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# “Today We Shall All Die”

Afghanistan’s Strongmen and the Legacy of Impunity



**“Today We Shall All Die”**  
**Afghanistan’s Strongmen and the Legacy of Impunity**

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## Glossary of Acronyms and Terms

<b>AAN</b>	Afghanistan Analysts Network, an independent non-profit policy research organization.
<b>AGO</b>	Attorney General's Office, responsible for prosecuting crimes.
<b>AIHRC</b>	Afghanistan Independent Human Rights Commission, Afghanistan's constitutionally mandated independent national human rights body.
<b>ALP</b>	Afghan Local Police, a national militia force organized locally.
<b>ANA</b>	Afghan National Army.
<b>ANP</b>	Afghanistan National Police.
<b>ANSF</b>	Afghan National Security Forces
<b><i>Arbaki</i></b>	A generic term for locally based militia.
<b>Bonn Agreement</b>	Officially, the Agreement on Provisional Arrangements in Afghanistan Pending the Re-Establishment of Permanent Government Institutions, an agreement signed by 25 prominent Afghan political figures intended to recreate the Afghan state following the collapse of the Taliban government in 2001. The Bonn Agreement led to the creation of the Afghan Interim Authority.
<b>Bonn Conference</b>	A meeting in Bonn, Germany from November 27-December 5, 2001, that produced the Bonn Agreement.
<b>CRC</b>	Convention on the Rights of the Child.
<b>DDR</b>	"Disarmament, Demobilization and Reintegration" process, initiated in 2003, which was intended to transition members of the Afghan forces that defeated the Taliban in 2001 to inclusion in the Afghan National Army or civilian life.
<b>DIAG</b>	Disarmament of Illegal Armed Groups, the process which was

intended to disband informal militias in Afghanistan after 2001. It ran from 2005 to 2011.

<b>Hezb-e-Islami</b>	“Party of Islam,” a political and military organization founded in 1977 by Gulbuddin Hekmatyar, which fought the Soviet occupation of Afghanistan in the 1980s. In 1979 a faction led by Maulvi Younas Khalis split with Hekmatyar. Since 2001 the Gulbuddin faction of Hezb-e-Islami has fought the Kabul government but has also been involved in political action.
<b>ICCPR</b>	International Covenant on Civil and Political Rights.
<b>ICPC</b>	Interim Criminal Procedure Code of Afghanistan.
<b>ISAF</b>	International Security Assistance Force, the UN-mandated international military force created at the Bonn Conference.
<b>Ittihad-e-Islami</b>	Short form of the Ittihad-e-Islami Bara-yi Azadi Afghanistan (the Islamic Union for the Liberation of Afghanistan), a predominantly Pashtun military and political grouping founded by Abdul Rabb al-Rasul Sayyaf, which fought against the Soviet occupation of Afghanistan in the 1980s.
<b>Jamiat-e-Islami Afghanistan</b>	The Islamic Society of Afghanistan, an ethnic Tajik-dominated movement founded by Professor Burhanuddin Rabbani in 1968, and one of the principal parties in the war against the Soviet occupation of Afghanistan in the 1980s.
<b>Jihad/Jehad</b>	The Islamic concept of holy war or internal struggle, used here to refer to the war against the Soviet occupation in the 1980s.
<b>Junbesh</b>	Short form of Junbesh-e-Milli Islami Afghanistan (National Islamic Movement of Afghanistan), an ethnic Uzbek-dominated movement led by Gen. Abdul Rashid Dostum.
<b><i>Loya Jirga</i></b>	A grand meeting of local and tribal representatives, usually to decide on some important issue.
<b>MCTF</b>	Major Crimes Task Force, a unit of investigators from the Afghan Interior Ministry and National Security Directorate that was



formed in November 2009 to investigate kidnappings, corruption, and organized crime.

<b>MEC</b>	The Independent Joint Anti-Corruption Monitoring and Evaluation Committee, a group established to independently monitor and evaluate national and international efforts to fight corruption in Afghanistan.
<b>Ministry of Interior (Moi)</b>	Responsibilities include deploying and supervising police.
<b>Ministry of Justice</b>	Responsibilities include legislative drafting, providing legal aid, and promoting legal awareness.
<b>NDS</b>	The National Directorate of Security (NDS), the principal Afghan intelligence service, combining both internal and external security functions.
<b>PRT</b>	Provincial Reconstruction Team, a structure established by the international military forces in Afghanistan working to support reconstruction efforts, and consisting of foreign military officers, diplomats, and reconstruction experts.
<i>Saranwal</i>	Prosecutor.
<i>Sharia</i>	Islamic law.
<i>Shura</i>	A traditional council or gathering of community elders for various purposes, including resolving community disputes.
<b>UN Women</b>	United Nations entity dedicated to gender equality and the empowerment of women.
<b>UNAMA</b>	United Nations Assistance Mission in Afghanistan.

## Summary

I went on the roof of the house and saw we were surrounded by armed men.... My father was sitting there and said: ‘Say your whole *kalima* [the Muslim profession of faith], because I think today we shall all die.’

— Nur Mohammad (pseudonym) describing the September 2012 murder of his father by a government-linked militia in Konam, Kunduz province, October 2012.

They told me: ‘You must tell us that you are Taliban, that you have weapons, and are a Talib.’ After seven or eight days, they threatened me with their guns and said: ‘We will kill you. We killed a lot of people.’... After 10-11 days, they [again] intimidated me with their guns. They cocked a gun, but did not fire it. They said: ‘It is very easy for us to kill you.’

— Mahmoud (pseudonym), a teacher, describing his detention in 2012 by Afghan Local Police (ALP) Commander Azizullah in Paktika Province.

More than 13 years after the overthrow of the Taliban government, Afghans continue to suffer serious human rights abuses by government and military officials and their agents. Perpetrators are rarely held to account and the victims are rarely able to gain legal redress. This impunity hinges on the inability or unwillingness of the Afghan government and its institutions, including the military, police, and courts, to challenge the strongmen and militias who operate throughout much of the country. The administration of former President Hamid Karzai installed many powerful warlords and failed to confront others, while many others have been funded by and worked alongside international forces, further entrenching them politically into the fabric of Afghan society. In this way impunity in Afghanistan is both a domestic and foreign problem for which the solution resides not only in Kabul but in foreign capitals such as Washington, DC.

This report is about some of the people who carry out serious human rights violations yet enjoy impunity. The accounts in this report include allegations of mass killings, murder, rape, torture, beatings, enforced disappearances, theft, and arbitrary detention. The perpetrators of these abuses are persons in positions of authority or persons who operate

with their backing. We have chosen examples that illustrate that they occupy positions in almost every level of government, from local militia commanders to ministerial rank; victims and perpetrators come from each of the major ethnic communities in Afghanistan. While the perpetrators are not representative of the Afghan security forces as a whole, their actions have an impact in Afghanistan that extends beyond the immediate victims, as they degrade the commitments to human rights, justice, and the rule of law that Afghanistan has made in its constitution and international treaties.

The killing in Konam noted above is particularly telling: the father of Nur Mohammad was one of a dozen people in the settlement killed in a retaliatory attack after a militia blamed villagers for the death of one of their members. The chief suspects are well-known, but have not been arrested, apparently because of their links to senior political figures. Mir Alam, the most prominent strongman in Kunduz province, is closely associated with the militias that carried out the attacks.

This impunity is no accident. Since the defeat of the Taliban government in late 2001, both the Afghan government and its international allies and donors have subordinated human rights and governance to short-term political and security objectives. Rampant corruption, carried out systematically by officials and others more concerned with self-enrichment than national interests— and fueled by international assistance as well as the operations of foreign military forces deployed in Afghanistan— effectively sustains rights abusers while blocking efforts to bring them to justice.

The murders in Kunduz are not an isolated case.

Human Rights Watch interviewed ethnic Pashtun community leaders from Uruzgan province who alleged that ethnic Hazara commander Hakim Shujoyi has killed dozens of civilians. Evidence suggests that Shujoyi enjoyed the support of US forces. Despite a warrant for his arrest, he is still at large.

According to local sources, forces under Azizullah, the commander of the Afghan Local Police (ALP) in Paktika province, and other pro-government militias in the area have committed multiple kidnappings and killings. None has been held to account. Azizullah has worked closely with US Special Forces.

In Kandahar province, witnesses and victims allege that forces under the control of the provincial chief of police, Brig. Gen. Abdul Raziq, have committed many acts of torture and enforced disappearances, and there is strong evidence that Raziq himself has been responsible for extrajudicial executions. Afghan and international human rights organizations have documented the systematic and widespread use of torture in Afghan detention facilities, and have singled out Kandahar for a particularly high incidence of torture, enforced disappearances, and other abuses by forces under Raziq's control. Although former President Karzai had pledged to end torture, not a single police or National Directorate of Security (NDS) official has been prosecuted for torture.<sup>1</sup>

Human Rights Watch's investigations uncovered numerous other cases of abuses. In Balkh, the provincial governor, Atta Mohammad Noor, is widely credited with maintaining relative stability and prosperity compared to other provinces. However, there is strong evidence that he controls and funds local militias implicated in serious abuses. There are also allegations he has direct links to figures involved in kidnapping and other crimes.

Asadullah Khalid, who was head of the NDS until December 2012, is alleged to have personally committed or ordered torture, killings, and rape. When Khalid was seriously injured in a suicide attack and flown to the United States for treatment, President Barack Obama paid him a personal visit at a US military hospital despite his well-known reputation. The signal this sent may have done as much to encourage impunity as did the US support Khalid received while in office.

The cases presented in this report are not intended to provide a comprehensive survey of human rights violations in Afghanistan by government and affiliated forces. Rather, the cases are indicative of a wider trend of entrenched abuse, evidence for which can be found in reports from the United Nations Assistance Mission in Afghanistan (UNAMA), the Afghanistan Independent Human Rights Commission (AIHRC), the media, and other nongovernmental organizations.

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<sup>1</sup>Human Rights Watch, "Afghanistan: Act on UN Torture Report," February 3, 2013, <http://www.hrw.org/news/2013/02/03/afghanistan-act-un-torture-report> (accessed February 15, 2015).

The rampant impunity documented in this report is not merely a symptom of the weakness of the Afghan state, but also an underlying cause of it. It exposes the limited progress in Afghanistan in developing institutions essential to the country's stability, including the rule of law, state control of militias and other irregular forces, and the justice system. All of this leads some in Afghanistan and abroad to call into question the legitimacy of the state itself. A government that is unable or unwilling to arrest a minor commander such as Hakim Shujoyi, whose abuses have generated serious instability at the local level, engenders a much broader sense of cynicism among the public and calls into question the government's stated commitment to uphold human rights.

Impunity has long been identified by the Afghan government, donors, and Afghan and international civil society as a key problem in the country's development. Although the Karzai administration adopted a transitional justice action plan in December 2006 that included establishing measures to hold human rights violators to account, the plan has never been implemented. Instead, the Afghan parliament passed an amnesty law in March 2007 that effectively killed it. Even efforts to document these abuses have been controversial. In 2004 the UN Office of the High Commissioner for Human Rights (OHCHR) carried out a mapping of pre-2001 human rights violations, but then declined to release it. The Afghanistan Independent Human Rights Commission (AIHRC) subsequently carried out its own mapping exercise, ultimately producing an 800-page report on human rights violations committed between 1978 and 2001. The head of the AIHRC, Dr. Sima Samar, stated that lack of Afghan government support under President Karzai was the reason the organization had not released the report. During his campaign, President Ghani said that he would support release of the report, but as of February 2015, the report had not been released.

The propensity of the Afghan government's international allies to prioritize short-term military fixes over long-term reforms to foster accountability has exacerbated the problem. Official programs to create or enlist the help of local militias in response to immediate military pressures have continued despite overwhelming evidence of the involvement of these groups in human rights abuses. Meanwhile efforts to reform the police have been neglected as priority has been given to expanding and training it as a paramilitary force.

Initiatives designed to tackle corruption and impunity have focused on technical and tactical measures that do not adequately confront more systemic challenges. Although

both President Ghani and President Obama have publicly highlighted good governance as critical for promoting security, in the past, genuine reforms have repeatedly been sidelined for short-term concerns. Addressing Afghanistan’s culture of impunity requires consistent support for justice and accountability, including prosecution of perpetrators and redress for victims.

