdat targeted civilians in house-to-house raids: in the first major use of rape as a weapon, Ittihad forces raped an unknown number of Hazara Shia women, and Wahdat forces raped Pashtuns. Under international criminal law, crimes of sexual violence are considered war crimes.¹⁶ In Afghanistan, rape was not used systematically as a weapon of war during the communist era, although there are some reports of incidents of rape by Soviet and Afghan communist forces. Some mujahidin forces committed rape or abducted women during offensives on communist-held territory, but the practice was not widespread. The civil war that raged in Kabul between 1992 and 1995 changed that. Every mujahidin group fighting inside Kabul committed rape with the specific purpose of punishing entire communities for their perceived support for rival militias. Thus, rape, as well as other targeted attacks on civilians, was ethnically based. In many cases, it was used as a means of ethnic cleansing.

In December 1992, then president Rabbani, whose term had already been extended beyond the original four months, postponed convening a *shura* (assembly) to elect the next president. Rabbani's apparent effort to hang on to power sparked new fighting between Massoud's forces against those of Dostum as well as Wahdat. Finally, at the end of December, Rabbani convened a shura that was dominated by his own party, Jamiat-i Islami. It elected him president on December 29, but also agreed to establish a parliament with representatives from across the country, a move that helped Rabbani temporarily regain the support of several members of the alliance, including Dostum.¹⁷

At the end of 1992, Hizb-i Wahdat withdrew from the government and opened secret negotiations with Hizb-i Islami. At this point, Massoud made a strategic decision to counter the new threat posed by Hizb-i Islami (whose forces remained outside Kabul proper, though well within rocket range), and Hizb-i Wahdat, and launch a major operation in west Kabul to expel Hizb-i Wahdat. Ittihad forces played a major role in the assault, working directly under Sayyaf and receiving pay from him. The Ittihad forces were not fully absorbed into the ministry of defense, but were operating in coordination with it. By February 1993, Massoud had conducted negotiations with dissident Wahdat commanders who signed secret protocols with Massoud promising to cooperate during the conflict and to capture Mazari and his cabinet.¹⁸ The Afghanistan Justice Project has documented both the conduct of the operation and the specific abuses, which included indiscriminate and disproportionate shelling of civilian areas, summary executions and rape. [A detailed analysis of the Afshar operation and the abuses is provided in the case study below.](#)

In January 1994, Dostum had struck an alliance of convenience with Hikmatyar and attacked Massoud's forces.¹⁹ Some of the most intense fighting since the fall of the Najibullah government took place in early 1994, as an estimated 2,5000 people were killed in the city between January and June.²⁰ But by the end of the month, Massoud had ousted Dostum from his strongholds, capturing hundreds of prisoners. The fighting between Dostum's forces and Massoud's was fierce, and included targeted attacks on civilian areas. The Afghanistan Justice Project's documentation of this fighting, and the abuses against civilians and captured combatants that took place will be included in our final report.

In 1994, the sudden success of the Taliban, whose forces had taken Qandahar and were attracting considerable Pakistani support in the form of both weaponry and recruits, changed the dynamic in Kabul. By late 1994, the Taliban were making advances north toward Kabul, taking Uruzgan and Zabul provinces. On February 14, 1995, Hikmatyar abandoned his stronghold at

Charasiab, from where he had pounded Kabul with rockets for three years, leaving behind weaponry that the Taliban swiftly acquired.²¹

Hikmatyar's flight left Massoud in a position to take control of the city. In March, Massoud launched an offensive against Wahdat, bombarding Wahdat positions in west Kabul. Mazari allied with the Taliban, allowing Taliban forces to enter Kabul, but that decision split Wahdat as some of the forces joined Massoud. The battle included disproportionate shelling and bombardment of residential areas of west Kabul by Massoud's forces as they succeeded in driving Wahdat fighters from the city. Massoud's forces also executed and raped civilians during this offensive. The Afghanistan Justice Project's documentation of this fighting and abuses against civilians will be included in our final report. As the Taliban were forced to retreat, they took Mazari with them; he died under unclear circumstances on a Taliban helicopter en route to Qandahar.

Compared to Kabul, Mazar-i Sharif was spared any serious fighting in the early years of the ISA. The negotiated surrender of the city in March 1992, and the overwhelming superiority of Dostum's forces in the area, led to a relatively stable division of power among the major factions: Junbish, Wahdat and Jamiat. However, the region was ethnically mixed and long before the communist revolution, political leaders had made use of ethnic communities in the area to secure territory and enhance their power. In the post 1992 period, commanders enjoyed virtually autonomy while being allied with one of the major factions, mainly those of Dostum and Wahdat, under the leadership of Ayatollah Muhaqiq. Local commanders abducted civilians for the purposes of extortion, looted and assaulted villagers, and assassinated political rivals. Several of these incidents are described in the case study on Junbish; others will be included in the Afghanistan Justice Project final report.

The stability in Mazar-i Sharif was broken in 1994 when Dostum allied with Hizb-i Islami in the battle for Kabul. Fighting in Mazar-i Sharif at that time between Dostum's forces and those allied with Massoud left hundreds dead. Both sides engaged in the summary executions of prisoners. Again in 1997, fighting erupted among the major contenders for power in Mazar, with widespread looting and assaults on civilians by Junbish and Hizb-i Wahdat. The Afghanistan Justice Project has documented some of these incidents, a short summary of which is included below. A fuller analysis will be included in our final report.

The rise and reign of the Taliban

The Taliban emerged out of the chaos of the post-1992 period. The small group of former mujahidin—most of whom were students or teachers from madrasas in Pakistan—took on a local commander in Qandahar, disarming and executing him after he allegedly raped a local girl. The Taliban—the name meaning “students” moved on to take on other commanders and very quickly attracted the support of Pakistan, who needed a client it thought could protect its interests. Pakistan's support, financial and military has been documented by other sources.²²

After Qandahar, the Taliban took other provinces in the south with little fighting. By 1995 they were threatening Kabul, and later that year took control of Kabul. The Taliban's actions with respect to women have been well documented: first in Qandahar, then Herat and Kabul they ordered the imposition of the Sharia and closed all schools for girls and women. They decreed that women could not work outside the home (except in health care), or travel outside the home unless accompanied by a close male relative. In the cities, the Taliban exercised control through the establishment of the Ministry of Enforcement of Virtue and Suppression of Vice (*al-*

Amr bi al-Ma'ruf wa al-Nahi `an al-Munkir), which enforced all Taliban decrees regarding moral behavior. Their control was highly centralized, with regional governors in all strategic provinces reporting directly to Mullah Umar.

The Taliban took control of the city of Herat in September 1995, and Kabul one year later. Kabul's fall to the Taliban compelled the forces that had been bitter rivals in Kabul's civil war—Dostum, Massoud and Khalili—to coordinate their operations, and in October they formed a new alliance to oppose the Taliban. In 1997 they assumed the name, United Islamic and National Front for the Salvation of Afghanistan.

In early May 1997, the Taliban advanced toward Mazar-i Sharif, driving Dostum's forces from Sar-i Pul, Faryab and Baghlan. By the end of May they entered Mazar-i Sharif after entering into an agreement with Gen. Dostum's deputy, Gen. Malik Pahlawan. After Hazara fighters ambushed Taliban troops in the streets of Mazar-i Sharif, Malik turned against the Taliban and the Junbish forces allied with him captured thousands of Taliban soldiers. At least 3,000 were executed over the following weeks. Accounts by survivors are included in the case study below.

The influence of non-Afghans over Mullah Umar increased after 1998. Usama bin Laden returned to Afghanistan from Sudan in 1996. He lived under the protection of the Jalalabad shura until the Taliban took Kabul in 1996. In 1997 he moved to Qandahar.

The major war crimes of the Taliban era took place between 1997 and 2001 as they encountered resistance in their efforts to consolidate control. (There were of course other incidents preceding 1997 but for the purpose of this summary we are concentrating on the later period). As one example of this, Taliban forces retreating from Mazar-i Sharif after the massacre of their own troops took reprisals against civilians, massacring at least 80 in June 1997. The following year, in August 1998, the Taliban—with substantial support from Pakistan—took control of Mazar-i Sharif. They then massacred at least 2,000 people, mainly Hazara civilians.²³

By 1998 the Taliban had captured much of the north of Afghanistan, but failed to capture the northwestern district of Balkhab, in Sar-i Pul Province, which then emerged as a center of anti-Taliban resistance. Fighting then drove the resistance forces further in more remote areas of Hazarajat. Continuing resistance in these areas led Taliban forces to conduct a series of reprisal operations and to engage in collective punishment of civilians in these areas. The Afghanistan Justice Project has documented a number of these incidents that appear below.

In July 1999, the Taliban launched a major offensive across the plain north of Kabul known as Shamali (north), summarily executing civilians, and burning down villages, fields and orchards, apparently in reprisal for perceived support among the population for forces opposed to the Taliban, and to prevent the population from returning. The devastation was incalculable. A summary of the Afghanistan Justice Project report on these incidents is included below.

Taliban massacres continued in northern areas of resistance in 2000 and 2001. In May 2000, thirty-one Ismaili civilians were detained and summarily executed near the Robatak Pass near the border between Baghlan and Samangan provinces. In January 2001, following an outbreak of fighting in Yakaolang between the Taliban and the combined forces of Harakat-i Islami and Hizb-i Wahdat, the Taliban massacred 176 civilian men in Yakaolang city. Fighting continued through June 2001 when the Taliban burned the town center and killed civilians as they retreated from the area. Further details on these incidents will be included in the final report.

War crimes after September 2001

The mandate of the Afghanistan Justice Project is limited to incidents that occurred between April 1978 and December 2001. Other human rights groups have documented serious abuses from the late 2001 period until the present. The final report of the Afghanistan Justice Project may include will include some incidents from late 2001.

Case Studies

1. The Kerala Massacre

In early 1979, organized resistance to the PDPA had gained considerable ground in Kunar province. By March, this resistance, known as the *mujahidin*, had captured the district centers of Kunar, leaving only the provincial capital, Asadabad, within the control of the PDPA. Dagerwal Shahnawaz Shewani, of Paktia, was the governor of Kunar. The mujahidin forces launched sustained attacks on Asadabad. The besieged provincial personnel contacted Kabul and requested urgent military assistance. The principal military forces deployed to take action against the resistance were the 444 Commando commanded by Saddiq Alamyar and a unit from the 11th Division.

According to witnesses interviewed by the Afghanistan Justice Project, on the night of 15 Hut 1357, (March 6, 1979²⁴), a large force of mujahidin that had come from Darra Petch attacked Asadabad from the east. They entered the town through Kerala, a village on the eastern approaches to Asadabad. The mujahidin were able to penetrate the outer defences of the town, and mount an attack on the provincial headquarters. However, they were unable to overcome the main government posts and by morning had to retreat. The government forces were able to establish a cordon, trapping some of the retreating mujahidin within the town outskirts, in particular in village Kerala. Saddiq Alamyar and associates moved rapidly to organize a clean-up operation and reprisals.

The government forces launched house to house searches in Kerala village and summoned a public meeting on open ground on the river bank, next to the bridge which links Kerala to Asadabad. The main massacre took place at the public meeting, when, according to the testimony, Saddiq Alamyar had his troops surround the crowd and ordered them to fire indiscriminately into it. Testimony describes how Saddiq Alamyar and associates then used a bulldozer to dig a trench to bury the casualties from the massacre by the bridge. According to witnesses, many of those buried were not dead but only wounded, and were then buried while still alive. The main mass grave is still visible in this location. The troops mounting the search operation in the residential area of the village had orders to shoot on sight while they searched houses. They also caused many civilian casualties, as they shot dead indiscriminately. Testimony describes the killing of women, children, the aged and infirm during this search operation, in which the great majority of casualties were civilian. Two mass graves of the victims from this search operation are located in the residential area. Accounts place the total number killed at over 1,000. The graves have never been exhumed, and most of the remaining residents fled to Pakistan.²⁵

Witnesses interviewed by the Afghanistan Justice Project identified the following figures as present in Kerala during the events and directly responsible for planning and directing the massacre :

Jagran Sadiq Alamyar, commander of the 444 Commando. As of 2004 he was believed to reside in the Netherlands.

Jagran Bahramuddin, officer of the 11th Division and operational commander in Kounar, subsequently killed in a mutiny in Jalalabad.

Jagran Gul Rang, officer of the 11th Division, currently living in Peshawar and Quetta.

The testimony consistently indicates that the provincial governor was not involved in the massacre and indeed that the perpetrators actively prevented the governor from intervening. A significant factor in allowing these officers to commit a large scale massacre was their political links. The massacre took place at a time of revolutionary upheaval within the army. The troops responsible belonged to the Khalqi faction of the PDPA. Saddiq Alamyar in particular enjoyed the confidence of Vice President Hafizullah Amin, and his brother, Sidique, was a cabinet minister. The relatively junior officers were able to command troop formations beyond their normal authority and felt empowered to act with impunity.

