



Refugee Documentation Centre (Ireland)
LEGAL AID BOARD

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Treatment of ex-members of Hizb-e-Islami by government in Afghanistan.

A report published by the *RAND National Defense Research Institute*, in a chapter titled “Reintegration Procedures” (Chapter Two), states:

“In 2010, the Afghan government approved the Afghanistan Peace and Reintegration Program to ‘encourage Taliban fighters and leaders, previously sided with armed opposition and extremist groups, to renounce violence and join a constructive process of reintegration to benefit from a chance at peace and sustained governance and economic development.’ In addition, ISAF created a Force Reintegration Cell to help facilitate the delivery of policy, resources, and capabilities in support of reintegration. ISAF Joint Command had the responsibility to operationalize reintegration and to help synchronize efforts from the Afghan government, ISAF, United Nations Development Program, and other entities. However, the operational and tactical capabilities of these organizations are limited, and ISAF units on the ground may face reintegration opportunities that require an immediate response.” (RAND National Defense Research Institute (July 2011) *Reintegrating Afghan Insurgents*, p.11)

Paragraphs 18 & 19 of a judgment by the *UK Court of Appeal* states:

“Ground 5 relates to the Tribunal’s finding at paragraph 135 that there is no satisfactory evidence that someone who has been involved with Hizb-i-Islami will always be regarded as a member. It is submitted that this is an unreasoned departure from what was expressly accepted in the 2004 Country Guidance case of RS, and from the evidence of Dr Giustozzi, who stated that only those who publicly renounce the leader, Hekmatyar, such as the Faruq wing of Hizb-i-Islami, are deemed no longer to support the party. I agree with Dyson LJ that the Tribunal was entitled to express the view it did and to refer to the fact that some former members of Hizb-i-Islami were MPs as illustrative evidence that someone who has been involved with the party will not necessarily always be regarded as a member. I do not read Dr Giustozzi’s evidence as being inconsistent with the points made by the tribunal.” (UK Court of Appeal (England and Wales) (23 July 2008) *SU & PM (Afghanistan) v. Secretary of State for the Home Department*)

A report published by the *Combating Terrorism Center* states:

“There was never a legal bar on regime members taking public roles. For example, a former Taliban deputy minister and a former envoy of Gulbuddin Hekmatyar (a former Taliban rival whose faction of Hizb-i-Islami has joined the insurgency in a loose alliance) were appointed to the Senate. In the 2005 National Assembly elections, at least two former regime members were elected to the lower house. Soon afterward, a group of Hizb-i-Islami claiming

to have split with Hekmatyar registered as a political party (Hizb-i-Islami Afghanistan), boasting more than 30 supporters in the lower house (of 249 seats). Many other 'former' members of Hizb-i-Islami, a grouping always dominated by professionals and technocrats, took powerful positions in the administration. These examples highlight the complex web of overlapping identities and shifting allegiances that has characterized the post-2001 government." (Combating Terrorism Center (15 August 2009) *A Review of Reconciliation Efforts in Afghanistan*)

A report from *Al Jazeera*, in a paragraph titled "Reaching out", states:

"Karzai has reached out to Hezb-i-Islami indirectly in the past and he included a former member in his latest cabinet reshuffle, but the delegation this week appears to be one of the most senior to participate in direct talks, Reuters said. Hezb-i-Islami is one of the three groups that Nato forces recognise as the main insurgent factions, led by Hekmatyar, a veteran anti-Soviet guerrilla commander, civil war faction leader and former prime minister. They have long fought Nato and Afghan government forces in the east and in pockets in the north. The group has in the past claimed to share some aims with the Taliban, but has remained separate. In recent months the Taliban has made some gains in areas controlled by Hezb-i-Islami. Karzai has consistently made overtures to the Taliban to end their armed struggle, and the West has been increasingly supportive of proposals to lure fighters back into the political process in a bid to end years of fighting." (Al Jazeera (23 March 2010) *Afghan group on 'Kabul mission'*)

An article from *The Guardian* states:

"Hezb-i-Islami is allied to the Taliban and is dominant in the east of the country. Over the years it has claimed responsibility for some of the most deadly and spectacular attacks on Kabul, including a brazen attempt to assassinate Karzai during a military parade in 2008. Although Hekmatyar has a reputation as an unbending radical Islamist, in recent months it has been rumoured that he is keen to strike a power-sharing peace deal with the government. Some analysts have suggested that the overture from Hekmatyar could indicate that Hezb-i-Islami's alliance with the Taliban movement led by Mullah Omar could be fraying. Two weeks ago the two groups clashed in Baghlan province, leading large numbers of Hezb-i-Islami fighters to defect to the government." (The Guardian (22 March 2010) *Karzai reveals talks with Afghan rebels*)