Instead, not only have there been no official efforts to hold to account those responsible for gross abuses, the most notable offenders— including Kandahar Head of Police Raziq — continue to garner praise for their security successes, even when these have involved grave human rights violations. This suggests that with the departure of most international troops, the relationship between the Afghan forces and their allies may continue to hinge on cooperation with strongmen regardless of their human rights records. If that is the case, serious abuses are likely to continue. This would represent a betrayal of the promises made by Afghanistan’s key bilateral allies since 2001 to foster respect for human rights in the post-Taliban era, and would undermine efforts to achieve sustainable peace, stability, and democratic rule.

During their campaigns, both President Ashraf Ghani and Chief Executive Abdullah Abdullah vowed to hold security forces accountable for abuses. In a January 7, 2015 letter to Human Rights Watch, President Ashraf Ghani pledged that “the Afghan government will not tolerate torture.” Ghani added that his government’s “commitment to human rights and rule of law is strong and we are serious in addressing the allegations of torture in our security sector.”<sup>2</sup> At this crucial moment in Afghanistan’s history, when the temptations of expediency are stronger than ever, such a genuine change of course is needed. Taking the necessary measures to provide justice for serious rights abuses is a crucial starting point.

## Key Recommendations

The Afghanistan government should take immediate measures to investigate and prosecute government officials and security forces personnel, regardless of rank, implicated in serious human rights abuses. Specifically, Human Rights Watch urges the following:

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<sup>2</sup> Letter from H.E. Mr. Mohammad Ashraf Ghani, President of the Islamic Republic of Afghanistan, to Human Rights Watch, January 7, 2015. See Annex I.

- President Ghani and Chief Executive Abdullah should publicly denounce violations of international human rights and humanitarian law by state security forces, and should support removal from office and prosecution of government officials and security force officers implicated in such abuses.
- The Office of the Attorney General should investigate and, if appropriate, criminally prosecute police, military, intelligence, and militia officers, regardless of rank, found responsible for human rights abuses and war crimes. It should consider establishing a special independent investigatory mechanism to investigate government officials and security force officers implicated in abuses.
- President Ghani should instruct the Ministry of Interior, Ministry of Defense, and National Directorate of Security to remove, discipline, and punish all Afghan National Police (ANP), Afghan Local Police (ALP) officers, soldiers, intelligence officials, and their superiors found responsible for committing or condoning torture, enforced disappearances, or summary executions. Measures should include suspension, loss of pension and other benefits, and criminal prosecution.
- The Ministry of Interior should disband irregular armed groups and hold them accountable for abuses they have committed. It should focus first on groups that face the most serious allegations of abuse.
- The United States and other donors should link assistance to Afghan security forces to benchmarked improvements in Afghan National Security Forces accountability mechanisms; the benchmarks should implement the recommendations above, as well as recommendations made in United Nations Assistance Mission in Afghanistan (UNAMA) reports on detention abuses.
- The US should fully implement the Leahy Law, which prohibits the provision of military assistance to any unit of foreign security forces where there is credible evidence that such a unit has committed gross violations of human rights, such as torture or cruel, inhuman, or degrading treatment or punishment, and “flagrant denial of the right to life, liberty or the security of the person” and that no “effective measures” are being taken to bring those responsible to justice.

- The US should rigorously vet all senior security sector officials who oversee units that receive US assistance—including militia forces, and regardless of whether they require vetting under the Leahy Law—to ensure that they have not been involved in serious human rights abuses.
- The US should improve implementation of the Presidential Proclamation of August 4, 2011, which bars entry into the United States of non-US citizens who have been involved in serious human rights abuses. Under the proclamation, the Department of State has sole discretion to identify persons covered by the proclamation and is obligated to coordinate with other agencies to ensure that they are barred from the United States.



## Methodology

This report is based on 125 interviews Human Rights Watch carried out from August 2012 to January 2015 with victims of abuse and their family members, witnesses, government officials, community elders,<sup>3</sup> local and international journalists and researchers, civil society activists, UN officials, and members of Afghan and international security forces. Human Rights Watch conducted 111 of the interviews in person in the provinces of Balkh, Kunduz, Takhar, Baghlan, and Kandahar, as well as in the capital, Kabul. Human Rights Watch interviewed another 10 people by telephone or Skype. For security reasons, people from Paktika and Uruzgan were interviewed in Kandahar and Kabul.

This report does not attempt to present a comprehensive picture of human rights violations in Afghanistan, but instead seeks to show the nature and breadth of abuses committed by government and pro-government forces and the government's failure to prosecute those responsible. It does not look at abuses by the Taliban and other opposition forces, which we have addressed in other contexts. The Afghan government's backing by the United States, European Union, Japan, India, and other governments raises particular concerns about meeting its international legal obligations.

The cases described occurred in eight of Afghanistan's 34 provinces (Balkh, Ghazni, Kandahar, Kunduz, Paktiya, Paktika, Takhar and Uruzgan). They involve victims and perpetrators from the main ethnic Pashtun, Tajik, Hazara, and Uzbek ethnic groups, as well other communities, and from a range of political affiliations.

Most interviews were conducted in Dari or Pashto, with others conducted through interpreters or in English. Human Rights Watch did not offer or provide incentives to persons interviewed, although Human Rights Watch did reimburse the travel costs of interviewees who in some cases traveled substantial distances to meet with us. All participants provided oral informed consent to participate and were assured of anonymity. Because of concerns of reprisals, we have withheld the names of almost all of the sources and used pseudonyms in describing their cases.

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<sup>3</sup> The concept of "elders" in Afghanistan generally refers to males with some standing in the local community who take part in *shura* discussions. *Shuras* in their traditional sense are unelected local community councils that often have no formal structure but which command a certain authority.

The report draws on research and investigations by the United Nations and the AIHRC, and on academic research and accounts published in the Afghan and international media. Many of these reports describe violence and impunity and suggest that such abuses of power take place across the country.

Where possible, we corroborated witness accounts with other accounts and sources, although this was not always possible in cases concerning abuses occurring in remote areas. In every case, Human Rights Watch asked detailed questions to establish as thoroughly as possible the background and credibility of both the information and its source, as clarified in the text or footnotes.

Ethnic group identifications in this report are based on self-identification or published identifications from respected sources.

## I. Background: Roots of Impunity

There have been notable but fragile advances in respect for human rights in Afghanistan since the defeat of the Taliban government in late 2001. While millions of girls previously denied education are now in school,<sup>4</sup> women's rights gains remain at risk as some Afghan government officials have attempted to undermine or remove some of the most basic legal safeguards for women. Afghanistan now has a vibrant— though embattled— civil society,<sup>5</sup> but activists also face threats and attacks by conservative forces and insurgents. There is also a diverse media landscape, although journalists face many challenges, including violent attacks and pressures to self-censor.<sup>6</sup> Illegal militia forces continue to pose a threat in much of the country, though the government has made efforts to disband some militias and bring others into ostensibly formal government control.<sup>7</sup> Elections have taken place

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<sup>4</sup> As of 2012, an estimated 3.2 million girls attended school in Afghanistan. Melanie Stetson Freeman, "Afghan Girls Embrace School," *Christian Science Monitor*, September 3, 2012, <http://www.csmonitor.com/World/2012/0903/Afghan-girls-embrace-school> (accessed July 1, 2013).

<sup>5</sup> As of February 2013, Afghanistan had an estimated 2,151 Nongovernmental Organizations (NGOs) (1857 local and 294 foreign), and about 4,000 Social Organizations (SOs) (defined as "voluntary unions of natural or legal persons, organized for ensuring social, cultural, educational, legal, artistic and vocational objectives.") "Afghanistan," United States International Grant-Making, March 2013, <http://www.usig.org/countryinfo/PDF/Afghanistan.pdf> (accessed July 1, 2013). See also Elizabeth Winter, "Civil Society Development in Afghanistan," London School of Economics, June 2010, <http://www.lse.ac.uk/internationalDevelopment/research/GWOT/pdf/Civil%20Society%20in%20Afghanistan-June2010.pdf> (accessed July 1, 2013); and Lael Mohib and Hamdullah Mohib, "Can civil society save Afghanistan?," *Foreign Policy*, August 16, 2012, [http://afpak.foreignpolicy.com/posts/2012/08/16/can\\_civil\\_society\\_save\\_afghanistan](http://afpak.foreignpolicy.com/posts/2012/08/16/can_civil_society_save_afghanistan) (accessed July 1, 2013).

<sup>6</sup> Human Rights Watch, "'Stop Reporting or We'll Kill Your Family:' Threats to Media Freedom in Afghanistan," January 20, 2015, <http://www.hrw.org/news/2015/01/21/afghanistan-media-under-attack> (accessed February 2, 2015).

Peter Cary, "An Explosion of News: The State of Media in Afghanistan," Center for International Media Assistance, February 23, 2012, <http://cima.ned.org/sites/default/files/CIMA-Afghanistan%20-%2003-01-12.pdf> (accessed July 1, 2013). At the end of 2011 there were 75 private TV channels, 175 radio stations, and about 500 newspapers operating in Afghanistan. However, the most recent Freedom House media assessment rates Afghanistan as "Not Free," noting that "The media landscape in Afghanistan, although increasingly open and robust, continues to feature censorship, biased content, violence and insecurity, and little protection for journalists." Reporters Without Borders rates Afghanistan at 128 out of 179 countries in its 2012 Press Freedom Index, although this is a rise of 22 places from the previous year. "Afghanistan: Freedom of the Press 2012," Freedom House, 2012, <http://www.freedomhouse.org/report/freedom-press/2012/afghanistan> (accessed April 28, 2013); "Afghanistan Registers Major Rise In Press-Freedom Index," *Radio Free Europe/Radio Liberty*, January 30, 2012, <http://www.rferl.org/content/afghanistan-macedonia-press-freedom/24888513.html> (accessed April 28, 2013).

<sup>7</sup> Caroline A. Hartzell, "Missed Opportunities: The Impact of DDR on SSR in Afghanistan," United States Institute for Peace, Special Report 270, April 2011, [http://www.usip.org/files/resources/SR270-Missed\\_Opportunities.pdf](http://www.usip.org/files/resources/SR270-Missed_Opportunities.pdf) (accessed April 14, 2013). The complementary program to demobilize illegal militias, the Disbandment of Illegal Armed Groups (DIAG) program, which ran from 2006 to 2011, had little impact at all. Barbara Stapleton, "Militia Disbandment and Peace Building: AAN republication of a 2008 paper," *Afghanistan Analysts Network*, April 2013, <http://www.afghanistan-analysts.org/publication/militia-disbandment-and-peace-building-aan-republication-of-a-2008-paper>. (accessed August 22, 2014).

more or less on schedule in 2004, 2005, 2009, 2010, and 2014, though they have involved significant irregularities.<sup>8</sup>

In the years since the overthrow of the Taliban in 2001, the failure of the Afghan government and its foreign allies to adequately establish the rule of law within institutions such as the courts, army, and police has undermined all gains. Corruption is rampant in virtually all Afghan institutions; corruption has also been directly linked to the provision of the immense sums provided to maintain Afghan and foreign military operations since 2001. The ongoing insurgency led by the Taliban has generated considerable insecurity, particularly as the insurgents have carried out indiscriminate attacks and have targeted civilians for assassination.<sup>9</sup> All these factors, coupled with the entrenchment of existing power structures, have contributed to impunity for those with guns and power.