2. Hizb-i Islami: The Assassination of Sayd Bahauddin Majrooh

One well-known case that the Afghanistan Justice Project has researched is that of the assassination of Sayd Bahauddin Majrooh. Majrooh was the publisher of the respected *Afghan Information Centre Monthly Bulletin*, which published information about the war. Some months before the assassination, the *Bulletin* published the results of a survey that showed that 70 percent of Afghan refugees supported former king Zahir Shah over any of the mujahidin leaders.²⁶

According to witnesses interviewed by the Afghanistan Justice Project, after the results of the survey were published, Gulbuddin Hikmatyar, the head of Hizb-i Islami held a meeting with a number of his commanders, including his cousin, Dost Mohammad Khan; Rahmatullah Zubair, of Paktia; Ghulam Nabi Khan of Paktia; and Mijur [presumably a corruption of “major”] of Paktia. One commander was assigned to study Majrooh and his routine. Mijur was an official of the Hizb Islami intelligence wing, specifically tasked with assassinations, and Hikmatyar assigned Mijur the task of assassinating Majrooh.

Mijur had a Toyota Landcruiser and a permit from the Pakistani authorities to carry weapons, which included kalashnikovs. According to witnesses interviewed in Pakistan, the Landcruiser’s number plates were known to the Peshawar police and they were under orders not to stop it. Majrooh was shot at his home on February 11, 1988. According to witnesses in Pakistan, Mijur continues to move about freely in Pakistan. The Pakistan authorities never carried out a credible investigation of Majrooh’s assassination, or other such killings of Afghans.

3. Torture in Mujahidin prisons

During the period of resistance against the Soviet occupation, many mujahidin commanders kept prisoners. In some cases those detained were captured combatants, including members of rival mujahidin factions who were held for interrogation as well as for their possible exchange value. A number of mujahidin groups also detained non-combatants. Mujahidin factions based in Pakistan maintained prisons where they held, tortured and in some cases executed Afghan refugees suspected of opposition to the policies or practices of the Pakistan-based groups. Hizb-i Islami (Hikmatyar) and Hizb-i Islami (Khalis) both maintained prisons near Peshawar. Human Rights Watch has described some of these prisons. One of the best known was Shamshatoo, which was used by Hikmatyar to detain men and women. According to Human Rights Watch, “Torture [was] reported to be routine, including severe beatings and the use of electric shock.” The intelligence agencies of these factions also carried out abductions of Afghan refugees. Human Rights Watch also reported that the Pakistani Inter-Services Intelligence (ISI) also interrogated, and sometimes tortured Afghan refugees considered to be a “security threat,” in some cases because they did not support one of the Peshawar-based mujahidin parties recognized by Pakistan. In some cases these detainees would be handed over from the ISI to Hikmatyar.²⁷

Torture was also widespread among the different factions and commanders based inside Afghanistan. According to witnesses interviewed about detention practices by mujahidin during the 1980s, the Shura-i Nazar faction operated a detention facility in Lejdey, Farkhar district, Takhar Province. Credible testimony indicates that the authorities in Lejdey systematically used torture as a tool in their interrogation of political and security prisoners in the jail. The facility was active in the period 1983 – 1992, but the allegations contained in the dossier cover the period 1989-92.

Torture, cruel and degrading treatment of prisoners and summary executions in Lejdey Prison 1989 - 1992

The testimony of witnesses interviewed by the Afghanistan Justice Project, several of whom were themselves detained at Lejdey, indicates that command and control responsibility for abuses at the facility rests squarely with the Shura-i Nazar faction’s top leadership. Several of the torture techniques depended upon the use of equipment and fixed facilities, which had been installed specifically for the purpose of torturing prisoners, and which were clearly visible to anyone at the site. Torture was routinely conducted in specialized rooms, accessed by the prison authorities. Anyone associated with running or supervising Lejdey Prison, or who visited it during its period of operation as a jail, would have been aware of its function as a torture center.

What is significant about Lejdey, and which sets it apart from torture at other mujahidin prisons, was that it was practiced within a proto-governmental structure. Shura-i Nazar had a far more highly developed administration than of any other mujahidin faction. That organizational structure was subsequently absorbed within the Islamic State of Afghanistan, after the Najibullah government fell in 1992. A distinctive feature of Shura-i Nazar, compared to the local mujahidin commanders whom it had superseded as it consolidated control over most of the northeast, was its sophisticated institutional structure. There were functionally specialized units, clear chains of command and good communications. The movement developed as a government in waiting, and deliberately built up the instruments of state power, in anticipation of the time when it could deploy these in Kabul (as ultimately happened in 1992). Thus three quasi-government

organizations were involved in Lejdey, an intelligence department, a public prosecutor and a prison.

The Lejdey facility was established in the initial stages of Shura-i Nazar's institutional development (1983-4), at a stage when the movement anticipated the need to deal with prisoners of war. It was used for incarceration of a range of categories of prisoner, including enemy combatants, rival commanders and troops, common criminals and political prisoners. In addition, witnesses allege that, as Massoud increasingly asserted hegemony over the region, the facility became a holding center for the political and military rivals of Massoud's allies.

Torture methods practiced by the Lejdey-based personnel of the general prosecutor's office included: 1. suspending a prisoner by the hands from a pair of iron rings mounted in the ceiling; 2. beating, often with wooden truncheons; 3. electric shock; 4. sleep and food deprivation; 5. confinement in a cage; 6. sexual abuse; and 7. psychological torture: as the main torture sessions took place during the night, inmates had to listen to the sounds of torture. In addition to the systematic practice of torture, the authorities in Lejdey also undertook summary executions of selected prisoners, sometimes after no judicial procedure, sometimes after an inadequate judicial procedure.

Command structure

Charges of torture in Lejdey focus on a unit designated the "general prosecutor's department" (saranwal umumi). This was a unit of the Shura-i Nazar faction's National Security Department. Personnel of the general prosecutor's department were regular Shura Nazar personnel. The unit had overall responsibility for the custody of the prisoners held in Lejdey and exclusively managed the interrogation and torture. A camp commander, with a force of about twenty-five men, was responsible for prison security and supervising prison labor. The security detail was formed of local villagers, levied on a rapid rotation. Witnesses have not accused them of involvement in torture.

Testimony from former inmates of the Lejdey jail indicates that the top leadership of the Shura-i Nazar was aware of the practice of torture in the facility. The general prosecutor's department took direct instructions from the headquarters of the national security department and frequently consulted with them. Mohammad Qasim Fahim, former defense minister under President Hamid Karzai, was director of the Shura-i Nazar's national security department—the parent department for the Lejdey-based saranwali.

The provincial national security department in Takhar was responsible for arresting most of the people who ended up in Lejdey. It would conduct preliminary interrogation in a holding center in Taloqan and then transfer prisoners, along with a formal dossier, to Lejdey. There was thus a high degree of functional cooperation between the teams in Lejdey and Taloqan, and witnesses have named some of the personnel of the Takhar national security department who had access to the interrogation facility in Lejdey. Testimony indicates that all members of the ten-man general prosecutor's department participated in interrogation sessions involving torture.

All the saranwals who served at Lejdey as team leaders were directly implicated in torture, as they directly conducted numerous interrogation sessions in which they themselves and personnel acting under their orders subjected prisoners to torture. Of all Lejdey-based personnel, the saranwals bear the greatest share of responsibility because they exercised discretion in managing the interrogation and detention of prisoners in the facility, and ultimately their decisions determined whether prisoners were subjected to torture or not.

4. Indiscriminate rocketing and bombardment of Kabul and excessive use of force by Hizb-i Islami and other factions in the factional conflict in Kabul

The bombardment of Kabul during the factional conflict of 1992-96 is frequently cited as one of the most serious human rights violations of the Afghan war. It was the major cause of the deaths of tens of thousands of civilians, devastated much of the capital and left a generation of residents traumatized. While Hizb-i Islami is frequently named as foremost among the factions responsible for the deaths and destruction in the bombardment of Kabul, it was not the only perpetrator of these violations. All of the major armed factions who were contending for control of the city were responsible for the indiscriminate use of a full range of heavy weapons, causing destruction and casualties in civilian areas.

This dossier considers whether the way in which Hizb-i Islami conducted its bombardment of Kabul constituted use of indiscriminate or excessive force. It also examines the deployment of heavy weapons in Kabul and the chain of command within Hizb-i Islami, to establish who is responsible within the organization for any war crimes committed. The dossier also considers the Hizb-i Islami bombardment in the context of use of heavy weapons by other factions,

Narrative of the conflict

Hizb-i Islami used heavy weapons in Kabul for a full three years, from the earliest phase of the factional conflict to the time of the faction's expulsion from its headquarters in Charasiab, south of Kabul. The shifting pattern of political-military alliances meant that the targets for Hizb-i Islami's bombardments changed over time. However, there were some constants, in that Hizb-i Islami remained in conflict with Shura-i Nazar throughout, and thus continued to target military positions and prominent government buildings controlled by Jamiat/Shura-i Nazar until the end.

There were four main phases to the Hizb-i Islami role in the Kabul factional conflict:

Phase One : The direct contest for power, April 1992

The rapid collapse of the PDPA regime, which pre-empted United Nations attempts to secure a negotiated transition, pitted Hizb-i Islami against Shura-i Nazar's northern alliance in a race to take Kabul. Hizb-i Islami did succeed in getting its forces into the very center of Kabul, and even into the presidential palace. It also infiltrated some forces into Macroraiion, the military hospital and Kabul stadium. However, Shura-i Nazar was able to use its alliance with former Parcham forces, in particular Dostum's Jauzjan militia, to deploy much larger forces in Kabul and expel Hizb-i Islami fighters from the palace and city center. Hizb-i Islami's very first bombardment of Kabul, on May 5-6, 1992, was in response to the party's forced evacuation from central Kabul.

Phase Two : The period of consolidation in the south, May 1992 – November 1992

During the second phase, it had become clear that Hizb-i Islami had failed to secure the upper hand in Kabul. The party ostensibly was part of the political process, and had even been awarded the prime ministry in the portfolio carve-up in an attempt to restrain its opposition to the new arrangement. However, Hizb-i Islami continued to act as an opposition force, with no major ally. It accused the Rabbani government of surrendering excessive power to the ex-communist militias, making expulsion of these militia forces one of its main demands and used their presence to justify his attacks on the city. (However, it should be noted that Hikmatyar had long courted

former Khalqis and allied with them in an abortive coup against Najibullah in 1990, so the demand was a bluff). In this phase Hizb-i Islami consolidated its hold over southern Kabul and northern Logar, ranging from Bini Hissar to Chilsatoon. The carve up of the city started to feature de facto front lines, and Hizb-i Islami was in conflict with Shura-i Nazar and Junbish-i Milli for control of frontline neighborhoods, such as in the east of the city around Pul-i Charki and Karte Nau.

The alliance with Hizb-i Wahdat, December 1992 – December 1993

During this phase, Hizb-i Islami established a protocol with the main Shia party, Hizb-i Wahdat, taking the conflict into a new dynamic stage. As conflict with Shura-i Nazar escalated, Hizb-i Islami undertook bombardments to support its new ally. In addition, Hizb-i Islami and Hizb-i Wahdat launched new offensives, such as the one to secure Darulaman, as they integrated their zones of control in the city and fought for new supply routes.

The Shura Hamahangi campaign, January 1994 – February 1995

From January 1994, Hizb-i Islami's new alliance with Junbish-i Milli, in addition to Hizb-i Wahdat led to a further escalation of conflict in Kabul, improved access to heavy weapons for Hizb-i Islami, and led to new rounds of bombardment. Junbish added a capacity for aerial bombardment, and Hizb-i Islami was able to develop an airstrip in Logar for landing of supply planes. Hizb-i Islami launched an intense rocket and artillery bombardment on central Kabul at the opening of the Shura Hamahangi campaign in January 1994. The conflict was particularly intense for the first six months of 1994, while Hizb-i Islami and Junbish jointly held positions in central Kabul. Hizb-i Islami artillery continued to use bombardments in support of their military operations in the city until February 1995 when the Taliban managed to expel Hizb from its Charasiab headquarters. (Subsequently, the Taliban relaunched the bombardment of Kabul, as they started to lay siege to the capital).

Deployment of heavy weapons in Kabul

A key factor leading to the massive civilian losses in the factional conflict was the way in which the competing factions were able to seize and divide the entire arsenal of the previously Soviet-backed regime. The large reserves of heavy weapons that had been stationed in Kabul for defense of the capital and for deployment to outlying areas were suddenly available to the factions. Heavy weaponry available included tanks, field guns, multiple barreled rocket launchers, and even Urugun and Scud missiles. The factions rapidly put this arsenal to use for attacking Kabul rather than defending it, and concentrated massive firepower on relatively limited contested neighborhoods.

As the PDPA regime was in the process of collapsing, Hizb-i Islami had already established its headquarters in Charasiab, in the north of Logar Province and on the southern outskirts of Kabul. The faction placed its artillery and rockets around the headquarters and in neighborhoods that it controlled on the south and east of Kabul. The main heavy weapons deployed by Hizb-i Islami in and around Kabul, during 1992-95 included²⁸ :

Artillery battery 1 : located inside Commandant Zardad's military base, in the Lycee Shorwaki. The artillery here belonged to Junbish and so became operational with the Shura Hamahangi campaign. Weapons included three D-30 cannons and one BM-21 multiple barrel rocket launcher. The commander of the unit was Jaglan Omar, one of Dostum's officers. He was killed there during the course of the conflict.

Artillery battery 2 : in the oil depot, on the south of Charasiab. Weapons there included two Urugun rocket launchers, two BM-21 multiple barreled rocket launchers. This battery was directly controlled by Commander Khalil.