A *Reuters* report states:

"Afghan opposition figures including some former Taliban members plan to meet in the Maldives this week for talks ahead of a traditional government-organized 'loya jirga' meeting later this month. The Maldives meeting follows a similar gathering this year by some Afghan lawmakers, ex-Taliban officials and former members of Hezb-i-Islami, which leads an insurgency separate from the Taliban against the government and foreign troops." (Reuters (20 May 2010) *Afghan opposition to hold talks in Maldives*)

An article from *The Telegraph* states:

“The council is widely predicted to be led by Burhanuddin Rabbani, the former Afghan president and Mujahideen leader who organised Mr Karzai's peace jirga, or summit, in June. Former members of the Taliban regime and its Hizb-i-Islami insurgent allies are also expected to be included when the full membership is announced next week. The peace council was endorsed at the jirga of politicians, religious leaders and tribal figures from across Afghanistan. Mr Karzai has said he will negotiate with any insurgents who accept the Afghan constitution and sever links with al Qaeda.” (The Telegraph (4 September 2010) *Hamid Karzai sets up 'peace council' to pursue talks with the Taliban*)

A report published by the *Afghanistan Analysis Network*, a Kabul-based think-tank, in a section titled “Mistrust and dishonour” (section 2.2), refers to the treatment of former militants as follows:

“After 2001, senior Talibs who approached the Afghan government were in many cases arrested, in contravention of informal or local amnesties, and detained in Afghan or American prisons such as Bagram or Guantanamo. Many allege that they were mistreated or subjected to torture. Lower level Talibs detained more recently also that they were tortured while in Afghan custody, and Canadian officials based in Kandahar have said that it was ‘standard operating procedure’ for Afghan interrogators. Unsurprisingly, therefore many current Taliban fighters are distrust of purported amnesties, and fear incarceration and mistreatment.” (Afghanistan Analysis Network (22 April 2010) *Golden Surrender? The Risks, Challenges, and Implications of Reintegration in Afghanistan*, pp.5-6)

This report also states:

“Many also do not believe that the government will honour its promises of assistance or protection, which is partly attributable to the failure of PTS. For example, since 2007 the PTS programme for the southern region issued ‘reconcilees’ with certificates entitling them to a small plot of land, but this has never been honoured, and little or no effort has been made to provide them with jobs or protection. As the US military acknowledges, ‘unprotected, poorly prepared, or poorly treated former insurgents will become powerful IO [information operations] opportunities for the insurgents.’ Mistrust is reinforced by the experience of recent reconcilees. For instance, after the death of Herati insurgent commander Ghulam Yahya Akbari in October 2009, over 200 of his fighters surrendered to the Afghan government, incentivised by promises of jobs. Months later, the government has done little to help them find employment, they cannot return to their villages for fear of Taliban reprisals, and they survive on food rations and USAID winterisation kits. Likewise, the 80 fighters of Suleiman Amiri, another Herati militia commander who decided to back the government, have seen little or no benefit from relinquishing their insurgent activities.” (ibid, p.6)

An *Institute for War & Peace Reporting* article states:

“Militants in Herat province of eastern Afghanistan who laid down their weapons in response to government offers of aid and amnesty are rejoining the insurgency after officials failed to deliver on their promises. A senior security official told IWPR that about half the 1,000 militants who had surrendered in the last year were now back fighting against the government.

Both the Afghan government and the international community have made it a priority to persuade members of the Taliban and allied armed groups to defect, and this was the focus of a 'peace jirga' or assembly hosted by President Hamid Karzai in the capital Kabul in June. Efforts have focused on winning over small groups in return for protection from legal investigations, the provision of jobs and reconstruction projects for their home areas. However, in a telephone interview with IWPR, Nur Gul, a Taliban commander who surrendered with his 20 armed men last October, said none of the promises he received beforehand had been translated into action." (Institute for War & Peace Reporting (8 August 2010) *Afghan Former Militants Rejoin Insurgency*)

This article refers to a former Hezb-e Islami commander as follows:

"Arbab Zaman Gul, 40, from the Keshk Kuhna district, was a commander in Hezb-e Islami, an insurgent group led by Gulbuddin Hekmatyar and allied with the Taliban, surrendered to Herat provincial police together with his 30 fighters this May. But he too has returned to violence, accusing the government of reneging on its promises. 'After we surrendered and received a letter of protection from the government, four of my men were killed within the next ten days,' he said. He accuses 'government elements' of the killings. 'The reason we surrendered was not in order to be harassed or tortured by government security forces, but to help restore peace and security,' Zaman Gul said. 'We wanted our area to be rebuilt and we wanted job opportunities to be created so that we would have a chance to get work. But the government has reneged on all its commitments.'" (ibid)

This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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