## Warlords and Militias

From the start of the post-Taliban era in late 2001, foreign allies and donors to the government of Afghanistan pledged an end to the widespread abuses and suffering of the civil war and Taliban years. The participants at the Bonn Conference expressed their determination “to end the tragic conflict in Afghanistan and promote national reconciliation, lasting peace, stability and respect for human rights in the country,” and acknowledged “the right of the people of Afghanistan to freely determine their own political future in accordance with the principles of Islam, democracy, pluralism and social justice.”<sup>10</sup>

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<sup>8</sup> “The September 2005 Parliamentary and Provincial Council Elections in Afghanistan,” National Democratic Institute for International Affairs, 2006, [http://www.ndi.org/files/2004\\_af\\_report\\_041006.pdf](http://www.ndi.org/files/2004_af_report_041006.pdf) (accessed July 1, 2013); Carlotta Gall, “Election of Karzai is declared official,” *New York Times*, November 4, 2004, <http://www.nytimes.com/2004/11/04/international/asia/04afghan.html> (accessed July 1, 2013). A Human Rights Watch report published in the run-up to the 2004 elections found that “[t]hroughout the country, militarized political factions—militias and remnants of past Afghan military forces who came into power in the wake of the Taliban’s defeat—continue to cement their hold on political power at the local level, using force, threats, and corruption to stifle more legitimate political activity and dominate the election process. Independent political organizers unaffiliated with factions or their militia forces are facing death threats and harassment and are struggling just to organize.” Human Rights Watch, “The Rule of the Gun: Human Rights Abuses and Political Repression in the Run-up to Afghanistan’s Presidential Election,” September 2004, <http://www.hrw.org/legacy/backgrounders/asia/afghanistan0904/afghanistan0904.pdf>, p. 1.

<sup>9</sup> “Afghanistan: No Amnesty for Taliban Crimes,” Human Rights Watch news release, November 25, 2012, <http://www.hrw.org/news/2012/11/25/afghanistan-no-amnesty-taliban-crime> (accessed June 25, 2014).

<sup>10</sup> United Nations Security Council, “Letter dated 5 December 2001 from the Secretary-General addressed to the President of the Security Council,” December 5, 2001,

The United Nations, AIHRC, Human Rights Watch, and others have collected considerable information detailing human rights violations and war crimes committed by all parties to the conflict in Afghanistan. In recent years, this documentation has implicated Taliban forces in war crimes, including attacks targeting civilians, indiscriminate attacks by suicide bombers and pressure-plate mines, summary executions, and use of children in combat including as suicide bombers.<sup>11</sup> In all cases, commanders who ordered unlawful attacks, or who knew or should have known about serious abuses by their forces but made no effort to stop them, can and should be subject to prosecution for war crimes.<sup>12</sup>

Short-term concerns for maintaining a bulwark against the Taliban have undermined aspirations for long-term good governance and respect for human rights in Afghanistan. After the September 11, 2001 attacks on the United States, the US government and its allies decided to arm and fund commanders loosely aligned as part of the Northern Alliance<sup>13</sup> to fight the Taliban. Many of these commanders had well-documented records of human rights abuses in Afghanistan's post-Soviet civil war. The Northern Alliance's political representatives dominated the 2001 Bonn Conference, which laid the foundation for a process that prioritized accommodating commanders and warlords over accountability.<sup>14</sup>

Through the Central Intelligence Agency (CIA) and military Special Forces, the United States enlisted local militias as partners in what they saw as their primary aim of pursuing

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[http://peacemaker.un.org/sites/peacemaker.un.org/files/AF\\_011205\\_AgreementProvisionalArrangementsinAfghanistan%28en%29.pdf](http://peacemaker.un.org/sites/peacemaker.un.org/files/AF_011205_AgreementProvisionalArrangementsinAfghanistan%28en%29.pdf) (accessed April 9, 2013).

<sup>11</sup> Human Rights Watch, "Afghanistan: Taliban Should Stop Using Children as Suicide Bombers," August 31, 2011, <http://www.hrw.org/news/2011/08/31/afghanistan-taliban-should-stop-using-children-suicide-bombers>. (accessed November 11, 2014).

<sup>12</sup> "Afghanistan: No Amnesty for Taliban Crimes," Human Rights Watch news release, November 25, 2012, <http://www.hrw.org/news/2012/11/25/afghanistan-no-amnesty-taliban-crime> (accessed June 25, 2014).

<sup>13</sup>The various groups fighting against the Taliban were part of an alliance called successively the Northern Alliance and the Islamic United Front for the Salvation of Afghanistan (Jabha-i Muttahid-i Islami bara-yi Nijat-i Afghanistan), or simply, the United Front. Since 2001, the term "Northern Alliance" has been used almost exclusively.

<sup>14</sup>"Four delegations of anti-Taliban ethnic factions attended the Bonn Conference: the Northern Alliance; the 'Cyprus group,' a group of exiles with ties to Iran; the 'Rome group,' loyal to former King Mohammad Zahir Shah, who live[d] in exile in Rome and did not attend the meeting; and the 'Peshawar group,' a group of mostly Pashtun exiles based in Pakistan. The Northern Alliance and the Rome group each contributed 11 representatives to the discussion, while the Cyprus and Peshawar groups contributed five." "Filling the Vacuum: The Bonn Conference," *PBS Frontline*, n.d., <http://www.pbs.org/wgbh/pages/frontline/shows/campaign/withus/cbonn.html> (accessed August 23, 2014).

elements of Al-Qaeda and the Taliban.<sup>15</sup> The official Disarmament, Demobilization, and Reintegration (DDR) process had no jurisdiction over militias working with the US and NATO coalition.

While many in the international community saw the militias as a threat to security and to the authority of the new Afghan government,<sup>16</sup> the US administration of George W. Bush led by Secretary of Defense Donald Rumsfeld feared that challenging these armed factions and their power bases could provoke conflict that could draw in US forces. In December 2002, Gen. Richard Myers, chairman of the Joint Chiefs of Staff, disavowed any responsibility for tackling these militias or the warlords behind them, stating that “‘green-on-green’ [was] basically an Afghan-government issue.”<sup>17</sup> By 2004, other US military and political commentators criticized the policy for doing too little to address the destabilizing effect of these militias in the early years of the war. According to Robert B. Oakley and T.X. Hammes:

[S]ome militia members ... have continued to be the cause of, rather than the cure for, insecurity, human rights abuses, and criminality, frequently in alliance with the increasingly powerful drug lords. Neither the ATA [Afghan Transitional Administration] nor coalition forces made much of an effort to redress this situation. The former did not feel that it had the power; the latter felt that the anti-al Qaeda/Taliban combat mission they had assumed

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<sup>15</sup> Human Rights Watch, *Just Don't Call it a Militia*, p. 15. Coalition forces were often allied with warlords and their militias in the fight against Al-Qaeda and the Taliban, and so were reluctant to press for their demobilization. In addition, neither the DDR process nor other military reform measures had jurisdiction over militia forces employed by US Coalition forces. Michael Bhatia, Kevin Lanigan & Philip Wilkinson, *Minimal Investments, Minimal Results: The Failure of Security Policy in Afghanistan*, Afghanistan Research and Evaluation Unit (AREU) Briefing Paper, June 2004, p. 2. <http://www.areu.org.af/Uploads/EditionPdfs/418E-Minimal%20Investments-BP-print.pdf> (accessed May 1, 2014).

<sup>16</sup> As President Karzai told the *New York Times*: "The frustration that we have in this country is that progress has sometimes been stopped by private militias, life has been threatened by private militias, so it should not be tolerated." Without disarmament, "the Afghan state will have really serious difficulties." Carlotta Gall and David Rohde, "Afghan President Describes Militias as the Top Threat," *New York Times*, July 12, 2004, <http://www.nytimes.com/2004/07/12/world/afghan-president-describes-militias-as-the-top-threat.html> (accessed April 16, 2013).

<sup>17</sup> "Green on green" refers to situations where allied forces fight each other. General Richard Myers, "DoD News Briefing - Secretary Rumsfeld and Gen. Myers," US Department of Defense, December 3, 2002, <http://www.defense.gov/transcripts/transcript.aspx?transcriptid=2803>, (accessed May 1, 2014). See also Elizabeth Rubin, "Karzai in his Labyrinth," *New York Times Magazine*, August 4, 2009, <http://www.nytimes.com/2009/08/09/magazine/09Karzai-t.html?pagewanted=1&r=0&sq=hamid%20karzai&st=cse&scp=1>. (Accessed May 1, 2014).

in October 2001 did not extend to broader security or intra-Afghan (“green on green”) disputes, even to supporting the ATA against the warlords.<sup>18</sup>

President Karzai saw the warlords as threats to his government and also rivals for power. In 2004, Karzai, with US and other international support, succeeded in compelling the powerful governor of Herat, Ismail Khan,<sup>19</sup> to resign from his position and accept a ministerial appointment in Kabul.<sup>20</sup> International pressure may also have been a factor in Karzai’s decision to drop Northern Alliance leader Mohammad Qasim Fahim, implicated in war crimes in the particularly bloody April 1992 to March 1993 period of Afghanistan’s civil war,<sup>21</sup> as his running mate in the 2004 presidential election.<sup>22</sup> However, he reinstated Fahim as an advisor in 2006, and then as one of his vice-presidents<sup>23</sup> during the 2009 elections.<sup>24</sup> Throughout this time, Karzai’s family dominated a network of militias and strongmen in the south that competed with the northern warlords for lucrative foreign contracts and forged similar alliances with coalition forces fighting the Taliban.

Many Northern Alliance militia forces were eventually incorporated into the Afghan National Army and Afghan National Police.<sup>25</sup> Others that were seen as a bulwark against the Taliban were simply left in place. Some of these militias were able to transform

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<sup>18</sup> Robert B. Oakley and T.X. Hammes, “Securing Afghanistan: Entering a Make-or-Break Phase?” Strategic Forum: Institute for National Strategic Studies, National Defense University, No.205, March 2004, file:///C:/Users/Joost/Downloads/doc\_10592\_290\_en.pdf. (Accessed May 1, 2014).

<sup>19</sup> Ismail Khan, a former army captain, has been arguably the most powerful figure in Herat since 1979 when his forces led an uprising against the Afghan government and its Soviet supporters. He became a commander with Jamiat, controlling Herat through the mid-1990s until the Taliban captured the area. After December 2001, he returned to power, ruling Herat with an iron fist, permitting no dissent and curtailing freedoms of the press and association, and women’s rights. See Human Rights Watch, “*All our Hopes are Crushed: Violence and Repression in Western Afghanistan*,” Vol. 14, No. 7, October 2002, <http://www.hrw.org/reports/2002/afghan3/>. (Accessed May 1, 2014).

<sup>20</sup> Amin Tarzi, “Is Herat a Prelude to the End of Afghan Warlordism?” *Eurasianet*, September 25, 2004. <http://www.eurasianet.org/departments/insight/articles/pp092604.shtml>. (Accessed May 1, 2014).

<sup>21</sup> “Afghanistan: Bring War Criminals to Justice,” Human Rights Watch news release, July 7, 2005, <http://www.hrw.org/news/2005/07/07/afghanistan-bring-war-criminals-justice> (accessed June 25, 2014).

<sup>22</sup> Carlotta Gall, “Afghan Leader, in a Surprise, Picks a New Running Mate,” *New York Times*, July 27, 2004, <http://www.nytimes.com/2004/07/27/world/afghan-leader-in-a-surprise-picks-a-new-running-mate.html> (accessed April 16, 2013)

<sup>23</sup> The executive branch of the Afghan government includes two vice-presidents under the president.

<sup>24</sup> Fahim died of an apparent heart attack on March 9, 2014.

<sup>25</sup> Factionalism based on prior militia loyalties remains an issue within the two institutions. Simonetta Rossi and Antonio Giustozzi, “Disarmament, Demobilisation and Reintegration of ex-combatants (DDR) in Afghanistan: constraints and limited capabilities,” Crisis States Research Centre, Working Paper 2, series 2, June 2006, pp. 3-4. <http://r4d.dfid.gov.uk/PDF/Outputs/CrisisStates/CrisisStateswp2.2%5B1%5D.pdf> (accessed August 19, 2014).

themselves into private security companies, and others maintained their operations at some level to allow them to re-emerge later.<sup>26</sup> These armed groups have proven to be the most unaccountable pro-government forces in the country, and have been implicated in numerous serious abuses.<sup>27</sup>

## Inability and Unwillingness to Confront Armed Groups and Militia

The armed groups are often informally known as “campaign” forces, and carry such designations as: Afghan Security Guards, Afghan Guard Forces, Afghan Security Forces, and Critical Infrastructure Police—names that suggest their mission is to protect foreign bases, though many also take part in offensive operations.<sup>28</sup> US policy from 2004 reaffirmed the utility of these militias, which were supposedly temporary and limited to no more than 2,000 men in total.<sup>29</sup> However, the militias have grown in size far beyond that limitation, and while some may have been integrated into the NDS command structure, use of the groups continues to this day as a critical part of military operations.<sup>30</sup>

The rise of abusive political and criminal networks was not inevitable. A central problem was the failure of the Afghan government and its foreign allies to disarm the militia forces that were resurgent after the Taliban government fell. After the formation of a new government in 2002, the anti-Taliban commanders were relatively weak and did not necessarily expect to remain in the positions they had seized.<sup>31</sup> Lakhdar Brahimi, the former UN Special Representative who oversaw the Bonn Process, insisted on a “light footprint” for the United Nations, which led to limited international action to confront high-ranking abusers. The United States and other key external actors took the same approach. The US opposed the establishment of an international peacekeeping force outside Kabul

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<sup>26</sup> Barbara Stapleton, “Disarming the Militias—DDR and DIAG and the Implications for Peace Building,” paper presented at the Swedish Committee for Afghanistan conference, November 2008. See also sections below on Mir Alam and Atta Mohammad Noor.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid. See also the case studies on Commander Azizullah and Hakim Shujoyi, below.