Artillery battery 3 : part of the Lashkar Issar, one of Hizb's centralized military units. This unit had four D-30 cannons and one BM-21 multiple barreled rocket launcher. The unit was commanded by Engineer Zulmai and was located on the Kotal Hindki pass, to the south of Chilsatoon, Kabul (close to the Rishkor military base). Toran Amanullah, the commander of the Sama Division, was stationed in Rishkor.

Artillery battery 4 : One BM-21 and two D-30 cannons were also located in the Lycee Shorwaki (see artillery battery 1), and were directly controlled by Commandant Zardad. They undertook bombardments on his direct instructions in support of operations undertaken by Zardad's troops. The commanders in charge of Zardad's artillery battery were commanders Sherif and Commander Hidayat, from among Zardad's deputies. Sherif was later killed in the Board area of Peshawar. Hidayat is alive, though his whereabouts are not known.

Artillery battery 5 : was located near the village Shahak on the southeast of Kabul. This battery included three D-30 cannons and one BM-21. This was directly controlled by the Sama division. The battery commander was Nur Rahman Panshiri, brother of Islamuddin Panshiri. He was one of Hikmatyar's close associates. Nur Rahman later switched his affiliation to Massoud and currently lives in Kabul.

Artillery battery 6 : was located in the Rocket Brigade in the Sang-i Nevishta area of Logar. This unit included one Urugun rocket launcher and several BM-21 units. The battery commander was General Wali Shah, commander of Air Defense under the Najibullah. He had been arrested during the 1990 Tanai coup and then freed after 1992. He then joined Hizb-i Islami.

In addition, tanks were deployed in all main Hizb-i Islami positions in the city and were frequently used as artillery, for bombardment.

Command and control

Hizb-i Islami throughout the jihad had maintained a reputation as highly organized and centralized faction. It had a complex leadership structure, with successive tiers in its decision-making body, and a powerful party leader. Gulbuddin Hikmatyar and his faction further refined the faction's structure to cope with the rigors of the struggle for control of the capital. Their reorganization sought to enhance central decision-making and the capacity of centrally controlled military units. Thus, Hikmatyar operated a military council (*shura nizami*) meeting in Charasiab to advise him on military affairs throughout the conflict. Likewise, he established the central military units Firqa Sama and Lashkar Issar. Hikmatyar directly appointed and financed the commanders of these units while much of the rest of the Hizb-i Islami force consisted of de facto militias who were personally loyal to their local leader. Authority was particularly centralized in the use of heavy weapons, as the shura nizami and Hikmatyar would approve all major offensives and even discuss targets. It is therefore possible to identify a hierarchy of commanders and officials within Hizb-i Islami who, because of their active participation in planning and launching bombardments, share in the responsibility for the resulting war crimes.

Level 1. The field commanders of units where artillery and rockets were deployed and who sought the use of artillery in areas for which they were responsible. The Afghanistan Justice Project has obtained testimony on the identity of these commanders, which will be included in the full report.

Level 2. The battery commanders who directly supervised the feeding of coordinates and launching of bombardments. Names of key battery commanders are included above.

Level 3. The director of artillery who supervised the whole operation and applied his technical expertise to enable Hizb-i Islami to sustain the bombardments. This position was held from late 1992 by artillery officer Toran Khalil.

Level 4. The shura nizami (military council) who discussed major operations and strategies in advance and had a potential to order effective safeguards limiting civilian losses. The council had 10 to 12 members, and included top Hizb-i Islami commanders and military figures from around Kabul, including two figures designated as star generals, Faiz Mohammad and Kashmir Khan.

Level 5. The Hizb-i Islami chief of staff, who oversaw military operations in Kabul and had opportunities to identify and address the need for safeguards. The position was held initially by Sabaown, and subsequently by commander Kashmir Khan.

Level 6. The party leader had ultimate responsibility for the military strategy, was closely informed of the progress and consequences of the rocketing and was the most influential figure on the military council. Gulbuddin Hikmatyar served as leader throughout the conflict.

Casualties and damage incurred

Afghanistan Justice Project researchers have collected individual eye witness testimony that reflects that nature of casualties and material losses suffered by civilians in Kabul from the bombardment of their city. The following represents only one case among the thousands of such incidents that occurred.

Abdul Razaq, son of Abdul Rauf, a resident of Pul-i Artan, described the killing of his son in a rocket attack. At about 2:00 in the afternoon on December 30, 1992, twelve-year-old Baqi was playing with other children in the street near their residence. Without warning, a rocket landed in the street and exploded. Shrapnel hit Baqi in the neck and killed him on the spot. The neighbors identified the rocket fragments belonging to a BM21 rocket. Abdul Razaq was aware that the area of Pul-i Artan was under bombardment from Hizb-i Islami forces stationed in the Rishkor army base.

The Afghanistan Justice Project's final report will present a range of testimony from survivors and witnesses, describing the direct impact of bombardment, and, to the extent possible, relating these civilian losses to what we know of command and control and the factions' military strategy.

Bombardments by all factions

The following list of civilian losses from bombardments launched by all of the armed factions is partial; a more comprehensive version will be included in the full report. This provisional survey indicates the magnitude of the damage done: as a result of the following sixteen incidents, nearly 1,000 people were killed. There were hundreds of such incidents between 1992 and 1995. The numbers given are from a survey and compilation of local press reports, generally citing hospital figures.

While in each case the armed factions had definite military targets, those targets were based or were moving in primarily civilian areas. While they were still legitimate military targets, the scale of the bombardments and kinds of weapons used represented disproportionate use of force, prohibited by the Geneva Conventions. As this list makes clear, all of the factions participated in rocketing and artillery attacks; those with aircraft also carried out aerial bombardments

:

1. On May 5-6, 1992, **Hizb-i Islami** subjected Kabul to a heavy artillery bombardment, killing and injuring an unknown number of civilians.
2. On May 23, 1992, despite a cease-fire, the forces of **Junbish-i Milli** bombarded Hizb-i Islami positions in Bini Hissar, Kalacha and Karte Nau.
3. On the May 30, 1992, during fighting between the forces of **Junbish-i Milli** and **Hizb-i Islami** in the southeast of Kabul, both sides used artillery and rockets killing and injuring an unknown number of civilians.
4. On the June 3, 1992, heavy fighting between forces of **Ittihad-i Islami** and **Hizb-i Wahdat** in west Kabul. Both sides used rockets, killing and injuring civilians.
5. On June 5, 1992, further conflict between forces of **Ittihad** and **Hizb-i Wahdat** in west Kabul. Both sides used heavy artillery, destroying houses and other civilian structures. The bombardment killed and injured an unknown number of civilians.
6. In the conflict of June/July 1992, **Shura-i Nazar** bombarded Hizb-i Wahdat positions in Karte Sakhi, Khushhal Khan Mina, Darulaman, Karte Say, and Karte Char, causing heavy casualties and destruction of houses.
7. On August 10, 1992, Kabul city experienced the heaviest rocket bombardment to date by **Hizb-i Islami**. The fighting began at 5:00 a.m. as Hizb-i Islami targeted government-held positions, firing from three locations, Chilsatoon, Darulaman and Tappa Miranjan. This attack and the ones that followed through the month of August from all sides in the fighting killed hundreds of civilians, according to press reports.
8. On August 13, 1992, a rocket attack on Deh Afghanistan, using cluster bombs, killed more than 80 and injured more than 150, according to press reports. President Rabbani blamed **Hikmatyar** for the attack. In response the **Shura-i Nazar** forces bombarded Karte Nau, Shah Shaheed and Chilsatoon with a heavy aerial bombardment and from the ground. As a result of this counter-attack more than 100 people were killed and on 120 wounded, most of them civilians. A large number of houses were destroyed.
9. On January 23, 1993, hundreds were killed and wounded and houses destroyed in rocketing in fighting between **Hizb-i Islami** and **Jamiat-i Islami/Shura-i Nazar**.
10. On the February 26, 1993, **Shura-i Nazar** and **Hizb-i Islami** bombarded each other's positions with rockets, causing heavy civilian casualties.
11. On March 9, 1993, heavy rocketing in Kabul left tens of victims dead and wounded. The **Ministry of Defense** blamed **Hizb-i Wahdat** for the attack and in response launched a heavy weapons bombardment of residential areas controlled by Hizb-i Wahdat, causing heavy casualties and destruction of buildings.
12. On May 13, 1993, heavy artillery bombardment and aerial bombardment in fighting between **Shura-i Nazar** and **Hizb-i Wahdat** left 30 people dead and hundreds severely wounded, according to press reports.
13. On May 23, 1993, **Shura-i Nazar** planes bombed Hizb-i Islami positions inside the city at Chilsatoon. This left 10 people killed and 14 wounded, most of them civilians..
14. On the November 17, 1993, four aircraft controlled by **Shura-i Nazar** bombed the bazaar of Sarobi (a town in the east of Kabul Province). This attack killed and wounded many of the shopkeepers of Sarobi and destroyed one mosque..
15. On October 23, 1994, 31 civilians were killed in a **Hizb-i Islami** rocket attack on Kabul city.
16. On October 23, 1994, hundreds of people were killed or wounded. in rocketing and bombardment by **Shura-i Nazar** in support of Harakat-i Islami (Mohseni) forces against Hikmatyar and Junbish. This figure was confirmed by the ICRC, which estimated that in the previous three months of fighting 2000 Kabul residents had been killed.

Targets

Although the rocketing of Kabul by Hizb-i Islami was often indiscriminate, there were three main categories of targets against which the Hizb-i Islami commanders directed their bombardment. Most of these targets were located in or surrounded by civilian areas. In particular, as the factional conflict continued, ISA troops were deployed in greater numbers around the capital, leaving a majority of ISA troops based within civilian areas. In these cases, the

bombardments were often disproportionate; that is, causing excessive civilian casualties in proportion to the military objective. The targets were:

- Symbols of state authority, occupied by Shura-i Nazar forces, including in particular the presidential palace (Arg), the prime ministry (sadarat) and foreign office, other key ministerial buildings.
- “Permanent” military and quasi-military targets, including military bases occupied by Shura-i Nazar, and even Massoud’s guest house in Wazir Akbar Khan.
- Tactical military targets, including positions along the front line and any target relevant to a particular ongoing operation.

However, the sheer magnitude of civilian casualties and wanton destruction resulting from bombardment during 1992-95, provides strong grounds for asserting there was excessive force. The continuity in the pattern of casualties throughout the campaign, with no evidence of any serious Hizb-i Islami attempt to alter its tactics to focus more effectively on military targets, indicates that Hizb-i Islami failed to take adequate measures to avoid civilian damage. Some of the episodes of bombardment occurred without any accompanying land offensive, or obvious urgency in possible military targets. This applies most particularly to the massive August 1992 bombardment, during which front lines remained static and it seemed that the bombardment was merely a reassertion of opposition. Inflicting severe damage on civilian areas, as happened in August 1992 and in the absence of immediate military objectives, is the clearest case of indiscriminate use of heavy weapons.

Most of the argument above applies equally to all factions in the conflict that had access to heavy weaponry, i.e. Shura-i Nazar, Ittihad-i Islami, Harakat-i Islami, Hizb-i Wahdat, the Taliban and Junbish-i Milli. The full Afghanistan Justice Project report will thus present the case that each one of these applied excessive force and failed to protect civilians in their use of heavy weapons within Kabul.

5. Massacre and Mass Rape in Afshar

The context of the operation

The Afshar operation of February 1993 represented the largest and most integrated use of military power undertaken by the ISA up to that time. There were two tactical objectives to the operation. First, Massoud intended, through the operation to capture the political and military headquarters of Hizb-i Wahdat, (which was located in the Social Science Institute, adjoining Afshar, the neighborhood below the Afshar mountain in west Kabul), and to capture Abdul Ali Mazari, the leader of Hizb-i Wahdat. Second, the ISA intended to consolidate the areas of the capital directly controlled by Islamic State forces by linking up parts of west Kabul controlled by Ittihad-i Islami with parts of central Kabul controlled by Jamiat-i Islami. Given the political and military context of Kabul at the time, these two objectives (which were largely attained during the operation) provide a compelling explanation of why the Islamic State forces attacked Afshar.

Responsibility for the abuses committed during the operation

The forces that launched the offensive in west Kabul on February 10-11, 1993 all formally belonged to the ministry of defense of the ISA.

The minister of defense and de facto commander-in-chief of the ISA at the time of the Afshar operation was Ahmad Shah Massoud. He had overall responsibility for planning and command of military operations. He directly controlled the Jamiat-i Islami units and indirectly controlled the Ittihad-i Islami unit. Massoud secured the participation of the Ittihad-i Islami units through agreement with Abdul Rasul Sayyaf, the leader of the party. Although the Ittihad units had been given Afghan Army formation numbers, commanders in the field took their orders from senior Ittihad commanders and Sayyaf himself. Sayyaf acted as the de facto general commander of Ittihad forces during the operation and was directly in touch with senior commanders by radio. In this sense, Sayyaf shares equal command and control responsibility with the top Jamiat military leadership.

Given the pattern of violence and ethnic tension that had preceded the operation, the general commanders could and should have anticipated the pattern of abuse that would result when launching an offensive into a densely populated Hazara majority area. Furthermore, as fighting took place in an area barely two kilometers from the general command post, and field commanders were equipped with radio communications, the general commander must have known of the abuses taking place in Afshar as soon as they started. Both Massoud, together with his senior commanders, and Sayyaf failed to take effective measures to prevent abuses before the operation commenced, or to stop them once the operation was underway.

While it has not been possible to identify individual commanders responsible for specific instances of execution or rape, the Afghanistan Justice Project has been able to identify a number of the commanders who led troops in the operation. Testimony indicates that both Jamiat and Ittihad troops committed abuses. Although some of the commanders were only involved in legitimate military actions, capturing and securing a designated objective, commanders who took place in the operation on the ground have a case to answer to determine whether they restrained their troops from abuses, or whether they and their men actively participated in the summary executions, rape, arbitrary detentions and other abuses that occurred during the operation.

The Islamic State, through Defense Minister Ahmad Shah Massoud and leader of factional ally, Abdul Rasul Sayyaf, committed the following military forces to participate in the Afshar operation: ²⁹

Jamiat-i Islami commanders and units

Mohammad Qasim Fahim, director of intelligence, with responsibility for special operations in support of the offensive and participating in planning of the operation.

Anwar Dargar, commander of a division level unit of mujahidin from Shakkar Darra, Shamali, named by numerous witnesses as leading troops in Afshar that carried out abuses on the first two days of the operation.

Mullah Izzat, commander of a division level unit of mujahidin, from Paghman, named by numerous eye witnesses as leading troops in Afshar that carried out abuses on the first two days of the operation.

Mohammad Ishaq Panshiri, commander of a brigade level unit of mujahidin (lewa) that, according to witnesses, participated in the assault

Haji Bahlol Panshiri, commander of a brigade level unit (lewa) that, according to witnesses participated in the assault

Baba Jullunder Panshiri, commander of a brigade level unit (lewa) that participated in the assault

Khanjar Akhund, Panshiri, commander of a battalion level unit (ghund) that participated in the assault

Mushdoq Lalai, battalion level, participated in the assault

Baz Mohammad Ahmadi Badakhshani, commander of a division level unit that participated in the assault, attacking from Qargha

Ittihad-i Islami commanders and units participating in the operation

Haji Shir Alam, division commander affiliated to Sayyaf, from Paghman, named by numerous eye witnesses as leading troops in Afshar on the first two days when abuses were committed

Zulmai Tufan, commander of the Lewa 597 brigade, named by numerous eye witnesses as leading troops in Afshar on the first two days, when abuses were committed. (Lewa 597 existed before the fall of Dr. Najibullah's government when it was called Lewa Moradat-Tank). It was in based in the Company area of west Kabul.

Dr. Abdullah, commander of a battalion level unit (ghund) of the Lewa 597, named by several witnesses as leading troops in Afshar on day one and two, when abuses were committed

Jaglan Naeem, commander of a battalion level unit (ghund) of the Lewa 597, had stationed troops in Afshar by second day of the operation

Mullah Taj Mohammad, named as participating in planning of the operation

Abdullah Shah, named by several witnesses as leading troops in Afshar and responsible for arbitrary arrests, abductions and other abuses.³⁰

Khinjar, who had stationed troops in Afshar by the second day of the operation

Abdul Manan Diwana, commander of a battalion level unit (ghund), named by witnesses as stationing troops in Afshar by the second day of the operation

Amanullah Kochi, commander of a battalion level unit (ghund), had stationed troops in Afshar by second day of the operation

Shirin, commander of a battalion level unit (ghund), had stationed troops in Afshar by the second day of the operation

Mushtaq Lalai, commander of a battalion level unit (ghund), had stationed troops in Afshar by the second day of the operation

Mullah Kachkol, had stationed troops in Afshar by second day of the operation

Narrative of the operation

All of the forces that ultimately participated in the fighting on February 10-11, 1993, were already deployed in and around Kabul before the start of the offensive. The main preparations made by the ISA were the conduct of special operations to weaken the Hizb-i Wahdat defenses and deployment of additional artillery for the bombardment. As director of intelligence, Mohammad Fahim had overall responsibility for special operations. His personnel contacted a number of the Shia commanders around Afshar and obtained their commitment to cooperate with the Islamic State offensive.³¹

The most significant new deployment of artillery before the operation was the position on Aliabad Hill. Massoud pre-positioned a Z0 23 gun there, with the detachment of 30 men, to target the area around the Central Silo, Afshar, Karte Seh, Karte Char and Karte Sakhi.³² The main significance of the massive firepower and the large number of positions from which artillery was used is that they demonstrate the scale and significance of the operation. This was not a raid or skirmish but a full scale battle, in which the Islamic State deployed the combined military resources from the old Soviet era army and the mujahidin against targets within the capital city, all of them located in areas that were primarily residential, with the civilian population intact.

Witnesses who were associated with the military at the time of the operation have provided accounts of the planning and military coordination that Massoud undertook prior to actually launching the operation on the ground. However, this represents only a partial view of the planning, as an operation of this scale must have involved intensive preparations. According to one witness, the top Jamiat commanders, along with selected senior Ittihad commanders (Shir Alam and Zulmai Tufan), and with the main Shia ally, Massoud Hussain Anwari, plus the ISA military advisors, met under the chairmanship of Massoud at Corps headquarters in Badambagh two days before the operation. Another meeting was held in an intelligence safe house in Karte Parwan, near the Intercontinental hotel, on the night before the offensive. Massoud used the same house as an operations room for much of the day. There was also a meeting of the Ittihad commanders, under the chairmanship of Sayyaf, in Paghman, one day before the operation. The purpose of these meetings was to instruct key commanders on their role in the ground offensive.³³

The ISA forces commenced a generalized bombardment of west Kabul on the night of February 10-11, 1993, with targets both around the Social Science Institute and Afshar and in the rest of the Shia areas of the city. Troop movement started around 05.00 on February 11, and this is generally remembered as the time of the full commencement of the operation. The first decisive troop movement was from Badambagh to the top of the Radar Hill, part of the Afshar ridge. ISA troops were immediately able to take over positions along the top of the ridge unopposed and the main Hizb-i Wahdat defense posts there were burned and the tanks stationed there immobilized.

A large contingent of both Ittihad and Jamiat forces advanced towards Afshar from the west. The closest point of the front line to the main target of the operation was the Kabul Polytechnic. A Jamiat force advanced along the main Afshar Road, from Karte Parwan and the Intercontinental Hotel, towards the Social Science Institute, entering Afshar from the east. The ISA forces did not advance along other sections of the front line marking the West Kabul enclave, although they maintained an intense bombardment and had ample forces deployed to maintain a threat of advance.

However, by 13.00 Hizb-i Wahdat's main defense line along the Afshar ridge was gone and their hold on the Social Science Institute untenable. Mazari and his top commanders fled the Institute on foot. By 14.00 the ISA forces were able to occupy the Social Science Institute, and the forces that had advanced from the east and the west, met up in Afshar, having taken effective control of the area. They deployed in Khushtal Mina and Afshar, but made no further advance. Troops started to secure the area, establishing posts and undertaking a search operation. It was this search operation that rapidly became a mass exercise in abuse and looting, as described in the civilian eyewitness testimony below.

Mazari was able to order the re-establishment of the defense line along the edge of Khushhtal Mina, next to the Central Silo and Karte Sakhi, thus retaining most of the rest of west Kabul. Some of the Afshar residents, basically those considering themselves most vulnerable, managed to flee with the departing Wahdat troops (this factor seems to account for the relatively low number of male youths mentioned in the casualties in the testimony). However, the majority of the Afshar civilian population was in place as the ISA forces took over. Because of the bombardment, active fighting and presence of potentially hostile troops, it seems that many civilians were unable to leave on the first day of the operation. However, a mass exodus took place on the night of the February 11-12. Women and children fled mainly towards Taimani, in north Kabul, and they found shelter in schools and mosques in the Ismaili quarter there. Some old men elected to stay and guard houses and possessions, but testimony indicates that the troops mainly targeted men for arbitrary detention and summary execution, i.e. male civilians were not free to leave the area. Most survivors who fled Afshar described seeing debris and corpses along the way, indicating that they fled after the main battle. By the end of the second day, the bulk of the civilian population had evacuated Afshar and it seems that this exodus was the development that most decisively ended abuses against civilians in the area.

On the second day of the operation, February 12, Massoud convened a meeting in the Hotel Intercontinental which, belatedly, discussed arrangements for security in the newly captured areas. This meeting was attended by top ISA military commanders and political figures, including Rabbani, Sayyaf, Hayatollah Mohsin, Ayatollah Fazl, and General Fahim. ISA did claim a Shia constituency and Hussain Anwari, as a senior ISA commander, was under pressure from Shia civilians to make some arrangements for their safety. The meeting ordered a halt to the massacre and looting and agreed on an exchange of envoys between the warring parties, for identification of prisoners. It also called for a withdrawal of the offensive troops, leaving a smaller force to garrison the new areas.³⁴ Given the scale of abuses that occurred on the first two days of the operation, before the meeting, it was clearly too late to prevent the main abuses. The meeting also seems to have been ineffective in halting the looting of the area, as the destruction of housing in Afshar happened largely after the meeting.

The War Crimes: Indiscriminate Attacks, Rapes, Abductions and Summary Executions

Indiscriminate Shelling and bombardment of civilian areas

The Afshar area was subjected to heavy bombardment during the first day of the operation. The principal military targets would have been the Social Science Institute and the other main Wahdat garrisons. However, the Social Science Institute was never hit. The majority of the rockets, tank shells and mortars fell in civilian residential areas. As the command centers of both the Ittihad and Jamiat forces were within site of Afshar, it appears that the attack was intended to drive the civilian population from Afshar—which it succeeded in doing. The number

killed in the assault (not including those summarily executed) is not known. Virtually every witness interviewed by the Afghanistan Justice Project described seeing bodies in the area. Indeed, the shelling and mortar fire was so intense, many residents hid on the first day, and did not try to leave. Although this may have reduced civilian casualties from the bombardment, it left these civilians vulnerable to the abuses that followed.

Summary Executions and Disappearances

As noted above, the parties to the conflict were bound by Common Article 3 to the Geneva Conventions, which prohibits summary executions, torture and hostage taking. Witnesses interviewed by the Afghanistan Justice Project stated that a group of Hizb-i Wahdat soldiers was taken prisoner from Wahdat headquarters at the Social Science Institute by Ittihad-i Islami forces on February 11. In addition to these, a large number of civilian men and suspected Wahdat militants were arrested from the Afshar area after Ittihad captured it. The number taken is not known. One group of Hazara prisoners held by Ittihad-i Islami was subsequently used by the Ittihad commanders to undertake burial of the dead from the Afshar operation, after one week. This group of witnesses has reported that their relatives were among the civilian and military prisoners taken by Ittihad who subsequently disappeared and are believed to have been summarily executed by Ittihad forces. The Afghanistan Justice Project has been able to obtain only a few of the names of the victims. Some other men were taken from their homes.

Witness A told the Afghanistan Justice Project that he and his family had tried to escape, but the rocketing and shelling was too intense. “We ran to my mother-in-law’s house and hid there. Other people told us that people were being killed on the roads. Eventually a few other families joined us. We could hear the radios of some of the Sayyaf people and they were being warned not to start fighting over the loot. The armed men – who were from Sayyaf and from Jamiat – were looting all the houses. Sayyaf’s people spoke Pushto; Jamiat spoke Dari. I sent my family to another place and I stayed at the house. At about 11:00 a.m. a commander named Izatullah (from Ittihad) came to the house with about ten other armed men. I had left the door open hoping the militias would think the house empty. They came in and beat me and took me to Qargha river where I was put into a container with about 60-65 men. It was very crowded. Sometimes some men were taken out and made to do work, like chop wood.” After a week the prisoners were all told how much they would have to pay to be released. The witness was told he would have to pay \$5000. He told them he did not have that much money, but friends in Paghman came and paid for his release.

Witness B told the Afghanistan Justice Project that Ittihad-i Islami troops had beaten her and arrested her unarmed husband from their residence in Afshar, and that he was still accounted for.

Witness C told the Afghanistan Justice Project that the soldiers searched the houses looking for men. “I was taken to Paghman. At night I was kept in a container; during the day I and other 10-20 men were made to dig trenches. There were lots of containers. At night some men would be taken out and not come back. We could hear shots and we assumed the men had been killed. I think some were buried in the trenches. I finally escaped by hiding in the river under a bridge. I left and went to Quetta.”

Witness M. told the Afghanistan Justice Project that at 7:00 in the morning, when Ittihad-i Islami captured Afshar, a group of armed men entered her residential compound, and detained S., her husband. They released him after 45 days. He had been beaten so severely his hearing had been permanently damaged and he was deaf. According to his wife, he also had

difficulty recognizing people. After he was detained, a second group of 10-15 Ittihad soldiers came to the house between 3:00 p.m. and 3:30 p.m. They claimed that they were looking for Wahdat forces, they grabbed M.'s son by the arm. "My son was about 11 years old. They held him and asked where his father was. They aimed their guns at him and I threw myself over him. I was shot in the hand and leg but he was shot five times. He died." The soldiers then took the family belongings and left.