<sup>29</sup> Ibid.

<sup>30</sup> Margherita Stancati, “Left Unmoored, Afghan Local Police Pose New Risk,” *Wall Street Journal*, March 24, 2014, <http://online.wsj.com/articles/SB10001424052702304679404579459270523670760>. (accessed November 11, 2014); Human Rights Watch, *Just Don't Call It a Militia*, p. 16.

<sup>31</sup> Stephen Carter and Kate Clark, “No Shortcut to Stability: Justice, Politics and Insurgency in Afghanistan,” Royal Institute for International Affairs, December 2010, p. 25, [http://www.chathamhouse.org/sites/default/files/public/Research/Asia/121opr\\_afghanjustice.pdf](http://www.chathamhouse.org/sites/default/files/public/Research/Asia/121opr_afghanjustice.pdf) (accessed April 9, 2013).



in the immediate post-2001 period, allowing former militia groups to fill the power vacuum left by retreating Taliban forces.<sup>32</sup> Northern Alliance leaders and faction members used the military and financial support of the US government and its allies to exert significant influence over Afghanistan's key government ministries and agencies. That created a precedent for allocation of political power based on the firepower and use of force wielded by individual commanders.<sup>33</sup> The result has been a system that a former UN human rights official said legitimized and "reinforced the very tendencies and personalities that were central to decades of armed conflict and the crisis of governance."<sup>34</sup>

The dominance of these strongmen and warlords with abusive rights records meant there was little place for justice or accountability in the new dispensation. During the 2002 Emergency *Loya Jirga*,<sup>35</sup> newly installed President Hamid Karzai argued that "justice [is] a luxury for now; we must not lose peace for that."<sup>36</sup> UN Special Representative Brahimi likewise asserted that accountability had to take "second place to peace and stability."<sup>37</sup> The majority of ordinary Afghans perceived that the lack of rule of law and impunity enjoyed by warlords posed a genuine security threat. 76 percent of participants in one major study "indicated they thought that bringing war criminals to justice in the near future would increase the security in Afghanistan, while only eight percent felt it would decrease

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<sup>32</sup> International Crisis Group, "Disarmament and reintegration in Afghanistan," 30 September 2003, <http://www.crisisgroup.org/en/regions/asia/south-asia/afghanistan/065-disarmament-and-reintegration-in-afghanistan.aspx>. Accessed August 23, 2014.

<sup>33</sup> Carter and Clark, "No Shortcut," p. 25.

<sup>34</sup> Norah Niland, "Impunity and Insurgency: a Deadly Combination in Afghanistan," *International Review of the Red Cross*, Vol. 92, No. 880 (December 2010), p 3, <http://www.icrc.org/fre/assets/files/review/2010/irrc-880-niland.pdf> (accessed April 9, 2013).

<sup>35</sup> Traditionally, a *loya jirga* represents a grand council of notables summoned by the king. The Emergency *Loya Jirga* was the first meeting of representatives from across the nation after the Taliban government's defeat, called to confirm the establishment of the interim administration and elect its president. For more on the *Loya Jirga* and its subversion, see, for example, Human Rights Watch, "Afghanistan: Return of the Warlords," June 2002. <http://www.hrw.org/legacy/backgrounders/asia/afghanistan/warlords.htm> (accessed April 9, 2013).

<sup>36</sup> "Karzai sets out Afghan vision," *BBC News Online*, June 14, 2002, [http://news.bbc.co.uk/1/hi/world/south\\_asia/2044337.stm](http://news.bbc.co.uk/1/hi/world/south_asia/2044337.stm) (accessed April 15, 2013).

<sup>37</sup> "Transcript of the Press Conference by the Special Representative of the Secretary-General for Afghanistan, Lakhdar Brahimi," *UN News Service*, August 27, 2002, <http://www.un.org/apps/news/printinfocusnews.asp?nid=212> (accessed April 15, 2013). Brahimi was specifically talking about the experience of South Africa and Chile as precedents for giving precedence to peace over justice.

security (13 percent said they did not know).”<sup>38</sup> However, with warlords holding the reins of power, there was no political will to pursue accountability for past crimes.<sup>39</sup>

The disarmament process also became highly politicized and a tool for some militia forces to consolidate their power.<sup>40</sup> As Human Rights Watch noted in 2011:

Key international donors and organizations, particularly the US, either actively undermined efforts at disarmament and demobilization by providing support to particular groups and individuals, or by choosing not to expend political capital to press for a genuine challenge to the armed groups. Instead, they supported programs that created the impression of serious commitment. On all sides short-term thinking and deal-making has prevailed, despite the clear risks for long-term security.<sup>41</sup>

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<sup>38</sup> Afghanistan Independent Human Rights Commission, “A Call for Justice: a National Consultation on Past Human Rights Violations in Afghanistan,” January 25, 2005, p. 17, [http://www.aihrc.org.af/media/files/Reports/Thematic%20reports/rep29\\_1\\_05call4justice.pdf](http://www.aihrc.org.af/media/files/Reports/Thematic%20reports/rep29_1_05call4justice.pdf) (accessed April 15, 2013). See also Human Rights Research and Advocacy Consortium, “Speaking Out: Afghan Opinions on Rights and Responsibilities,” November 2003, p 16, [http://www.afghanadvocacy.org.af/Research\\_E/Speaking-Out-English.pdf](http://www.afghanadvocacy.org.af/Research_E/Speaking-Out-English.pdf) (accessed April 15, 2013).

<sup>39</sup> Under international pressure, an “Action Plan for Peace, Justice and Reconciliation” was put in place in December 2005, but neither the government nor the international community invested much political capital in seeing it implemented. Instead, a parliament dominated by warlords passed a blanket amnesty in 2007. For more on transitional justice, see for example: Patricia Gossman and Sari Kouvo, “Tell Us How This Ends: Transitional Justice and Prospects for Peace in Afghanistan,” Afghanistan Analysts Network, June 30, 2013, [http://www.afghanistan-analysts.org/wp-content/uploads/2013/06/2013-06\\_AAN\\_TransitionalJustice2.pdf](http://www.afghanistan-analysts.org/wp-content/uploads/2013/06/2013-06_AAN_TransitionalJustice2.pdf). (accessed April 16, 2014); Sari Kouvo, “A Plan Without Action,” in Sari Kouvo and Martine van Bijlert (eds.) *Snapshots of an Intervention: The Unlearned Lessons of Afghanistan’s Decade of Assistance (2001–2011)* (Kabul: Afghanistan Analysts Network, July 2012), [http://www.afghanistan-analysts.org/wp-content/uploads/downloads/2012/09/6\\_Kouvo\\_A\\_Plan\\_without\\_Action.pdf](http://www.afghanistan-analysts.org/wp-content/uploads/downloads/2012/09/6_Kouvo_A_Plan_without_Action.pdf) (accessed August 3, 2013); “AFGHANISTAN: Justice action plan heading for oblivion,” IRIN, April 14, 2010, <http://www.irinnews.org/report/88807/afghanistan-justice-action-plan-heading-for-oblivion> (accessed August 3, 2013); Ahmed Rashid, “The Cloak of Silence: Afghanistan’s Human Rights Mappings,” Afghanistan Analysts Network, July 27, 2012, <http://www.aan-afghanistan.org/index.asp?id=2885> (accessed August 3, 2013); Rod Nordland, “Top Afghans Tied to ’90s Carnage, Researchers Say,” *New York Times*, July 22, 2012, [http://www.nytimes.com/2012/07/23/world/asia/key-afghans-tied-to-mass-killings-in-90s-civil-war.html?\\_r=2&ref=world&](http://www.nytimes.com/2012/07/23/world/asia/key-afghans-tied-to-mass-killings-in-90s-civil-war.html?_r=2&ref=world&) (accessed August 3, 2013); Afghanistan: Repeal Amnesty Law,” Human Rights Watch News Release, March 10, 2010, <http://www.hrw.org/news/2010/03/10/afghanistan-repeal-amnesty-law>.

<sup>40</sup> “While disarmament was seen as an overriding priority for the new government and its international donors, progress has been slowed by resistance from powerful political actors. The political strength of many of the militias, their protection and patronage by political interests within the government, and the international community’s fear of their perceived ability to destabilize vulnerable areas contribute to the slowed pace of disarmament.” Patricia Gossman, “Transitional Justice and DDR: The Case of Afghanistan,” International Center for Transitional Justice, June 2009, <http://www.ictj.org/sites/default/files/ICTJ-DDR-Afghanistan-CaseStudy-2009-English.pdf>.

<sup>41</sup> Human Rights Watch, *Just Don’t Call It a Militia: Impunity, Militias, and the Afghan Local Police*, September 2011, <http://www.hrw.org/sites/default/files/reports/afghanistano911webwcover.pdf>, p. 17.

The culmination of this process of using militias instead of creating stable and law-abiding institutions was the creation of the Afghan Local Police (ALP), a militia formally launched in August 2010. Although the Afghan government outlined measures to prevent pre-existing militias from joining the ALP,<sup>42</sup> a weak vetting process failed to achieve this, and the force has provided a cover for armed groups already implicated in abuses.<sup>43</sup> Despite ostensible government oversight, ALP units have repeatedly been implicated in abuses that mirror those of the private militias. The result has been a pattern of impunity, abuse, and the consolidation of power and control of resources by a small elite group. As Human Rights Watch stated in 2011:

While some community defense force programs have been more successful than others, all have been plagued by failures of vetting and oversight, and, too often, impunity for human rights abuses. In different ways and to different degrees, all of the programs have at times been hijacked by local strongmen or by ethnic or political factions, spreading fear, exacerbating local political tensions, fueling vendettas and ethnic conflict, and in some areas even playing into the hands of Taliban insurgents, thus subverting the very purpose for which the militias were created.<sup>44</sup>

Abuses are not, however, limited to ALP and militias that operate under limited government control. NDS and the national police have also been implicated in serious and widespread abuses. The Afghan Independent Human Rights Commission (AIHRC) and the UN have released several major reports on torture in detention, perpetrated primarily by NDS and police. Just over half of the 635 detainees interviewed for one of the UN reports made credible allegations of torture.<sup>45</sup> The AIHRC separately interviewed another 100 detainees, with similar findings.<sup>46</sup> These reports and others have also documented abuses

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<sup>42</sup> Ibid., p. 2.

<sup>43</sup> See, for example, the case studies on Kunduz militias and Commander Azizullah in this report.

<sup>44</sup> Human Rights Watch, *Just Don't Call It a Militia*, p 3.

<sup>45</sup> "Treatment of Conflict-Related Detainees in Afghan Custody: One Year On," United Nations Assistance Mission in Afghanistan/United Nations Office of the High Commissioner for Human Rights, January 2013, pp vi-vii and 10-11. UNAMA found evidence that torture and ill-treatment of detainees was systematic at two sites, the NDS Headquarters in Kandahar city and the NDS Counter-terrorism Department 124 in Kabul (formerly known as NDS Department 90).