Witness K, 75 years old, stated that troops affiliated to Sayyaf abducted him from Sar-i Jui, Afshar on the day of the Afshar operation, February 11. He was one of a group of seven men who were taken prisoner, and beaten severely and made to act as porters to help carry goods being looted from Afshar. The Ittihad troops then took him to Company (a Sayyaf-controlled area) on that day and held him there for two months. The commander who captured him was Ghulam Rasool, affiliated to Sayyaf. He stated that after that he spent two months in Shakar Darra as a prisoner of Anwar Dangar, and then three months in Farzah with Commandant Haneef. He witnessed the troops summarily executing one of his relatives, Qambar Zohar.

Witness G was briefly arrested and beaten unconscious by Ittihad troops on the first day of the operation. When he returned to the area later he removed two bodies from his well, and estimates that he saw 30-35 bodies himself while fleeing the area (including a decapitated head left in a window).

Abdullah Khan, of Ghazni Province, 67 years old, was arrested from Afshar by Commander Aziz Banjar, a Sayyaf commander. The rest of the family had fled to Taimani during the main military operation. Abdullah Khan had stayed on in Afshar to guard the household goods. However, all household goods were stolen during the operation and the house was destroyed. The family has have been unable to trace Abdullah Khan and so he remains missing.

Witness Sh. told the Afghanistan Justice Project that when Ittihad forces entered her house, they beat to death her father inside the compound. They then stole all household belongings.

Rape by Ittihad Forces

During the Afshar operation, Sayyaf's Ittihad-i Islami forces used rape and other assaults on civilians to drive the civilian population from the area. The Afghanistan Justice Project interviewed many witnesses who described incidents of rape by Ittihad forces during the Afshar operation. Witness M. (see statement above) was injured in the hand and leg when Ittihad soldiers shot her son. She stated: "While I was still bleeding they raped me." She stated that three soldiers held her down while the fourth raped her in the basement of her own house. Several other women had also taken shelter in M.'s house: a neighbor, Z., and her two daughters, and another woman, R. The Ittihad troops raped Z.'s two daughters, ages 14 and 16, and the woman, R. The soldiers took them by turn down to the basement to carry out the rape. One of Z.'s daughters was injured by a bayonet when she attempted to resist.

Another witness, S., stated that armed men had burst into her house at Afshar-Silo on the second day of the Afshar operation. They beat and raped her and her sister in their house and looted the contents.

Witness Sh. stated that after capturing Afshar, Ittehad-i Islami troops forcibly entered her house at 7:00 a.m. They raped four girls in their residential compound, including Sh. her sister, age 14 years, and two others.

There were many other reports of rape; the numbers of women raped is not known. Residents of Afshar did not return until after 2001. As of mid-2004, the area remains largely flattened, although some former residents have returned to the ruins of their former homes.

6. Torture and summary executions by Hizb-i Wahdat forces in Kabul and Mazar-i Sharif 1992-1998

When the government of President Najibullah collapsed and mujahidin and militia forces seized control of various parts of Kabul, Hizb-i Wahdat was under the leadership of Abdul Ali Mazari. His deputy was Abdul Karim Khalili (who was as of October 2004 a vice-president under President Hamid Karzai). Khalili became leader of Hizb-i Wahdat after Mazari died in Taliban custody in 1995. Until 1992, Hizb-i Wahdat controlled the mountainous central area of the country, Hazarajat. With the collapse of the PDPA government in 1992, Hizb-i Wahdat attained a share of military and political power in two major urban centres, with a large migrant Hazara community, Kabul and Mazar-i-Sharif. Hizb-i-Wahdat ran a de facto separate administration in west Kabul from 1992 until its expulsion in 1995. It continued as one of the leading factions in Mazar until August 1998, and was particularly powerful in the northern city after the defeat of the Malik coup and Taliban assault in 1998. (The role played by northern Hizb-i Wahdat commanders in the massacre of Taliban prisoners in May-June 1997 is unclear, and will be the subject of further investigation by the Afghanistan Justice Project).

In Kabul, Hizb-i Wahdat initially established its headquarters at the Social Science Institute, and had garrisons in other parts of west Kabul. Though nominally part of the interim government that took power in May 1992, Wahdat leaders felt sidelined from the exercise of power and major ministerial appointments and mistrustful of Massoud and Sayyaf. In the early days of the mujahidin presence in Kabul, there was a degree of cooperation between Shia commanders from all factions and their forces were deployed side by side in west Kabul. But as the factional conflict intensified, commanders from the different factions fought each other as they contested for control of territory.

The Afghanistan Justice Project has reviewed testimony charging commanders affiliated to Hizb-i Wahdat with a range of violations of the laws of war that fall into the following patterns :

- The summary execution of prisoners and political opponents, indiscriminate attacks and deliberate targeting of civilians and non-combatants while prosecuting the conflict in Kabul 1992-95.
- A range of crimes against civilians in Kabul 1992-95 which were incidental to the conflict itself, and related more to commanders' abuse of power in areas they controlled. The abuses include abduction, arbitrary detention, inflicting cruel and degrading punishments, rape, summary executions and looting.
- Hizb-i Wahdat commanders have been charged with a similar range of crimes against civilians in Mazar-i Sharif and areas of the north, where Hizb-i Wahdat had influence during the period 1992-98. The alleged abuses in particular include abduction, rape, summary execution and looting.

In addition, witnesses have charged Hizb-i Wahdat commanders with similar abuses in other areas where they had influence, in particular the various forms of degrading punishment inflicted on travellers and merchants at roadside check posts in the north and on routes transiting Hazarajat.

Below are two illustrative examples from the testimony of witnesses interviewed by the Afghanistan Justice Project. The Afghanistan Justice Project has many more cases against Hizb-i Wahdat under investigation. In the full report we intend to present testimony on specific incidents within each of the three patterns of abuse, along with analysis of command and control.

Example of targeting of civilians during the Kabul conflict : summary executions of the Unchi-Baghbanan delegation

In the wake of the collapse of the PDPA administration and the deployment of mujahidin groups throughout Kabul, a series of clashes took place among commanders pushing for exclusive control of localities and pushing out their boundaries of influence. The city population was intact and was trying to accommodate itself to this new carve up of the city by commanders. As part of this process, in May-June 1992, fighting broke out between Hizb-i Islami commanders Didar, Riza and Haidar Lang on the one hand and the Shia Harakat -i Islami commander Qambar Lang in the Mahtab Qala and Unchi Baghbanan areas of west Kabul. A delegation of ten notables from Unchi Baghbanan met with Hizb-i Wahdat and Harakat-i Islami commanders to negotiate a ceasefire in the area. The contested area, Unchi Baghbanan, had an ethnically mixed population of Pashtuns, Tajiks and Hazaras, as a result of which, commanders from the different mujahidin parties had established posts there. The peace delegation included the mullah of the mosque of Unchi and his 12-year-old son; the mullah of the mosque of Baghbanan; Jaglan (Major) Wardad, an elder of Unchi; and six others, all civilian. The testimony that the Afghanistan Justice Project has received describes how the delegation proceeded to Kote Sangi and the area then controlled jointly by Hizb-i Wahdat and Harakat-i Islami. There, troops loyal to both factions, including those commanded by Abbas Payadar of Harakat and Tahir Diwana of Hizb-i Wahdat, detained and summarily executed all but one of the delegates. The killings represented an example of an incident with a strong ethnic dimension, as the delegation comprised Sunni Muslim Pushtuns and Tajiks, who were seeking guarantees from the Shia leadership. In the wake of the killings, according to the testimony, some 500 Pashtun and Tajik families from Unchi fled the area.³⁵

Example of abuses against civilians in Kabul 1992-95 : mass arbitrary detentions

In June 1992, fighting broke out between Sayyaf's Ittihad-i Islami forces and Wahdat. One version of the reason for this outbreak of fighting is that it was triggered by the killing of four members of the Hizb-i Wahdat shura—Sayyid Karimi, Sayyid Ismail Hussaini, Chaman Ali Abuzar, and Muhammad Naim Wasiq. They were intercepted and summarily executed in Silo Street in west Kabul. Some in Wahdat accused Ittihad commanders of responsibility for the murders, and in retaliation, Wahdat forces captured Ittihad commander Shir Alam (as of October 2004 Corps Commander, First Army Corps, Kabul) in Pul-i Surkh of Karte Seh and then released him and shot one of his bodyguards. The fighting escalated, and both groups targeted civilians: Ittihad abducted and detained Hazaras, and Wahdat did the same to Pashtun civilians. Both sides committed rape; according to some reports a large number of women were raped, though given the stigma associated with rape, it is difficult to find survivors willing to speak about the experience.

The conflict triggered off the first sequence of mass arbitrary detention of civilians and confinement in transport containers, by the armed factions, that the Afghanistan Justice Project has documented. Both forces detained hundreds of people, most of them civilians. Although the wave of detentions happened in the wake of an outbreak of factional fighting, it bore at best a tangential relation to that conflict and does not seem to have been undertaken to achieve any particular military advantage. An unknown number of those who were abducted were executed or “disappeared.” Many were detained for their potential exchange value, or for extortion. Senior officials of both parties were aware of the hostage-taking and disappearances. One of the places used by Hizb-i Wahdat as a jail for captured members of rival factions and others they were

holding prisoner was Qala Gonai. A witness interviewed by the Afghanistan Justice Project with intimate knowledge of Wahdat stated that a large number of prisoners captured by Wahdat during different phases of the Kabul conflict were killed at Qala Gonai. According to testimony received, the commander responsible for giving the orders to have detainees executed was Bahrami of Ghazni province, then a Wahdat commander for internal security.³⁶

Example of attacks on civilians in Mazar : summary executions in Gurymar village

An example illustrates how commanders around Mazar, nominally affiliated to Hizb-i Wahdat, used their control over territory and ability to operate without any effective check, to terrorize the civilian population, without relation to any actual factional conflict. A resident of Bizi-e-Sukhta of Qizilabad village told the Afghanistan Justice Project that on April 9, 1998 (20-1-1377), Hizb-i Wahdat forces killed seven people in the village. "We were about eight people to go to the city for laboring during the days. Regularly I was going to the city along with my brother for laboring. One evening when we were coming back home, the forces of commander Baba [a Wahdat commander] stopped the bus and asked all of us where we were from. When we told them we are from Gurymar village they took us off the bus to their post and accused us of being Taliban. We were all Pushtuns. They took all our money and put us all in a container. In the middle of the night they opened the door of container and tied our hands together and took us out to a nearby well. They first threw my brother into the well and shot him inside the well. I started running away with my hands still bound and they shot at me. I was injured in my hand and one of them was running after me, but I reached Qalayee Mohammad village which was the nearest area and they did not catch me. But they threw the others into the well. Their names were:

1. Sayid Ahmad son of Haji Barat.
2. Moh'd Hassan son of Atagul the brother of Ramazan.
3. Amaullah son of Sayyid Moh'd.
4. Asadullah son of Moh'd hassan.
5. Noorullah son of Besmellah
6. Jumadin son of Qutbuddin.

Later the bodies were removed from the well and buried in a collective grave yard.

7. Abuses against civilians by Junbish forces 1992-1998

Background on Junbish

General Abdul Rashid Dostum served as head of one of the most powerful militia forces that cooperated with the Najibullah government before 1992. The militia was vital to the Najibullah government for guarding the natural gas fields and the trade and supply routes north to the Central Asian states that were then part of the Soviet Union. Dostum's militia, the Jauzjani (named for the province from which they came), was considered the most powerful and effective of all the militia forces working with the government, and was large enough to be organized as a full division, with over forty-thousand men.³⁷ In 1988 they replaced the departing Soviet forces in Qandahar, where they acquired a reputation for looting and other abuses. In 1991, they, along with other militias, were ordered out of Kabul following similar outbreaks of fighting, looting and abuse.³⁸

In the months before the cessation of aid from the Soviet Union in January 1992, Dostum entered into negotiations with Ahmad Shah Massoud to form an alliance of northern forces. When Najibullah attempted to replace Gen. Mumin, the Tajik commander of the Hairatan garrison, with a Khalqi Pashtun, Mumin revolted, with Dostum's support. On March 19 the northern alliance of Massoud's forces, Dostum's, those of Hizb-i Wahdat and Parchami rebels took control of Mazar-i Sharif. The takeover saw very limited conflict and the city was occupied both by forces linked to the former government – by that stage linked to Gen. Dostum – as well as by mujahidin groups from all the political parties with the exception of Hizb-i Islami. Relations among the constituent groups of the new administration varied. Jamiat-i Islami was the least willing to cooperate with former communist regime elements, while other groups, including Harakat-i Inqilab-i Islami and Hizb-i Wahdat, with respective support bases amongst Uzbeks and Hazaras, displayed the opposite tendency.

While the takeover of Mazar saw little fighting it did witness the collapse of internal law and order and widespread looting of official property and assets, and the seizure of productive infrastructure (rather than its destruction). Within the regional alliance, which had arrogated authority for appointments and administration, as well as taxation, to itself, positions and portfolios were distributed by party. Regionally, in terms of the six northern provinces (east to west: Baghlan, Samangan, Balkh, Jauzjan, Sar-i Pul and Faryab), former pro-government forces, many of which were Uzbek, were politically dominant and organized themselves into a formal political grouping called Junbish-i Milli-i Islamic Afghanistan (National Islamic Movement of Afghanistan). Within this structure all other parties were formally represented, but retained their organizational independence.