<sup>46</sup> "Torture, Transfers, and Denial of Due Process: The Treatment of Conflict-Related Detainees in Afghanistan," Afghanistan Independent Human Rights Commission (AIHRC), March 17, 2012, p. 2, <http://www.aihrc.org.af/media/files/AIHRC%20OSF%20Detentions%20Report%20English%20Final%2017-3-2012.pdf> (accessed April 5, 2014).

against children under 18, including arbitrary detention and torture.<sup>47</sup> The January 2013 UNAMA report documented incidents of torture or ill-treatment of 80 percent of the 105 child detainees that UNAMA interviewed, an increase of 14 percent over the findings of a similar UNAMA report from October 2011.<sup>48</sup>

## Corruption

Widespread, rampant corruption has contributed to human rights abuses and impunity. Corrupt and abusive militia commanders have been among the major beneficiaries of foreign donors' allocation of lucrative contracts for logistics and security. Commanders have taken advantage of these contracts by maintaining private militias under official cover and "provid[ing] security" by paying off Taliban forces rather than seeking to defeat or defend against them.<sup>49</sup>

Corruption has also had a devastating impact on the effectiveness of the Afghanistan National Police and the judiciary. In a country ranked among the worst in the world on the Transparency International 2014 Corruption Perceptions Index,<sup>50</sup> studies confirm public perceptions that the ANP, the judiciary, and prosecutors' offices are among the most corrupt of Afghan government institutions.<sup>51</sup> One analysis of the Afghanistan reconstruction effort has argued that spending "too much too quickly with too little oversight in insecure environments is a recipe for fueling corruption, delegitimizing the Afghan government, and undermining the credibility of international actors."<sup>52</sup> Positions

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<sup>47</sup> See, for example, Kimberley Motley, "An Assessment of Juvenile Justice in Afghanistan," *Terre des Hommes*, January 2010, p. 27, [http://www.crin.org/docs/Tdh\\_Juvenile\\_justice\\_web.pdf](http://www.crin.org/docs/Tdh_Juvenile_justice_web.pdf) (accessed May 20, 2013). "Torture, Transfers, and Denial of Due Process," p 23-24; "Treatment of Conflict-Related Detainees in Afghan Custody," UNAMA/OHCHR, p. 3.

<sup>48</sup> Treatment of Conflict related Detainees in Afghan Custody: One Year On," p. 3.

<sup>49</sup> The result has been that the international military effort has inadvertently fed corruption, empowered rights abusers, and helped bankroll the Taliban. "Warlord, Inc.: Extortion and Corruption Along the U.S. Supply Chain in Afghanistan," Report of the Majority Staff, Subcommittee on National Security and Foreign Affairs, Committee on Oversight and Government Reform, US House of Representatives, June 2010, [http://www.cbsnews.com/htdocs/pdf/HNT\\_Report.pdf](http://www.cbsnews.com/htdocs/pdf/HNT_Report.pdf) (accessed April 16, 2013). Carlotta Gall, "In Afghanistan's North, Ex-Warlord Offers Security," *New York Times*, May 17, 2010, [http://www.nytimes.com/2010/05/18/world/asia/18mazar.html?\\_r=0](http://www.nytimes.com/2010/05/18/world/asia/18mazar.html?_r=0) (accessed April 27, 2013).

<sup>50</sup> "Corruption Perceptions Index 2014," Transparency International, 2014, <http://www.transparency.org/cpi2014/results> (accessed February 6, 2015).

<sup>51</sup> "Corruption in Afghanistan: Recent patterns and trends," Islamic Republic of Afghanistan High Office of Oversight and Anti-Corruption/United Nations Office on Drugs and Crime, December 2012, pp 10-12, [http://www.unodc.org/documents/frontpage/Corruption\\_in\\_Afghanistan\\_FINAL.pdf](http://www.unodc.org/documents/frontpage/Corruption_in_Afghanistan_FINAL.pdf) (accessed April 5, 2014).

<sup>52</sup> Andrew Wilder and Gordon Stuart, "Money Can't Buy American Love," *Foreign Policy*, December 1, 2009, [http://www.foreignpolicy.com/articles/2009/12/01/money\\_cant\\_buy\\_america\\_love?page=full](http://www.foreignpolicy.com/articles/2009/12/01/money_cant_buy_america_love?page=full) (accessed April 17, 2013).

within the government and security services have also been rife with corruption. One study noted:

This “grand corruption” is extremely damaging to state-building efforts because it involves the capture of parts of the state apparatus. There are numerous accounts of senior Mol [Ministry of Interior] officials accepting large bribes in exchange for appointing certain individuals into strategic and lucrative positions, often as police chiefs in districts and provinces involved in drug production or trafficking.<sup>53</sup>

Corruption within the government has also significantly harmed public perceptions of government capacity and trust for the government among the wider population.<sup>54</sup> A Pay and Rank Reform<sup>55</sup> process began in the Ministry of Interior in 2005 to remove the most abusive and corrupt elements from the police resulted in the removal of 11 police chiefs who had failed a review that incorporated human rights vetting and capacity tests—demonstrating that effective action was possible with sufficient coordination and political will.<sup>56</sup> However, international attention waned and most of the officers were eventually reinstated.<sup>57</sup>

Initiatives ostensibly undertaken to curb corruption and other abuses have had virtually no impact, for the same reasons there has been no progress tackling impunity in other areas. Officially, the United States has backed anti-corruption measures, while at the same time reportedly protecting officials accused of corruption who have been deemed vital to the war

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<sup>53</sup> Andrew Wilder, “Cops or Robbers? The Struggle to Reform the Afghan National Police,” Afghanistan Research and Evaluation Unit, July 2007, <http://dspace.cigilibrary.org/jspui/bitstream/123456789/15475/1/Cops%20or%20Robbers%20The%20Struggle%20to%20Reform%20the%20Afghan%20National%20Police%202007.pdf?1> (accessed April 18, 2013), p. 5.

<sup>54</sup> Stephen Carter and Kate Clark, “No Shortcut to Stability,” pp. 10-11. On Pay and Rank Reform see also “Reforming Afghanistan’s Police,” International Crisis Group, Asia Report No. 138, August 30, 2007, [http://www.crisisgroup.org/~media/Files/asia/south-asia/afghanistan/138\\_reforming\\_afghanistan\\_s\\_police.pdf](http://www.crisisgroup.org/~media/Files/asia/south-asia/afghanistan/138_reforming_afghanistan_s_police.pdf) (accessed April 20, 2013), p. 12.

<sup>55</sup> Pay and Rank Reform was a process intended to restructure a top-heavy police force by reducing senior officer positions; to institute a rigorous process for testing and selecting officers based on merit rather than personal and factional connections and bribery; and to increase pay to facilitate recruitment and retention and reduce corruption. Andrew Wilder, “Cops or Robbers?,” p. ix.

<sup>56</sup> Andrew Wilder, “Cops or Robbers?,” p. ix.

<sup>57</sup> Human Rights Watch phone interview with former UN official No. 2, May 21, 2013; “Afghanistan: Reject Known Abusers as Police Chiefs,” Human Rights Watch news release, May 5, 2006, <http://www.hrw.org/news/2006/05/03/afghanistan-reject-known-abusers-police-chiefs> (accessed August 19, 2014).

effort.<sup>58</sup> The Attorney General's Office—itsself accused of corruption<sup>59</sup>—has criticized the High Office for Oversight<sup>60</sup> for being ineffective and open to or even facilitating corruption.<sup>61</sup> Although the government established the Independent Joint Anti-Corruption Monitoring and Evaluation Committee (MEC) at the July 2010 Kabul Conference,<sup>62</sup> and has promulgated anti-corruption decrees, implementation remains elusive, again because those responsible for corruption hold power.<sup>63</sup> The Major Crimes Task Force (MCTF) and Sensitive Investigation Unit (SIU), created with international assistance and designed to be well-resourced and isolated from corruption, have been stymied by government interference.<sup>64</sup>

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<sup>58</sup> This two-faced approach “underscores deep contradictions at the heart of the Obama administration’s policy in Afghanistan, with American officials simultaneously demanding that Mr. Karzai root out the corruption that pervades his government while sometimes subsidizing the very people suspected of perpetrating it.” Dexter Filkins and Mark Mazetti, “Karzai Aide in Corruption Inquiry Is Tied to C.I.A.,” *New York Times*, August 25, 2010, <http://www.nytimes.com/2010/08/26/world/asia/26kabul.html?pagewanted=all> (accessed August 7, 2013).

<sup>59</sup> Dan Murphy, “So, this is the office that will investigate Afghanistan’s Kam Air?” *Christian Science Monitor*, February 6, 2013, <http://www.csmonitor.com/World/Security-Watch/Backchannels/2013/0206/So-this-is-the-office-that-will-investigate-Afghanistan-s-Kam-Air>. (accessed February 11, 2015).

<sup>60</sup> The High Office of Oversight and Anti-corruption (HOOAC), established in 2008, is in charge of coordinating and monitoring the Afghan government’s anti-corruption strategy and implementing administrative procedural reforms. <http://anti-corruption.gov.af/en/page/8463>.

<sup>61</sup> Julian Borger, “Afghan anti-corruption watchdog threatens to quit,” *The Guardian*, December 4, 2011, <http://www.guardian.co.uk/world/2011/dec/04/afghan-corruption-watchdog-threatens-quit> (accessed April 29, 2013).

<sup>62</sup> “3rd Six-Month Report,” Independent Joint Anti-Corruption Monitoring and Evaluation Committee, March 13, 2013, <http://www.mec.af/files/3th%20six%20monthly%20report%20-%20english.pdf> (accessed April 28, 2013); “Fourth Mission/Third Set of Benchmarks,” Independent Joint Anti-Corruption Monitoring and Evaluation Committee, April 30, 2012 <http://www.iwaweb.org/Docs/News/MEC%20Third%20Set%20Benchmarks%2002%202012.pdf> (accessed April 28, 2013).

<sup>63</sup> “Report on the Implementation of Anti-Corruption Related Elements of Presidential Decree 45,” Independent Joint Anti-Corruption Monitoring and Evaluation Committee, March 13, 2013, <http://www.mec.af/files/reportonpresidentialdecree45english.pdf> (accessed April 29, 2013).

<sup>64</sup> President Karzai essentially blocked all efforts by both units and froze anti-corruption investigations after the MCTF arrested a presidential aide in July 2010—despite Karzai himself previously approving the arrest. Rod Nordland and Alissa J. Rubin, “New Afghan Corruption Inquiries Frozen,” *New York Times*, September 14, 2010, [http://www.nytimes.com/2010/09/15/world/asia/15afghan.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2010/09/15/world/asia/15afghan.html?pagewanted=all&_r=0) (accessed April 29, 2013). It later emerged that the aide, Zia Salehi, was on the payroll of the CIA and delivered bags of CIA cash to senior officials. Dexter Filkins and Mark Mazetti, “Karzai Aide in Corruption Inquiry Is Tied to C.I.A.,” *New York Times*, August 25, 2010, <http://www.nytimes.com/2010/08/26/world/asia/26kabul.html?pagewanted=all> (accessed August 7, 2013). The Salehi incident effectively marked the end of any serious efforts by the Afghan government or its partners to directly tackle corruption, a decision reflected in a formal statement of US objectives in Afghanistan a few months later. Sarah Chayes, “The Afghan Bag Man,” Carnegie Endowment for International Peace, May 14, 2013, <http://m.ceip.org/2013/05/04/afghan-bag-man/g2fk> (accessed August 11, 2013).

## II. Profiles of Impunity

Profiled below are eight Afghan government officials and pro-government militia leaders implicated in serious human rights abuses, including murder, sexual violence, torture, arbitrary detention, and extortion. While these examples are among the most notorious, they typify a poorly functioning and abusive state security apparatus. Corruption and abuse have crippled efforts to build functioning and rights-respecting judicial and security institutions in Afghanistan, which should hold figures such as these to account. Instead, with the backing of the US and other international supporters, the Afghan government has empowered rather than apprehended them.

Full and impartial criminal investigations are necessary to establish whether sufficient evidence exists to bring these officials and military commanders to trial. The basic groundwork set out below should encourage such investigations into these and other alleged crimes by government forces and proxies that have gone unpunished. While ultimate responsibility for prosecuting serious violations of human rights rests with the Afghan government, the US and other governments that directly or indirectly supported abusive forces should assist accountability efforts with the departure of their troops from the country.