Across the north the previous administrative structures continued working, admittedly with changed senior personnel and effectively under a new name. While internal and local conflicts existed, stability was maintained and the region attracted huge numbers of internally displaced people escaping the conflict in Kabul. As time progressed it became a prominent area of operations for UN and NGO agencies which had scaled-down operations in other areas.

Commander rule

The stability for in Mazar did not translate into security for civilians throughout the north. Commanders operating under the Junbish umbrella generally had a high level of autonomy—the

more powerful the commander the greater the autonomy. In the 1992-1996/1997 period, large parts of the north were essentially autonomous even though they were politically and administratively linked to Junbish. A number of large fiefdoms emerged, among the most notorious that of Rasul Pahlawan in Faryab and Ghaffar Pahlawan in Sar-i Pul. Rasul Pahlawan was anxious to prevent Dostum from getting any direct influence in Faryab—which Dostum was trying to do. In Sar-i Pul, Ghaffar Pahlawan was also effectively autonomous in his area of control. Both shared a common interest with Dostum in limiting Jamiat's political influence. They were organizationally part of Junbish, had been part of Dostum's 53rd Division in the Najibullah era, and owed allegiance to Dostum. At the same time, they were rivals for power in the region.

At the local level in the rural areas, commanders of all parties continued the countrywide process of self-aggrandizement and of positioning themselves as the sole locus of administration. The situation varied enormously among commanders. Many simply continued collecting agricultural taxes and conscripting troops, or collected conscription exemption payments, as they had done under the previous regime. Others, however, assassinated potential sources of opposition or criticism, appropriated individual property, abducted women or took them in "forced" marriages, and took control of common property assets for their personal use. Conflicts with an underlying economic motive were common. In the years after 1992, the Pashtun-populated zone in central Balkh, under local mujahidin and local militia forces, experienced widespread abuses, particularly the abduction of women. Given the stigma associated with these abuses, it has been difficult to obtain direct testimony about individual cases.

1994-1997: increasing instability

In 1994 Junbish sided with Hizb-i Islami against Shura-i Nazar/Jamiat in Kabul. During intense fighting both forces engaged in rape, summary executions and other serious human rights abuses. Details on a number of these incidents in Kabul will be included in the Afghanistan Justice Project final report. Junbish was ultimately defeated in Kabul. At the same time, conflict also erupted between Jamiat and Junbish throughout the north. After heavy fighting in Mazar, Jamiat was effectively pushed out. Humanitarian agencies reported sexual assaults on women and the killing of prisoners by both forces during this conflict. As had been the case in the Kabul fighting, forces on both sides detained hundreds of prisoners for possible exchange or simply for extortion. An unknown number were summarily executed.

In the vacuum created by retreating or defecting Jamiat commanders, Junbish expanded, administering the former areas as they did their own. Conflicts lingered in the hills where Jamiat retained a traditional hard core of support, though the years 1994-1997 saw a high level of internal stability. From 1994 on, Junbish increasingly focused its attention on the administration of the north. The Mazar-based regional administration was able to collect considerable income generated by the taxation of trade and control of the industries of the region (principally the fertilizer factory near Mazar), as well as from much of the large-scale natural resources formerly exploited by the state (a small oil field in Sar-i Pul, natural gas in Shiberghan, a salt mine in Faryab). While small amounts were provided to the civil part of the bureaucracy, the majority was divided among the constituent parties and was primarily invested in maintaining military capacity (though much of the gains individual commanders and political officials, of all parties, appropriated for themselves). The region thus possessed the only functioning administration in the country with less attrition of civil structures such as education and health service than was the case elsewhere in the country.

At the same time, commanders in the region continued to exercise power with impunity. As one witness stated, “Every commander of Junbish did what ever they wanted to like a legal government. There was no one who could dare t stop them.”³⁹ The Afghanistan Justice Project has interviewed witnesses who have described abuses by the subordinates of some of Junbish’s senior commanders. For example, Shir Arab, commander of the 51st regiment within Junbish, amassed considerable wealth with the help of his subordinates who engaged in looting and “taxation” of local villagers. As he expanded his political base, he assassinated political rivals and in some cases, their family members. The Afghanistan Justice Project has also interviewed witnesses who have described killings carried out by Shir Arab’s men who then looted the victims’ property.⁴⁰

By 1996, Rasul Pahlawan continued to represent a significant enough threat that Dostum reportedly had him assassinated by a bodyguard in June of that year. The following year, the military bloc associated with Rasul Pahlawan under his brother Gen. Abdul Malik Pahlawan defected to the Taliban and ousted Dostum for four months (for more on this incident see case study below, “The Massacre of Taliban Prisoners in Mazar-i Sharif”). Gen. Malik’s administration, which reincorporated Jamiat, itself lasted no longer than four months, with a second Taliban attack in September 1997 during which Mazar was besieged and under bombardment for 23 days. During this period anarchy prevailed in the city with widespread looting of international agency assets and assaults of civilians, including rape. A female international agency staff member was raped by forces belonging to Hizb-i Wahdat. The Taliban were defeated and withdrew but, before doing so, killed 70 Hazara civilians at Qizilabad and around 50 Junbish prisoners at Qalai-i Kul Muhammad.⁴¹

Gen. Dostum returned from temporary exile during this conflict, but his position in Mazar was much weaker than before, with Jamiat and the two Hazara parties, Hizb-i Wahdat and Harakat-i Islami, having come to the fore. Hizb-i Islami, which had been involved with the defeat of the Taliban, was also present in the city from this juncture. Inter-party relations were exceptionally poor, and this only exacerbated the poor internal security situation. Robberies, kidnapping and sexual assaults by commanders and troops of all parties were commonplace. Mass demonstrations took place in Mazar in March 1998 to protest against the situation. This period saw the emigration of many affluent people from Mazar as a result of the lack of security.

The return of Gen. Dostum resulted in the retreat and eventual flight into exile of Gen. Malik after a short conflict in Faryab, as many of Malik’s forces switched sides and defected to Dostum. In some areas, however, Junbish troops engaged in looting and sexual violence against communities suspected of supporting Malik, many of them Pashtun. The Afghanistan Justice Project has interviewed a number of witnesses who were the victims of assault and looting by Junbish forces during this period. According to one witness, “when General Dostum defeated General Malik and captured Faryab province and Malik escaped, Dostum’s military associates looted the entire property of all Pashtuns in these areas. Some commanders of Dostum committed sexual crimes in our area.”⁴²

In March 1998 a serious conflict erupted between Hizb-i Wahdat forces from Bamyan, who had come to shore up the defense against the Taliban, and local Junbish in Hairatan. After the killing of fifteen Wahdat soldiers, Wahdat retaliated against the few remaining Junbish positions in Mazar. During the latter conflict the premises and residence of ICRC were occupied by Wahdat and used to fire at Junbish positions in adjoining buildings. The fighting was so intense it was impossible to evacuate the trapped ICRC staff until the commanders involved withdrew their forces after a truce was negotiated.

By July 1998 the Taliban had taken control of much of the area north of Herat on the main road linking it to Maimana. In August, the Taliban took control of Mazar-i Sharif.

8. The Massacre of Taliban prisoners in Mazar-i Sharif

In the weeks preceding the Taliban offensive on Mazar-i Sharif, delegations from the Taliban had carried out secret consultations with General Pahlawan Malik, Dostum's deputy and bitter rival.⁴³ Malik, together with Qari Alam Rosekh, Gen. Majid Rozi, and Ghafar Pahlawan met with Mulla Abdul Razzaq and Mulla Ghaus of the Taliban in Badghis.⁴⁴ The leaders signed a protocol, the precise terms of which are not clear, but for Malik it provided the means to mount a coup against Dostum.

On the night of 22 May 1997 [5 *Jaoza*] fighting broke out between General Dostum's forces and the Taliban in Andkhoy and Khwaja Dokoh. Massoud had sent in reinforcements, but the United Front forces took heavy losses, and Dostum retreated the next day to Mazar-i Sharif, and then left Afghanistan through Uzbekistan to Turkey. According to a witness interviewed by the Afghanistan Justice Project who was present at the time, after Dostum had fled, Malik ordered the transport of Taliban commanders from Qandahar to Shiberghan and Mazar-i Sharif, using Dostum's air force planes. The witness stated that he saw the transport of hundreds of Taliban in planes to Mazar-i Sharif and Shiberghan.⁴⁵

On May 25, the Taliban entered the city and began closing schools and offices, and using the mosques to announce the imposition of Sharia law. However, by the night of May 28 they were facing resistance particularly in Hazara sections of the city, with street battles between Taliban troops and local Wahdat commanders as well as armed Hazaras. At this time, Hizb-i Wahdat forces were in their core areas of the north-east and east of the city. Their military and political headquarters was in Syedabad in the north-east, with a small contingent of troops dotted around the city, most notably in the west at Zirra'at, but no major concentrations of forces. Hizb-i Wahdat, along with Jamiat and Harakat, had evacuated most of their senior and middle-ranking political and military figures and forces after Malik's coup. The fighting was undertaken by small commanders.

On May 30, Taliban commanders Razzaq, Fazl Ahmad, the deputy foreign minister, and Gen Gailani met for further negotiations with Gen. Malik, Ghaffar Pehlwan, and others loyal to Malik, in the presence of the Pakistan ambassador. The Taliban commanders demanded that Malik hand over 15,000 guns. Malik refused.⁴⁶ According to Malik, the Taliban announced that they had "driven Massoud from Kapisa and Parwan—the protocol is over."⁴⁷

On the night of May 30 fighting broke out in the Hazara neighborhoods of Syedabad. Armed Hazara men, some of whom were regular Wahdat fighters, ambushed Taliban fighters who were taken by surprise and trapped in an unfamiliar city. Malik then also turned against the Taliban, and the Junbish forces fighting under Malik captured thousands of Taliban soldiers and imprisoned them in Maimana, Shiberghan and Mazar-i Sharif. Some who were taken into custody in Mazar-i Sharif were summarily executed there.⁴⁸ How many were imprisoned by Hizb-i Wahdat is not clear. One Taliban witness interviewed by the Afghanistan Justice Project who was taken into custody along with twenty-seven of his colleagues identified Gen. Gul Mohammad Pahlawan, Malik's brother, as one of the senior commanders taking prisoners.⁴⁹

Most of the captured Taliban and foreign fighters were executed by Malik's forces in Mazar-i Sharif, Shiberghan and Maimana in May-June 1997 in the single largest known massacre of prisoners by any of the parties to the Afghan conflict. The precise number of prisoners massacred is not known. One humanitarian agency staff member familiar with the incident told the Afghanistan Justice Project that "at least" 3,000 were killed.⁵⁰ In addition to Taliban soldiers,

Malik took into custody a number of Junbish commanders and prominent leaders, including Ghulam Haidar Jowzjani, who was taken prisoner in Mazar-i Sharif and whose body was found in Maimana; Salam Pahlawan from Shiberghan; and Shiberghan's most prominent elder, Rais Omar Bey, who was killed in Shiberghan.⁵¹

One former Taliban driver who was taken into custody by forces allied with Malik gave this account:

I am from Qandahar province [name of village withheld]. When we got to Shiberghan we established a base there, then moved into Mazar-i Sharif once fighting began between Malik and the Taliban. As the fighting esalated, I went with two of the mullahs to leave Mazar. We were moving toward the airport when we were attacked. They were killed. I was captured. Many senior Taliban were killed; others surrendered. Commander Zahir, who was with Malik, took us to a prison in Mazar. We were very crowded, we couldn't move. There was little food. Sometimes we caught birds and ate them. Sometimes they beat us. They beat me on the genitals so severely, I am impotent. Some died from the beatings. The ICRC came and gave food sometimes. One night, men in military suits came and shouted at us, "who is from Qandahar?" They separated us. They said there was going to be a prisoner exchange. They took our pictures. They tied our hands and put us in a big container. The container I was in was full. We were kept in the container all day, until the next night. Some of the men inside died. They drove out of Mazar. Then the truck got stuck. They opened the door. We were in the desert. They took us out in groups of 30 at a time every ten minutes. They tied the prisoners together and shot them. We were still in the truck and we could see it through small holes in the container. When they shot them they revved the engine loudly. I was in the last group. I prayed to God. We resisted when they came for us but they pushed us outside. We stood in 3 lines, on in front of the other. When they started shooting I just fell down and others fell on top of me. Then I heard someone say let's shoot each of them in the head. But I was under the others so they did not shoot me. Then they turned the car lights away to get the truck unstuck. When they were working on the truck I asked if anyone else was alive. There were three of us, but one was injured and we could not help him. When Malik's men left two of us went to Tashkurghan and then to Kunduz. Mullah Dadaullah and Mullah Baradar [two senior commanders who were responsible for a number of massacres in 1998-2001, see below) were in Kunduz. Then we were sent to Qandahar.⁵²

Another survivor stated that he was captured along with 28 others while at the airport.