### Abdul Hakim Shujoyi

Abdul Hakim Shujoyi is a Hazara militia leader originally from Malestan in Ghazni province.<sup>65</sup> Shujoyi was formerly a low-level commander with the Nasr faction of the Hebe-Wahdat party. He has been active in the neighboring district of Khas Uruzgan, a remote area of Uruzgan province.<sup>66</sup> Despite arrest warrants against him for serious criminal offenses, including extrajudicial executions of civilians (detailed below), allegedly committed by forces under his command in 2012, as of June 2014 he remained at large, and the de facto ALP commander in Khas Uruzgan.

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<sup>65</sup> Martine van Bijlert, "Security at the Fringes: the case of Shujai in Khas Uruzgan." Afghanistan Analysts Network, April 6, 2013 <http://www.afghanistan-analysts.org/security-at-the-fringes-the-case-of-shujai-in-khas-uruzgan>. (accessed April 8, 2014). The name has varying transliterations, with Shujayee, Shujai, Shujayi, and Shujahi all in use.

<sup>66</sup> Ibid.

The allegations against Shujoyi are linked to the history of tensions between Pashtun and Hazara ethnic groups in Uruzgan. Those tensions have complicated prospects for accountability, as many local Hazaras fear that any action taken against Shujoyi represents an attack on the Hazara community as a whole. An Afghanistan Analysts Network report on Shujoyi noted that “[d]espite their misgivings about Shujai [sic] and their concerns about his behavior, many Hazaras ... are afraid that the agenda is not just to remove an abusive commander, but rather to weaken the Hazaras and to leave their communities defenseless against acts of retaliation.”<sup>67</sup>

Shujoyi was originally a member of the Afghan Security Guards (ASG) and directly worked with US forces in Khas Uruzgan.<sup>68</sup> US Special Forces in the district reportedly insisted on his recruitment as the commander of the Afghan Local Police in Khas Uruzgan in early 2011, although he was not from the locality.<sup>69</sup> The Ministry of the Interior has previously denied that Shujoyi is part of the ALP.<sup>70</sup> However, local authorities in Uruzgan have referred to him as the ALP commander, and people in his area of operations clearly perceived Shujoyi as an ALP official.<sup>71</sup> Human Rights Watch interviewed Pashtun residents of Khas Uruzgan, who all reported that Shujoyi travelled in vehicles with ALP and ANP markings.<sup>72</sup> Other reports confirm that his forces wore ALP uniforms and drew ALP salaries.<sup>73</sup>

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<sup>67</sup> Ibid.

<sup>68</sup> Ibid.

<sup>69</sup> Van Bijlert writes that: “The American SOF [Special Operations Forces], according to all local sources, insisted on Shujai’s [Shujoyi’s] appointment, overruling the district governor (who did not believe the area needed a Hazara ALP force) and those who had preferred another local Hazara candidate (who, according to some, was incidentally no better – and possibly even worse – than Shujai) as well as local leaders who had concerns about Shujai’s behaviour.” Van Bijlert, “Security at the Fringes,” April 6, 2013. One of three elders interviewed by Human Rights Watch also stated that Shujoyi was initially with the ASG before being appointed to the ALP. Human Rights Watch interviews with Haji Anwar, Jan Agha, and Barylai (pseudonyms), three elders from Khas Uruzgan, Kandahar, November 2012;

<sup>70</sup> Sharif Amiry, “Hunt for Accused Armed Leader Shujaee Underway in Uruzgan,” *Tolo News*, November 27, 2012, <http://tolonews.com/en/afghanistan/8508-hunt-for-accused-armed-leader-shujaee-underway-in-uruzgan-> (accessed April 21, 2013).

<sup>71</sup> “Police kill 11 civilians in Uruzgan district,” *PakTribune*, August 3, 2012 <http://paktribune.com/news/Police-kill-11-civilians-in-Uruzgan-district-252076.html> (accessed April 27, 2013); Sharif Amiry, “Hunt for Accused Armed Leader Shujaee Underway in Uruzgan.”

<sup>72</sup> Human Rights Watch interviews with Haji Anwar, Jan Agha and Barylai (pseudonyms), three elders from Khas Uruzgan, Kandahar, November 2012; Human Rights Watch interview with Akbar Wali, (pseudonym), Kandahar, November 2012. They described the vehicles as both the green Ford Rangers of the Afghan National Police and the white vehicles of the ALP.

<sup>73</sup> Martine van Bijlert, “Security at the Fringes,” April 6, 2013 (accessed April 8, 2014).



Akbar Wali (pseudonym), a laborer, told Human Rights Watch that ALP forces controlled by Shujoyi had raided his village in the Kukhtaba area on July 26, 2011.<sup>74</sup> Wali believed that Shujoyi's forces killed his two adult sons the day before the attack on his village. The two men had left for work on a motorcycle and the next day villagers brought their corpses to Wali's home. The motorcycle had been stolen.<sup>75</sup> He said:

On [July 6] ... he killed another seven people. They [Shujoyi's men] came to the houses and when he saw people, he fired on them. I was in the graveyard digging the graves and mourning [my children]. [The ALP under Shujoyi's command] set houses on fire. I heard the sound of the [guns] firing, but I did not see the troops—everyone was hiding because they [feared the militia] would kill everyone. I spoke with the people of the village afterwards and they said [the ALP militia] killed these people. People saw this with their own eyes. They beat women as well.<sup>76</sup>

Whatever Shujoyi's official title, Akbar Wali clearly saw him as an ALP commander:

They [Shujoyi's men] are [Afghan] Local Police. I saw them other times—sometimes they were in their own private clothes and sometimes in police uniforms. They have cars like the police—[Ford] Rangers. They have both white and green cars. I saw [them] with my own eyes. I saw them both before and after the attack—they come and go. The local people said it was Shujoyi's people [who attacked the village]. The other soldiers do not do these things. There are other soldiers but they are far away.<sup>77</sup>

Akbar Wali's account was corroborated by a separate report from a nongovernmental organization, which recorded an attack by Shujoyi's men at the same time (just before Ramadan 2011), resulting in the deaths of two young men whose names matched those of Akbar Wali's murdered sons, and who were also recorded as having been riding on a motorbike at the time. The report added that Shujoyi's men then “[b]urned harvests, [and]

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<sup>74</sup> Akbar Wali remembered the date as the 3rd of Asad 1390 in the Afghan calendar, which he correctly recalled as a Monday. Human Rights Watch interview with Akbar Wali (pseudonym), Kandahar, November 2012.

<sup>75</sup> Ibid.

<sup>76</sup> Ibid.

<sup>77</sup> Ibid.

tractors, then they went inside of some houses of the village and they have beaten women as well.”<sup>78</sup>

Shujoyi’s forces are alleged to have committed many other abuses with impunity.<sup>79</sup> Local residents and political leaders have alleged that in one incident on August 1, 2012, forces under Shujoyi’s command killed between 9 and 17 people in different parts of Khas Uruzgan, including at least one child. Local residents cited in media reports said the killings were in retaliation for the alleged Taliban killing of two Hazaras the previous day.<sup>80</sup>

Three elders from Khas Uruzgan spoke to Human Rights Watch on condition that their names not be used because they feared retaliation. Haji Anwar (pseudonym) said he helped collect the bodies from a site where Shujoyi’s forces had allegedly tied up seven farmers and beaten them to death with rocks as part of the August killings:

We did not know how many had been killed. I went to my house and got people together and we went to Sokhtagak. I went to the Kotal-e-Aaja, to the fields. There was a small boy who was [found] between three rocks—he was crushed and smashed. There were six people in one place and one in another place. We only found six at first and the other [man] two or three hours later—he was under a big rock. Their hands were bound with turbans or shirts. [They] were spread over the space of about a *jereb* [2000 square meters]. [I also heard that] four other people were killed in Kotal-e-Shaheed. There were about 10 to 15 people in the place where the seven were working—[the others] escaped. They said they saw the uniforms of the militia and ran.<sup>81</sup>

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<sup>78</sup> Nongovernmental organization report (copy on file with Human Rights Watch).

<sup>79</sup> Martine van Bijlert, “Khas Uruzgan violence and ISAF press releases,” *Afghanistan Analysts Network*, June 26, 2011 <http://www.aan-afghanistan.com/index.asp?id=1846> (accessed May 20, 2013).

<sup>80</sup> Mirwais Harooni, “Abuse allegations mount against flagship Afghan police force,” *Reuters*, August 29, 2012 <http://www.reuters.com/article/2012/08/30/us-afghanistan-police-idUSBRE87To2920120830> (accessed May 20, 2013); Alissa Rubin and Sangar Rahimi, “Afghan Officials Cite Revenge Killings in Latest Outbreak of Ethnic Hatred,” *New York Times*, August 3, 2012 [http://www.nytimes.com/2012/08/04/world/asia/9-afghans-killed-in-latest-ethnic-violence.html?\\_r=0](http://www.nytimes.com/2012/08/04/world/asia/9-afghans-killed-in-latest-ethnic-violence.html?_r=0) (accessed May 20, 2013); Van Bijlert, “Security at the Fringes,” April 6, 2013.

<sup>81</sup> The source identified the date as “the 12<sup>th</sup> or 13<sup>th</sup> of Ramazan” 2012, which corresponds to August 1, 2012. Human Rights Watch interview with Haji Anwar (pseudonym), Kandahar, November 2012.

In an official complaint to the Afghan parliament that corroborates Haji Anwar's account, a local man stated that "one of his small boys had been stoned to death in August" 2012 by Shujoyi's men.<sup>82</sup>

There have been many similar complaints: in November 2012 a delegation of local representatives delivered a petition to the central government with a list of 121 men they claimed that Shujoyi's forces had killed since 2009. The complaints also include many allegations of theft and a number of cases of rape that local residents allege that Shujoyi's forces perpetrated regularly and with particular brutality.<sup>83</sup>

Haji Anwar also said Shujoyi's militia had stolen dozens of motorcycles in the past two years, and had extorted wheat from villagers through an unlawful "tax":

I saw the [police] Ranger go to the villages and take wheat. They took 10 *ser* [just over 70 kilograms] from each house. I was not in my house when they came. My son gave it to them—to [Shujoyi's] soldiers. Their post is nearby—we recognize that they are from Shujoyi.<sup>84</sup>

A second Pashtun elder from the district, Jan Agha (pseudonym), recounted a conversation he had with Shujoyi in late 2011 during which he mentioned one of his militiamen who had been imprisoned in the provincial capital of Tirin Kot. Shujoyi allegedly threatened reprisals, telling Jan Agha: "The people who made this complaint—I will burn their house and take them. The Americans are in my hand. The power of the provincial governor or of Karzai does not reach to me."<sup>85</sup>

Shujoyi's position owes much to foreign support. According to one analyst, the "American SOF [Special Operations Forces], according to all local sources, insisted on Shujoyi's appointment [as ALP commander], overruling the district governor ...as well as local

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<sup>82</sup> Paul McGeough, "The untouchable: a new breed of warlord," *Sydney Morning Herald*, March 19, 2013, <http://www.smh.com.au/world/the-untouchable-a-new-breed-of-warlord-20130319-2gcji.html> (accessed April 21, 2013); Nicola Smith, "US ally 'had boy stoned to death'," *Sunday Times*, December 16, 2012, [http://www.thesundaytimes.co.uk/sto/news/world\\_news/Asia/article1177510.ece](http://www.thesundaytimes.co.uk/sto/news/world_news/Asia/article1177510.ece) (accessed May 26, 2013).

<sup>83</sup> Copies of many of the complaint documents are on file with Human Rights Watch.

<sup>84</sup> Human Rights Watch interview with Haji Anwar (pseudonym), Kandahar, November 2012.