They beat us and took us to a prison in Shiberghan. In the prison there were 150-200 people in each room. There was little food, just rice sometimes. Sometimes we were taken outside to a walled area. I was there for two weeks. Then they took us to Maimana prison. There were four Taliban ministers there: Mullah Mansoor, minister for air defence, Mullah Abdul Razzaq, interior minister, Mullah Mansadeq, secretary to Mullah Rabbani and Mullah Haji Fazl Mohammad, deputy foreign minister. They were transferred to Faizabad, where Rabbani maintained his office. The commanders there told me there were 700 of us there in Maimana. One day we were told to assemble for a prisoner exchange. The Qandaharis were put to one side. A lorry came and took thirty of them. The guards told us, "They have been sent home." This happened two or three times a week. A week after that, one of the soldiers we had gotten close to told us, "We have killed all of your men." I knew one of the generals there, and he protected me and a few others – we knew each other from school. When Dostum returned, there were 130 of us left, out of 700, in Maimana. We were brought to Shiberghan. There was a

prisoner exchange with the Taliban, and in September or October they sent us to Qandahar.⁵³

The Office of the High Commissioner for Human Rights sent two preliminary forensic investigations to the sites where there were remains of the executed Taliban prisoners, including a desert site in which the bodies of executed soldiers were visible, with their hands tied behind their backs, and a site at nine wells in which there was evidence that hundreds of prisoners had been forced down the wells. However a full exhumation and investigation never took place.

9. Summary executions of civilians by the Taliban during military operations in Sar-i Pul Province, 1999 – 2000

This dossier documents war crimes committed by the Taliban against the civilian population of Gosfandi District during “counter-insurgency operations” in the wake of resistance to Taliban occupation during the period 1998 - 2001. The actions against civilians accompanied military operations against the resistance fighters. However resistance military proved elusive and repeatedly withdrew from contested positions, leaving the civilian population vulnerable to reprisal attacks by the Taliban. From January to March 2000, Taliban carried out five massacres of civilians in Gosfandi, killing 96 people.

In all five cases, the killing was carried out by firing squad. The victims were first taken prisoner, their hands were tied, and they were then taken out to be shot. These specific massacres are in addition to a large number of other scattered incidents of summary execution and other forms of abuse by the Taliban during their occupation of Gosfandi.

The massacres were ordered and supervised by senior Taliban commanders, who were operating in the area as part of the Taliban strategy to suppress possible opposition. The senior Taliban directly implicated in the five massacres include Mullah Abdul Manan Hanafi, front commander, Aminullah Amin, his deputy, Mullah Abdul Sattar Lang, a senior commander and Mullah Wali Jan, a provincial governor and field commander. The senior Taliban commanders were assisted in the operation by a number of local commanders affiliated to the Taliban, who clearly had knowledge of the massacres and whose actions, for example in conducting mass arrests, contributed to the killing of the civilians.

The series of massacres, taking place over a two month period indicate that the abuses against the civilian population were systematic, repeated and part of a general campaign of collective punishment on civilians in areas that had surrendered to the Taliban but which continued to provide a base for resistance activity. This pattern of abuse was consistent with a doctrine of presumed complicity: the Taliban held all civilians responsible for the activities of armed groups operating from their areas.

In addition to the massacres, other abuses during the Taliban occupation and counter-insurgency included arbitrary arrest of civilians, summary executions, forced displacement and confinement to improvised detention camps, house burning and use of excessive force including aerial bombardment of residential areas including areas settled by civilian refugees. These abuses resulted in a substantial number of casualties.

Narrative of the conflict

The district of Sangcharak was controlled by the Junbish-i Milli administration of north western Afghanistan until August 1998. At that time, the district administration came under the control of the Taliban along with Mazar-i Sharif and the rest of the Junbish territories. The district population is a complex mix of Uzbek, Arab, Tajik, and Hazara and Syed Shia, with a Pushtun minority. The Taliban established an administration by placing core Taliban figures (from south western Afghanistan) in senior positions, and inducting sympathetic local commanders into junior positions, up to the level of district governor. Although Sangcharak had been a single district pre-war, during the war, separate district administrations had been established in Gosfandi and Toghzar.

During their initial occupation of the north west, the Taliban failed to move into Balkhab District, in the south of Saripol Province. This is a remote, mountainous district, which had been one of the main political and cultural centers for the Shia population in northern Afghanistan, during the war. It is inaccessible by road in winter. The district emerged as a secure base and center for anti-Taliban resistance in the north west. Numerous mujahidin and militia commanders who were unwilling to accommodate with the Taliban congregated in Balkhab, and the United Front maintained a tenuous logistics line, via helicopter, from their bases in north eastern Afghanistan. Significant commanders from Sangcharak, who established themselves in neighbouring Balkhab, were the brothers of Junbish commander Abdul Chirik (Haji Amiruddin and Kamal Khan), and Mawlvi Zareef and Abdul Rahim of Jamiat. During the winter of 1998/99 (equivalent to 1377), the Balkhab based anti-Taliban resistance launched a campaign to expel the Taliban from Sangcharak. The pattern of abuses committed by the Taliban occurred in the context of a “counter-insurgency” operation in which they both targeted the civilian population of areas where resistance fighters were presumed to have been active and tolerated excesses committed by Taliban-affiliated commanders against their local rivals.

The attack conducted by the resistance in Saripol was launched on December 1, 1998. But the resistance was militarily weak. They were able to overwhelm local Taliban defences but unable to hold fixed positions against a sustained Taliban counter-attack, and were quick to withdraw themselves into more secure positions in the mountains when the Taliban brought in reserves. This was the context in which the Taliban undertook numerous abuses against the civilian population in 1999 and 2000, as the Taliban punished civilian elders for the raids conducted by highly mobile resistance groups.

In May 1999, the Taliban assembled a major force, again under Mullah Baradar, to capture Balkhab. Baradar was accompanied by Mullah Fazl Mazloom, chief of army staff. The Taliban failed to capture Balkhab. Mullah Baradar withdrew his expeditionary force from the area in June 1999, leaving the resistance free to counter-attack into Sangcharak. To the north east, the resistance moved quickly and immediately reoccupied Ab Darra and Amrakh. They also launched an opportunistic attack on Baloch, on the other side of Abdugan and took it. This time they attacked Ab Khor, via Ab Darra. Again they pushed through as far as Gosfandi. However, they only held onto it for about 10 days, before being pushed out by the Taliban again. The largest number of Taliban abuses against the civilian population in Sangcharak occurred in the clean-up operation they launched after retaking Gosfandi for the second time, in the winter of 1999/2000. The resistance forces held onto Ab Darra and Amrakh, adjoining Ab Khor, at the south eastern limit of Sangcharak. But the Taliban retook the main populated areas and conducted a counter-insurgency campaign, lasting until approximately June 2000. After the Taliban capture of Ab Khor, part of the civilian population sought refuge with Mawlvi Zareef in Ab Darra and Amrakh. The resistance did not again pose a significant military threat to the Taliban, until the return of General Dostum, in April 2001, when he revived the Saripol front and launched his offensive on Zari.

National level Taliban commanders responsible for the massacres

Mullah Abdul Mannan Hanafi was the Taliban front commander in Gosfandi/Ab Khor for a period of about six months (including at the time of the clean up operation in January – March 2000. As the front commander he had authority over all the Taliban combat forces operating in Gosfandi at that time and had prime responsibility for the series of massacres documented in the report. In particular, an eyewitness identified Hanafi as having issued the order for the Khassar elders massacre. He was sitting in a vehicle, eating fruit, when the elders tried to approach him. Instead of seeing them, he ordered his deputy to take them away and shoot them.

Mullah Wali Jan, Taliban Provincial Governor (of Jowzjan), was present during the Gosfandi operation. Several of the witnesses name him as one of the commanders who supervised the killings.

Mullah Abdul Sattar, senior Taliban commander from South West Afghanistan, supervised the killing of the nine Ab Khor prisoners at Achaber, according to several witnesses.

Aminullah Amin, of Chaman, was known as the deputy director intelligence for Sar-i Pul, functioning as the deputy of Abdul Manan Hanafi. He was involved in the Khassar elders massacre, as he took an order from Hanafi, intercepted and arrested the group, and took them to be killed.

Local commanders affiliated to the Taliban played a subordinate role in the massacres, by rounding up prisoners to be shot and generally acting under the supervision of Hanafi and the senior Taliban. These commanders included : **Mullah (Janat) Meer** and **Khaliq**, local Pushtun commanders of Alghon village, affiliated to the Taliban, participated in the Dalwa Hut operation in Ab Khor, acting under orders of Sattar and Wali Jan, according to witnesses. Comm.

Mohammad Meer son of Baz Aka, Comm. **Janat Meer** of Alghon and Comm. **Abdullah** of Malakan facilitated the Abkhor – Khassar massacre by instructing displaced villagers to return to their villages, before the round-up and by then conducting the filtering process.

Detailed analysis of massacres conducted by the Taliban in Gosfandi, during the January – March 2000 clean-up operation.

The Khassar elders massacre of February 12, 2000

After the resistance forces led by Mawlvi Zareef and others had retreated from Gosfandi for the second time and the Taliban forces were conducting a clean-up operation, a group of elders from Khassar Village decided to meet with the senior Taliban to seek security guarantees for the civilian population. Agha Dekhan led the delegation. Abdul Manan Hanafi (front commander, also referred to as governor) was the senior most Talib in the area. He was accompanied by his deputy Aminullah Amin. Hanafi refused to see the elders. He sent Amin to arrest them and have them executed. Amin intercepted the group and took them to Boldiyon where a group of Taliban shot them in a firing squad. One member of the delegation, who later recounted what had happened, slipped away from the group before the others were arrested.

The Ab Khor - Achaber massacre, February 2, 2000 (the killing of nine Ab Khor prisoners by firing squad)

On February 2, 2000, the Taliban summoned a gathering of villagers at Ab Khor in the Agha Shahansha mosque. They called on people to surrender weapons, whereupon some men brought and handed over weapons. (The Taliban traditionally “disarmed” an area in this fashion: demanding a quota of weapons, without targeting only fighters for the request). According to local witnesses, the active United Front fighters had already left (with their weapons). The Taliban then arrested ten of the men, all civilians, and took them to Mawlvi Zareef’s mosque, where they were held over night. After morning prayers the Taliban tied the prisoners’ hands using their turbans and loaded them into pick-up trucks.

The senior Taliban present in the execution party were Mullah Abdul Sattar Lang and Mullah Malang. They unloaded the prisoners at Chapa Gardana, near Achabor. There the Taliban fired

on the group of prisoners using automatic weapons. There was one survivor from the firing squad, H. He escaped after receiving three bullet wounds and was sheltered by local people. He provided the account of the incident.

The Yoltorob massacre, February 5-10, 2000 (killing of 22 people of Yoltarab by firing squad)

Upon entry to Yoltorob, the Taliban went to the village mosque, where they were fed. They then conducted a search of houses. They rounded up some 90 adult males from the village, and held them in the house of Hatam Bay. They then screened the detainees, releasing elders, and holding approximately 26 of the men. They detained them for one night in a house in the village. The next day, a group of five Taliban took the detainees to a site at Tatar village. They lined them up beside a ditch and then shot them. Four of the prisoners who were shot in the firing squad survived after being wounded and left for dead.

The Sayyad massacre, March 26, 2000

Residents of Sayyad reported that on March 26, 2000, during the Taliban clean-up operation in Gosfandi, the Taliban summarily executed twenty-two people from Sayyad, in four different locations, Jar-e-Shorab, Jar-e-Bator, Sayyad village and Bashom Aikashom. The names of victims given by the Sayyad residents include men and women aged from 14 to 65.

The Jar-e-Rajab massacre, March 28-29, 2000 (25 prisoners from Ab Khor killed by firing squad at Jar-e-Rajab, Khassar)

After the Taliban had successfully occupied the Ab Khor valley, they encouraged the civilian population to return their villages. They detained twenty-five men. The Taliban then tied the prisoners' hands and transported them to Khassar village where they executed them by firing squad. Subsequently people of Khassar found and buried the bodies

Summary executions in Ismail, Shahmard and Boldiyon during February – March 2000

After the retreat of the opposition from Ismail, six elders of the area went to meet the Taliban. They met a patrol of Taliban fighters in the village. The mullah introduced himself and was shot dead. The other five men were interrogated. Those who called themselves Hazara were killed in the spot. These were Baz Mohammed son of Murad and Gul Bai, son of Qurban. The other three, who called themselves Syeds or Tajiks, were spared.

10. The Taliban Offensive in Shamali 1996-2001, with a focus on summary executions in 1999

In the course of the conflict in the Shamali Plain, the Taliban systematically engaged in abuses against the civilian population, and breaches of the rules of war with regard to protection of *hors de combat* soldiers. The abuses continued throughout the period, intensifying during and immediately after major offensives launched by the Taliban. The most serious abuses of which the Taliban stand accused in Shamali include:

- Wanton destruction of civilian infrastructure, including housing, orchards and irrigation systems.
- Forced displacement of the civilian population, contributing to an exodus of in the order of 300,000 people from the Shamali Plain.
- Arbitrary detention of civilians from the Shamali Plain.
- Summary execution of civilians and surrendered combatants.
- Excessive use of force in artillery bombardments of predominantly civilian areas, causing avoidable casualties, further damage to the civilian infrastructure, and involuntary displacement.

The Afghanistan Justice Project dossier includes testimony referring to all five patterns of abuse. However, the main focus of the dossier is on one of the abuses, concerning summary executions of civilians and surrendered troops, during the abortive Taliban offensive of August 4-5, 1999 (11th and 12th of the month of Asad, year 1378, by the Persian calendar).

Context

The Shamali is a plain that stretches some seventy kilometers from the outskirts of Kabul in the south, to the foothills of Salang in the north. It assumed a major significance in the wake of the Taliban capture of Kabul in 1996, because it represented the only frontline where the United Front opposition to the Taliban could pose a military threat to the capital. However, aside from its military significance, the Shamali Plain also includes major human settlements, with an estimated population of 643,000 in 1996.

The encounter between the Taliban and the United Front in the Shamali Plain gave rise to the most protracted conflict of the Taliban period. The conflict commenced with the Taliban capture of Kabul in September 1996 and continued until the Taliban retreat from Kabul in November 2001. The two sides contested the Shamali Plain throughout this five year period. The conflict alternated between periods of major offensives, in which front lines sometimes moved rapidly, and periods of stalemate, in which the two sides were dug into static front lines traversing the Shamali.

The conflict in Shamali was a high profile one, on which both main protagonists focused a substantial proportion of their military resources. They both also projected their version of events and highlighted alleged abuses conducted by the other side. The international community remained engaged in relation to the conflict, maintaining a presence on both sides of the front lines, delivering humanitarian assistance and condemning the most grievous abuses, as they came to light. In particular there was widespread international condemnation of Taliban “scorched earth” type tactics of destroying infrastructure and expelling population.

Details of main incidents

All Taliban offensives in Shamali, after their initial advance in 1996, were accompanied by widespread abuses, amounting to a pattern of deliberate targeting of the civilian population. The Afghanistan Justice Project dossier focuses on a small number of specific incidents, in the frontline districts of Bagram, Kalakan, Qarabagh and Mirbacha Kot, for which detailed testimony is available and for which victims and locations have been identified. These incidents are illustrative of the nature of one component of the pattern of abuse, summary executions. They do not indicate its scale. Taliban executed a total of 71 civilians and surrendered combatants in the specific incidents described. However, total deaths through excess force and summary executions in these frontline districts, in the 1999 offensive alone, were several times this number. Similarly, the eye witness testimony focuses on the issue of summary executions; but this was only one form of abuse, alongside the more widely publicized wanton destruction etc.

- **Bagram District**

On August 3, 1999, a group of Taliban, acting under direct instructions from a senior commander, summarily executed a group of 11 captured personnel of the Bagram Airbase, at Bareek Ab, in the Dasht Chirchirik plain. Victims had their hands tied and were under armed guard at the time of their execution. On the same day, also in the Bagram sector, Taliban troops also summarily executed two local barbers close to the airbase, and nine other prisoners, in the Dasht Chirchirik.

- **Kalakan District**

After the winding down of the main Taliban offensive, on September 9, 1999, Taliban summarily executed seven civilians in Qachi Village, of Kalakan District. A group of Taliban entered a vineyard where a group of women were working. They shot and killed Bibi Kishwar, wife of Ghulam, age 30 years, two other women and four children.

- **Qarabagh District**

At 11 a.m. on August 3, 1999, a party of Taliban entered the village of Allah Ram of Qarabagh District. The population of the village was intact. They rounded up sixteen men, tied them up and took them to a dried up river bed close to the village. There a party of Taliban summarily executed all sixteen men, by Kalashnikov fire.

- **Mir Bachakot**

During their one day occupation of Mirbacha Kot district headquarters, August 2-3, 1999, the Taliban summarily executed, by shooting with Kalashnikov at close range, some 26 civilian men, outside the district offices and the fertilizer store. People searching for missing relatives found the victims in the centre of the district the evening of the Taliban withdrawal. They were able to identify most of them as local residents. The Taliban arbitrarily detained male civilians during their occupation of Mirbacha Kot. Testimony described how they held one such group of 16 men in Kabul, for several months after the operation, subjecting them to torture and cruel and degrading treatment, including protracted, severe beatings.

The Afghanistan Justice Project Shamali dossier is based on:

- Eye witness testimony, gathered in situ, in the form of 30 interviews with survivors, relatives of victims, local officials and former combatants of both sides.
- Site inspections
- Background reports on the command structure and Taliban organization, supported by Taliban insights into how the abuses occurred.
- Photographs of massacre sites

- Diagrams of key locations
- Contemporary media and humanitarian reports

Command structure and key figures implicated

The senior field commanders in the Shamali, during the 1999 offensive, were **Mullah Dadaullah** (commanding forces which advanced along the “New Road” to Bagram) and **Mullah Fazil** (commanding forces which advanced along the “Old Road” to Mirbacha Kot. As the commanders in the field, directly supervising the troops engaged in abuses, these two bear a high degree of the command responsibility. One eye witness, who fought with the Taliban specifically implicates Mullah Fazil as supervising the wanton destruction of civilian infrastructure. On August 10, 1999, this commander went for a meeting with Mullah Fazil, near the front line, in Kalakan District. He observed widespread, deliberate destruction to houses and shops in the area. Fazil was in the field, supervising demolition operations. There have been conflicting reports that Mullah Fazil was taken into U.S. custody in November 2001.

Mullah Baradar, deputy to the Taliban Chief of Army Staff is accused in testimony of personally ordering and over-seeing one of the massacres, the summary execution of the eleven air base personnel at Dasht Chirchirik on August 3, 1999.

Afghanistan Justice Project

War Crimes in Afghanistan

2005

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Massacres by the Taliban

Qaisar 1997; Mazar-i Sharif 1998; Sar-i Pul 1999-2000; Robatak 2000; Bamyan 1999; Yakaolang 2001, Bamyan 2001, Kataghan 1998-2001

The burnings and deliberate destruction:

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Endnotes

¹ Daoud had himself come to power in a coup, seizing power while then King Zaher Shah was out of the country in 1973. Daoud had initially courted the Parcham wing of the PDPA, which had supported his coup, but he had subsequently distanced himself from them and had had many Parcham leaders arrested. The death in custody of a prominent Parcham leader provided the spark for the Saur coup. Rubin, *Fragmentation of Afghanistan: State Formation and Collapse in the International System* (Yale University Press: 1996), pp. 93, 104-105.

² The PDPA's intelligence agency was AGSA, a Pashto acronym for the Organization for the Defense of the Interests of Afghanistan. After Amin assassinated the president, Nur Muhammad Taraki, in September 1979 and took power, he reorganized the agency and named it KAM (Workers' Intelligence Agency). Rubin, *Fragmentation*, p. 114.

³ According to Giustozzi, out of the original 18,000 members of the party, and the 28,000 that joined before the end of 1979, half had died or had been purged by the time the Soviet Union invaded. Antonio Giustozzi, *War, Politics and Society in Afghanistan 1978-1992* (Washington DC: Georgetown University Press, 2000, p. 4).

⁴ In September 1979, Amin assassinated the president, Nur Muhammad Taraki, and became president.

⁵ Stuart Auerbach, "Rebellion against Afghan leadership is said to intensify," *Washington Post*, April 23, 1979.

⁶ It is impossible to estimate accurately how many died. Afghans who had lived in Herat at the time told the Afghanistan Justice Project that "10,000" people died—a figure repeated frequently enough to indicate it had become the accepted figure. Anthony Hyman states that 5,000 resistance fighters and civilians were killed by bombing and strafing. Anthony Hyman, *Afghanistan Under Soviet Domination 1964-83* (New York: St. Martin's Press, 1984), p. 100.

⁷ Rubin, *Fragmentation*, pp. 114, 122.

⁸ "Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited. . . . Indiscriminate attacks are prohibited. Indiscriminate attacks are (a) those which are not directed at a specific military objective; (b) those which employ a method or means of combat which cannot be directed at a specific military objective. . . . Among others, the following types of attack are to be considered indiscriminate: (a) an attack by bombardment by any methods or means which treats as a single military objective a number of clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects; and (b) an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated." This last is known as the rule of proportionality. 1977 Geneva Protocol I, Chapter II, Article 51. Afghanistan has not ratified Protocol I; however, the standards it provides for the conduct of internal armed conflict have been generally accepted as part of customary international laws governing armed conflict.

⁹ See Human Rights Watch. *The Forgotten War: Human Rights Abuses and Violations of the Laws of War since the Soviet Withdrawal* (New York: Human Rights Watch 1991).

¹⁰ The relationship between the CIA and the ISI, and the ISI's preference for certain mujahidin groups over others has been documented by a number of sources. See for example Steve Coll, *Ghost Wars* (New York: Penguin Press, 2004), Human Rights Watch. *The Forgotten War*, pp. 125-130; and Rubin, *Fragmentation*, pp. 196-215.

¹¹ Virtually all of Afghanistan's neighbors were assisting favored factions with arms and other support, even as they called for an end to the fighting.

¹² Afghanistan Justice Project interviews with former commanders.

¹³ Afghanistan Justice Project interview with commander present at the time.

¹⁴ 1977 Geneva Protocol I, Chapter II, Article 51. Afghanistan has not ratified Protocol I; however, the standards it provides for the conduct of internal armed conflict have been generally accepted as part of customary international laws governing armed conflict.

¹⁵ Afghanistan is a party to the Geneva Conventions. Common Article 3 to the Conventions is automatically applicable as soon as an internal armed conflict exists within any party to the conventions. It imposes binding legal obligations on the parties to the conflict for the protection of persons who are *hors de combat*, including civilians, prisoners and other non-combatants. It prohibits "1. violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; 2. taking of hostages; 3. outrages upon personal dignity, in particular humiliating and degrading treatment; 4. the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples."

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- ¹⁶ Rape is a violation of the 1949 Geneva Conventions, the 1948 Genocide Convention, the 1984 Torture Convention, and a crime against humanity under the Nuremberg Charter. In June 1996, the U.N. International Criminal Tribunal for the Former Yugoslavia announced the indictment of eight Bosnian Serb military and police officers in connection with rapes of Muslim women in the Bosnian war, marking the first time sexual assault has been treated separately as a crime of war.
- ¹⁷ “Afghan Leader, Sworn In, Appeals for Unity,” *New York Times*, January 3, 1993.
- ¹⁸ Interviews with former commanders.
- ¹⁹ “Scores Killed as Factional Battles Devastate Afghanistan’s Capital,” *New York Times*, June 3, 1994.
- ²⁰ Afghan Army Ousts Foes from Capital; *New York Times*, June 27, 1994.
- ²¹ These events are described in detail in Anthony Davis, “How the Taliban became a Military Force, in William Maley, ed., *Fundamentalism Rereborn? Afghanistan and the Taliban* (Lahore: Vanguard Books, 1988), pp. 50-53.
- ²² See Human Rights Watch, *Pattern of Impunity*. (NY: Human Rights Watch, July 2001).
- ²³ These incidents are analyzed in Human Rights Watch, “Massacre in Mazar-i Sharif,” (NY: Human Rights Watch, October 1998).
- ²⁴ Other accounts have placed the incident in April.
- ²⁵ Afghanistan Justice Project interviews in Pakistan.
- ²⁶ Rubin, *Fragmentation*, p. 249.
- ²⁷ Asia Watch, *Afghanistan: The Forgotten War. Human Rights Abuses and Violations of the Laws of War since the Soviet Withdrawal* (New York: Human Rights Watch, 1001), pp. 101-108.
- ²⁸ Military assessment by Afghanistan Justice Project.
- ²⁹ From interviews with former commanders and other eyewitnesses, including former residents of Afshar.
- ³⁰ Shah was arrested in Kabul in April 2002 and charged with a number of crimes, including some war crimes from this period. He was executed on April 19, 2004. He had told human rights investigators that Sayyaf was in direct communication with senior commanders during all operations, and that he would be willing to show them the sites of mass graves of victims from Afshar and other operations at Sayyaf’s headquarters in Paghman. Under apparent pressure from Sayyaf, and despite appeals by human rights groups that Shah’s trial did not accord with international standards of due process, President Hamid Karzai signed the order for Shah’s execution.
- ³¹ Interviews with former commanders and intelligence operatives, 2003-4.
- ³² Interview with former commander, 2004.
- ³³ Interviews with former commanders and intelligence operatives, 2003-2004.
- ³⁴ Ibid.
- ³⁵ Interviews conducted by the Afghanistan Justice Project.
- ³⁶ Interview with commanders and other witnesses, 2003-4.
- ³⁷ Rubin, *Fragmentation*, p. 160.
- ³⁸ Ibid.
- ³⁹ Afghanistan Justice Project interview.
- ⁴⁰ Afghanistan Justice Project interviews with witnesses November 2003, and with political analyst June 2004.
- ⁴¹ Afghanistan Justice Project interviews with political analyst 2004.
- ⁴² Afghanistan Justice Project interview October 2003.
- ⁴³ Malik has long alleged that Dostum had Malik’s brother, Rasul Pahlawan, assassinated in June 1996.
- ⁴⁴ Afghanistan Justice Project interview 2004.
- ⁴⁵ Afghanistan Justice Project interview with witness 2004.
- ⁴⁶ Gen. Raouf Begi “From the victory of the Islamic Revolution to the fall of Mazar to the Taliban” (Farsi).
- ⁴⁷ Interview with Gen. Abdul Malik Pahlawan, April 21, 2004.
- ⁴⁸ Interviews with local commanders and Taliban survivors..
- ⁴⁹ Afghanistan Justice Project interview with former Taliban official.
- ⁵⁰ Afghanistan Justice Project interview 2001.
- ⁵¹ Afghanistan Justice Project interview 2004.
- ⁵² Afghanistan Justice Project interview with survivor, December 2003.
- ⁵³ Interview in December 2001.