<sup>85</sup> Human Rights Watch interview with Jan Agha (pseudonym), Kandahar, November 2012. Jan Agha also said Shujoyi was clearly seen as an ALP commander: "I saw that his soldiers are in the white Rangers. ALP is written on them."

leaders who had concerns about Shujoyi's behavior."<sup>86</sup> A spokesman for the US Special Forces denied any US ties with Shujoyi at the time of the August 2012 incident, and said US Special Forces were not active in the area where the alleged incident occurred.<sup>87</sup> Another Special Forces statement spoke of a "previous association" with Shujoyi that was "limited to official contact within the context of the Afghan local police program."<sup>88</sup>

The three elders Human Rights Watch interviewed were adamant about Shujoyi's close links to foreign forces. Jan Agha said that "everyone has seen [Shujoyi] with the Americans," and in particular that he was frequently seen entering the international base in the district capital of Khas Uruzgan (known as Forward Operating Base (FOB) Anaconda).<sup>89</sup>

There are allegations that international forces have continued to support Shujoyi even after a warrant was issued for his arrest. One international journalist wrote in March 2013 that Shujoyi "still works alongside the Americans, spending a good deal of time on the US base at Khas Oruzgan [sic]," and that:

American officials issue repeated denials. But in the space of a month, government officials and MPs in Kabul, Oruzgan police chief Matiullah Khan, a respected NGO, influential Oruzgani tribal elders, local businessmen and humanitarian workers cross-reference repeated claims of how cover by US Special Forces has emboldened and protected Shujoyi.<sup>90</sup>

The lack of accountability for Shujoyi's alleged crimes is striking. The Ministry of the Interior issued an arrest warrant for Shujoyi in November 2012. In January 2013, Interior Minister Mujtaba Patang said the authorities knew Shujoyi's location and that his arrest was imminent.<sup>91</sup> Patang had earlier promised that the warrant against Shujoyi would be

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<sup>86</sup> Van Bijlert, "Security at the Fringes," April 6, 2013.

<sup>87</sup> Rubin and Rahimi, "Afghan Officials Cite Revenge Killings in Latest Outbreak of Ethnic Hatred." *New York Times*, August 3, 2012, <http://www.nytimes.com/2012/08/04/world/asia/9-afghans-killed-in-latest-ethnic-violence.html> (Accessed February 13, 2014)

<sup>88</sup> This contradicts the Mol's assertions that Shujoyi is not ALP. Smith, "US ally 'had boy stoned to death.'"

<sup>89</sup> Human Rights Watch interview with Jan Agha (pseudonym), Kandahar, November 2012.

<sup>90</sup> Paul McGeough, "The untouchable: a new breed of warlord," *Sydney Morning Herald*, March 19, 2013, <http://www.smh.com.au/world/the-untouchable-a-new-breed-of-warlord-20130319-2gcji.html> (accessed April 21, 2013).

<sup>91</sup> "Hakim Shujaae to be arrested soon: Minister," *Frontier Post*, <http://www.thefrontierpost.com/article/201081/> (accessed May 21, 2013).

carried out “no matter who is shielding him.”<sup>92</sup> Although Shujoyi was reportedly briefly detained when he visited the Interior Ministry headquarters in Kabul in October 2012, he was held for only a few hours before authorities released him, and it is not clear if he was formally arrested. Afghanistan’s second vice-president at the time, Abdul Karim Khalili, who shares Shujoyi’s political affiliation, allegedly ordered Shujoyi’s release. Khalili denies the allegation.<sup>93</sup>

In early 2013, the Ministry of the Interior stated that it could not arrest him because he had escaped to Malestan, a remote and difficult to access area of Ghazni.<sup>94</sup> But it is unclear if the authorities are in fact seriously pursuing him, or even that he has been relieved of his post as ALP commander. Shujoyi was reportedly present at a gathering of Hazara elders in Khas Uruzgan in March 2013 in the presence of Uruzgan’s Deputy Police Chief.<sup>95</sup> The Afghanistan Analysts Network has cited reports that Shujoyi hosted a sympathetic member of parliament from Ghazni province, Dr. Abdul Qayoom Sajjadi, for lunch at his home in Malestan in January 2013, and that Shujoyi visited a Pashtun ALP colleague in mid-February 2013.<sup>96</sup> At that time, Shujoyi reportedly continued to travel to Khas Uruzgan to “visit and oversee the security posts that are still, at least informally, under his command.”<sup>97</sup> According to AAN, he remains at home in Malestan, and his men remain part of the local ALP, manning posts. He reportedly visits these posts regularly.<sup>98</sup>

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<sup>92</sup> Abasin Zaheer, “Minister orders ALP commander’s arrest,” *Pajhwok Afghan News*, November 13, 2012 <http://www.pajhwok.com/en/2012/11/13/minister-orders-alp-commander%E2%80%99s-arrest> (accessed May 21, 2013).

<sup>93</sup> “Afghan Warlord Accused of Murder Allegedly Bailed Out by Vice President,” *Radio Free Europe/Radio Liberty*, October 18, 2012 <http://fb.rferl.org/content/article/24743855.html> (accessed May 21, 2013). Uruzgan police chief Matiullah Khan reportedly also visited FOB Anaconda prior to this as part of a delegation that included the Provincial Governor to ask the Americans to hand over Shujoyi for prosecution, but, he claimed, “the Americans ‘disappeared’ [him].” Paul McGeough, “The untouchable: a new breed of warlord,” *Sydney Morning Herald*, March 19, 2013, <http://www.smh.com.au/world/the-untouchable-a-new-breed-of-warlord-20130319-2gcji.html> (accessed April 21, 2013).

<sup>94</sup> Van Bijlert, “Security at the Fringes,” April 6, 2013.

<sup>95</sup> Ibid.

<sup>96</sup> Ibid.

<sup>97</sup> Van Bijlert reported that: “In a latest twist, a gathering of Hazara elders in March 2013, at which both the Uruzgan Deputy Police Chief and Shujai were present, discussed how to deal with the departure of the US forces from the area. Reports vary as to what was decided. According to a Pashtun source the gathering concluded that Shujai had become a liability and should no longer head the ALP. Hazara sources, on the other hand, claimed that the meeting had resulted in a renewed endorsement of Shujai as the main security provider in the area (although their descriptions of the extent to which this was done implicitly and informally, or explicitly and officially, varied considerably). So, depending on whom you ask, Shujai has either been informally deposed by a decision of the local elders, or has seen his hand considerably strengthened (there are indications that he may have also been given command over the ASG forces that will no longer be linked to the SOF). And so it remains unclear whether the Mol has indeed cut him loose or continues to support him. As in many other places, the ALP

## Khair Mohammad Timur (“Cherik”)

Khair Mohammad Timur, known as “Cherik,” became the chief of police of Takhar in northeast Afghanistan around July 2011.<sup>99</sup> The Interior Ministry dismissed him from his post on May 11, 2013, in response to complaints about his behavior from residents of Takhar.<sup>100</sup> As of June 2014 he was reported to be running presidential candidate Ashraf Ghani’s campaign in the province.<sup>101</sup> One informed UN official told Human Rights Watch that there was some pressure from Uzbeks in the province for the government to reappoint Cherik as chief of police.<sup>102</sup>

Timur is an ethnic Uzbek from Kalafgan village in Takhar.<sup>103</sup> A relatively low-level commander with the Jamiat faction,<sup>104</sup> Timur reportedly shifted his allegiance to Abdul Rashid Dostum’s Junbish party<sup>105</sup> after 2001 because he believed Jamiat had not adequately rewarded non-Tajik members of the movement with positions of power in the government and the security forces.<sup>106</sup> However, after 2005 he realigned with Jamiat.<sup>107</sup> A former UN political officer who was based in northern Afghanistan after 2001 said that

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umbrella provides a lot of room for improvisation, and it is very well possible that the decisions and practical arrangements by the provincial police leadership diverge from the Kabul policy lines.” Ibid.

<sup>98</sup> Interview by email with Martine van Bijlert of the Afghanistan Analysts Network, January 3, 2015.

<sup>99</sup> Human Rights Watch interview with international official based in Kunduz, Kunduz province (name and location of interview withheld), September 12, 2012.

<sup>100</sup> Ibid.

<sup>101</sup> Human Rights Watch interview with UN official No 1, Kabul, March 2014.

<sup>102</sup> Ibid.

<sup>103</sup> “Cherik” is a *nom de guerre* that Khair Mohammad acquired before 2001, with a meaning roughly equating to “strong guerrilla fighter” – it appears more common among commanders with some link to the former communist regime, and one source thought it was derived from the revolutionary Che Guevara. Timur is Cherik’s family name (*takhalus*). Media and UN documents generally refer to him as Khair Mohammad Timur, or just as Khair Mohammad. Human Rights Watch phone interview with former UN official No. 1, March 2013; “Afghan Biographies: Timur, Khair Mohammad Brig Gen Timur,” Afghan Bios, [http://www.afghanbios.info/index.php?option=com\\_afghanbios&id=1265&task=view&total=2218&start=1986&Itemid=2](http://www.afghanbios.info/index.php?option=com_afghanbios&id=1265&task=view&total=2218&start=1986&Itemid=2) (accessed May 16, 2013); Gran Hewad, “On the Way to Chicago: Fighting Corruption – and Condoning It?,” *Afghanistan Analysts Network*, April 4, 2012, <http://www.aan-afghanistan.org/index.asp?id=2640> (accessed May 16, 2013); Nadar Azizi, “Police officer detained on bribery charge,” *Pajhwok Afghan News*, August 8, 2011, <http://www.pajhwok.com/en/2011/08/08/police-officer-detained-bribery-charge> (accessed May 17, 2013).

<sup>104</sup> Jamiat-e-Islami: the ‘Islamic Society’, a Tajik-dominated movement founded by Professor Burhanuddin Rabbani in 1968, and one of the principal parties in the war against the Soviet occupation of Afghanistan in the 1980s.

<sup>105</sup> Junbish: *Junbish-e-Milli Islami Afghanistan* (National Islamic Movement of Afghanistan), an Uzbek-dominated movement led by General Abdul Rashid Dostum.

<sup>106</sup> Human Rights Watch interview with UN official No. 1, Kabul, September 2012. He described this as a pattern with a number of other Uzbek commanders at this time.

<sup>107</sup> Ibid.

Timur “tried very hard in the early 2000s to go straight, but was essentially blocked by Jamiat.”<sup>108</sup>

Human Rights Watch interviewed several alleged victims of abuses by Timur personally and by forces under his command. Rafiqi (pseudonym), a local trader, described how Timur and ANP personnel under his command beat him in July 2009, when Timur was deputy Chief of Police of Takhar province. Rafiqi told Human Rights Watch that Timur accompanied uniformed police in a marked Ford Ranger pickup truck that forced the car in which he was travelling to stop. The police in the pickup accused the occupants of the car of not halting at a previous checkpoint, although Rafiqi said the checkpoint personnel had allowed them passage. Several of the policemen struck Rafiqi two or three times as he stepped out of the car, he said, and then detained him for a few minutes in the Ranger while they searched his car. Rafiqi said:

After that, they took me out [of the car] and started to beat me... [Timur] himself beat me with his fists and kicked me—his soldiers beat me with guns. He beat me in the groin... I was bleeding from the left ear because they had beaten me with the barrel of a Kalashnikov [assault rifle] ... I was bruised in many places.<sup>109</sup>

Rafiqi said that after this beating, the police forced him into the Ranger and drove him to Timur’s home.<sup>110</sup> The police beat Rafiqi into unconsciousness in the street when, fearing for his life, he resisted their efforts to force him into the house. After a short time – he does not know how long – Timur’s brother-in-law, Mujib Rahman, and Rahman’s driver, Habib Shah, threw water on him to revive him and said, “It is better for you to go, or if [Timur] finds you here he will kill you.”<sup>111</sup> Rafiqi says he fell three times on the way home due to his

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<sup>108</sup> Human Rights Watch phone interview with former UN official No. 2, (name and location of interview withheld), October, 2013. The same source recalled that Chirik was removed from the police as part of the 2005-2006 Pay and Rank Reform process, but that this was because of a lack of either strong qualifications or high-level protection, rather than a history of serious abuses – while others with worse records but the right connections were retained. But even he was later able to work his way back in to the security forces. Summary vetting tables from the Pay and Rank Reform process viewed by Human Rights Watch mention Chirik, but do not mention any concerns. “UNAMA Comments Police Shuffle,” UNAMA, August 2007, on file with Human Rights Watch.

<sup>109</sup> Human Rights Watch interview with Rafiqi (pseudonym), a trader, Takhar province, October 2012.

<sup>110</sup> Rafiqi recognized Timur’s home as he is a well-known public figure, and presumably recognized Mujib Rahman and Habib Shah for the same reason. Human Rights Watch interview with Rafiqi (pseudonym), October 2012.

<sup>111</sup> Ibid.

injuries until someone helped him to his house. He was “bruised in many places” and bleeding from the left ear where he had been beaten with the barrel of a Kalashnikov, and his clothes were torn to pieces. The next morning, he went to the hospital.<sup>112</sup>

In addition, Takhar was among five ANP provincial headquarters that a UN report in January 2013 implicated in “numerous credible and reliable cases of torture” at the time that Timur was ANP chief there.<sup>113</sup> The same report documented evidence of similar abuses at Takhar district police stations in Ishkamesh, Kalafgan, and Khwajaghar, all districts within the area of Timur’s command.<sup>114</sup>

## Commander Azizullah

Commander Azizullah was born in 1980 in Urgun district of Paktika province. He is an ethnic Tajik. As of June 2014, he was a commander of the local ALP in Urgun district.<sup>115</sup> Two UN reports produced in 2008 and 2010 allege that Azizullah committed serious abuses during that period while a senior commander with the so-called “campaign force” of the Afghan Security Guard (ASG) that ostensibly guarded foreign military facilities.<sup>116</sup> Available information indicates that the ASG under Azizullah’s command also took an active part in combat operations with US forces.<sup>117</sup> Reported abuses included theft and beatings during search operations, detention and physical abuse of children, and arbitrary killing of civilians, including children.<sup>118</sup> Despite those allegations, the US military has responded to

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<sup>112</sup> Ibid.

<sup>113</sup> UNAMA, “Treatment of Conflict-Related Detainees in Afghan Custody: One Year On.” January 2013, <http://www.unama.unmissions.org/LinkClick.aspx?fileticket=VsBLoS5b370%3D&tabid=12254&language=en-US> (Accessed February 13, 2015)

<sup>114</sup> Ibid.

<sup>115</sup> “Afghan Biographies: Aziziullah, Commander,” Afghan Bios, March 23, 2011 [http://www.afghan-bios.info/index.php?option=com\\_afghanbios&id=2032&task=view&start=272&Itemid=2](http://www.afghan-bios.info/index.php?option=com_afghanbios&id=2032&task=view&start=272&Itemid=2) (accessed May 18, 2013).

<sup>116</sup> “Blowback from SOF Operations: Observations and Recommendations,” UNAMA Southeast Region Political Affairs Unit, January 2010 (copy on file with Human Rights Watch); untitled confidential UN report, UNAMA, “Commander Azizullah’s behavior in southern Barmal district,” January 2010 (copy on file with Human Rights Watch).

<sup>117</sup> Julius Cavendish, “Revealed: Afghan chief accused of campaign of terror is on US payroll,” *The Independent*, March 18, 2011, <http://www.independent.co.uk/news/world/asia/revealed-afghan-chief-accused-of-campaign-of-terror-is-on-us-payroll-2245369.html> (accessed May 14, 2013); UNAMA, “Blowback from SOF Operations: Observations and Recommendations”; Rachel Reid, “Keeping control of bad choices,” *Foreign Policy*, December 20, 2011, [http://southasia.foreignpolicy.com/posts/2011/12/20/keeping\\_control\\_of\\_bad\\_choices](http://southasia.foreignpolicy.com/posts/2011/12/20/keeping_control_of_bad_choices). A resident of Paktiya with extensive contacts in the region also confirmed Azizuallah’s links to US forces. Human Rights Watch interview with Loya Paktiya source No. 1, a Paktiya elder and former mujahedin commander, October 2012.

<sup>118</sup> UNAMA, “Blowback from SOF Operations,”; Untitled confidential UN report, “Commander Azizullah’s behavior in southern Barmal district.” (copy on file with Human Rights Watch).



calls for investigation of its relationship with Azizullah by stating there was “little information to substantiate what were essentially claims.”<sup>119</sup>

The 2010 UN report summarized allegations of abuses by Azizullah in nine separate incidents from 2008 to early 2010, citing “trusted and independent sources.”<sup>120</sup> The report was leaked to the media, and journalists interviewed further sources in the province who independently corroborated several of the incidents.<sup>121</sup>

Among the abuses linked to Azizullah was an ASG raid he led on Nizamkhel village in Barmal district, Paktika province, in early 2009.<sup>122</sup> During that raid, the UN report states, “Commander Azizullah along with his men arrested nine innocent people including three children aged between 6-10 years from these houses and tied their hands up. All of them were killed.”<sup>123</sup> Another incident in southern Barmal district involved three men whom Azizullah’s forces arrested on suspicion of being insurgents and who were summarily executed on November 30, 2009.<sup>124</sup>

The 2010 UN report alleges that in September or October 2009, Azizullah’s forces shot a man named Ahmad Gul, his brother Omer Khan, and a third unidentified man who had been working in the fields nearby during a search operation in the village of Gularh in the Lemasti area of Barmal district. That search operation followed a clash between ASG forces and insurgents. The report states that “Azizullah then strapped [the] bodies [of the three men] to the hood of [his] vehicles and drove through Margha Mandi bazaar, announcing that they were terrorists. The bodies were kept for eight days until they started to decompose, at which point they were returned to their families.”<sup>125</sup> A local elder

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<sup>119</sup>Julius Cavendish, “Revealed: Afghan chief accused of campaign of terror is on US payroll,” March 18, 2011.

<sup>120</sup> Untitled confidential UN report, “Commander Azizullah’s behavior in southern Barmal district.”

<sup>121</sup> Julius Cavendish, “Afghanistan’s Dirty War: Why the Most Feared Man in Bermal District Is a U.S. Ally,” *TIME* magazine, October 4, 2011, <http://www.time.com/time/world/article/0,8599,2096079,00.html> (accessed April 5, 2014); untitled confidential UN report, Untitled confidential UN report, “Commander Azizullah’s behavior in southern Barmal district.”

<sup>122</sup> Untitled confidential UN report, “Commander Azizullah’s behavior in southern Barmal district.”

<sup>123</sup> Ibid.

<sup>124</sup> Julius Cavendish, “Afghanistan’s Dirty War”; untitled confidential UN report, “Commander Azizullah’s behavior in southern Barmal district.”

<sup>125</sup> Ibid.

interviewed by a correspondent for *Time* magazine verified the account of the killing of the three men by Azizullah's ASG forces.<sup>126</sup>

Azizullah and the forces under his command joined the ALP in February 2011, despite local objections that this would legitimize Azizullah and his men despite their record of serious abuses.<sup>127</sup> Human rights abuses attributed to his forces continued.<sup>128</sup> The UN received complaints from residents of Urgun and other areas where Azizullah's forces were active about arbitrary arrests, extrajudicial killings, and forced recruitment of child soldiers.<sup>129</sup>

Human Rights Watch interviewed two individuals who said they were direct victims of abuses by Azizullah and ALP forces under his command. Ahmad (pseudonym), a laborer in his twenties, described what happened in June 2012, after an ALP search operation in his village<sup>130</sup>:

I came out and saw [ALP] police and American soldiers. We took the women into one room and then gave them [the ALP] permission to come into the house. When they came in they overturned the boxes of the women and took the women's gold. They took 600,000 [Pakistani] kaldar [rupees, about \$6,200], 1,000 [UAE] Dirhams [about \$270], and 200,000 [Afghani] worth of gold [about \$4,000]. I complained, [saying]: 'Are you looking for weapons or gold?' ... I worked two years as a laborer in Dubai to be able to [have the money to] marry—they took that money. I asked them: 'Are you soldiers or thieves?' [Then] they beat me with their AK-47 [assault rifles]. ... The women and children were crying as they beat me—they said take the money, but do not kill him. They beat me with the barrel and butt of the Kalashnikov. ... My mother threw herself on me—then they stopped.<sup>131</sup>

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<sup>126</sup> Cavendish, "Afghanistan's Dirty War."

<sup>127</sup> Kate Clark, "Torture, Illegal Armed Groups: Signs of Possible Afghan Government Action?" European Country of Origin Information Network, February 22, 2013, [http://www.ecoi.net/local\\_link/246633/370172\\_de.html](http://www.ecoi.net/local_link/246633/370172_de.html). (Accessed August 24, 2014).

<sup>128</sup> Human Rights Watch interview with Loya Paktiya source No. 1, April 2014.

<sup>129</sup> Human Rights Watch interview with UN official No. 2, Kabul, October 2012.

<sup>130</sup> Human Rights Watch has withheld the location of this incident in order to protect the source and other witnesses from possible reprisals.

<sup>131</sup> Human Rights Watch interview with Ahmad (pseudonym), a laborer, Kabul, November 2013.

Ahmad said that the Afghan men who searched the house had arrived in white Ford Rangers and wore the light khaki uniforms, both typically used by the ALP, but he did not recognize any of the militiamen at the time. However, he told Human Rights Watch that when he asked one of the men his identity, the militia member replied that they were “the men of Commander Azizullah.” When Ahmad was shown photographs of Azizullah and an unrelated commander from another province, he quickly pointed to Azizullah as having been first in the group that entered his house. He was unable to confirm whether Azizullah was among those who had beaten him.<sup>132</sup>

After beating him, the men took Ahmad by car to a makeshift jail, a room in what he believes was a guard house. Although not seriously injured, he was dazed from what he described as a severe and prolonged beating, and was not sure exactly how long they drove. He says he was detained at that place for 33 days. Ahmad said that during that period the men did not beat him, but accused him of being a Taliban insurgent and threatened to kill him. Eventually, he offered to pay for his release, and 10 days later, he was released after a family member paid the men a ransom of about \$25,000 in Pakistani currency.<sup>133</sup>

Mahmoud (pseudonym), a teacher from a village in the same district of Paktika, told Human Rights Watch about an act perpetrated by Azizullah and forces under his command in June or July 2012.<sup>134</sup> Mahmoud stated that several vehicles containing militia members in khaki uniforms and driving white Ranger trucks with ALP markings mounted a search operation in his village:

I collected the five women of the family in one room because this is our custom and this is our culture. Some Afghan Local Police with Azizullah started searching for weapons—they destroyed all the furniture in the room. [Azizullah] himself was there and told me he was Commander Azizullah. I asked, ‘Have you come to search for weapons or to take jewelry?’ He took 2 lakh kaldars [rupees, about \$2,070] and 75,000 Afghanis worth of jewelry [about \$9,500]. I called out to him to say please, this is our life savings,

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<sup>132</sup> Ibid.

<sup>133</sup> Ibid.

<sup>134</sup> Human Rights Watch has withheld the location of this incident in order to protect the source and other witnesses from possible reprisals.

please don't take it. After that, [the ALP men] grabbed me and beat me one more time. After that they put a black bag over my head.<sup>135</sup>

Mahmoud said three ALP men and Azizullah beat him with their fists and twice stuck him with their Kalashnikov assault rifles, which left him with back injuries. Mahmoud told Human Rights Watch that while he was being beaten, he heard the police refer to their leader as “Commander Azizullah,” and ask him for instructions.

Mahmoud said that foreign personnel he described as “US forces” accompanied Azizullah and his militia during the raid. He did not see them before the ALP entered his house and so could not provide a positive identification of their nationality, but he told Human Rights Watch that others in the village had seen the troops, including one of his sons, and had identified them as “American forces.”<sup>136</sup>

The militiamen took Mahmoud to what he described as an ALP checkpoint at an unknown location about an hour's drive away. The militiamen detained him there in a locked room for 22 days. He said:

Every night and sometimes in the day [the ALP guards] beat me with the butt of a Kalashnikov. When we spoke, they had things to record my [statements]. They told me that: ‘You must tell us that you are Taliban, that you have weapons and are a Talib.’ After seven or eight days, they threatened me with their guns and said: ‘We will kill you. We killed a lot of people.’ They brought a person's bloodied shirt and said: ‘See this? We killed them—this person was also like you. He did not admit he was a Talib—we killed him and this is his bloodied shirt.’ After 10-11 days, they [again] intimidated me with their guns. They cocked a gun, but did not fire it. They said: ‘It is very easy for us to kill you. If you accept [confess], we will release you and we will help you.’<sup>137</sup>

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<sup>135</sup> Human Rights Watch interview with Mahmoud (pseudonym), a teacher, Kabul, November 2012.

<sup>136</sup> Ibid.

<sup>137</sup> Ibid.

Eventually, Mahmoud says he offered to pay for his release, although he would still not admit to being a Talib. The ALP troops told him: “Our commander wants to get from you 14 lakh kaldar [almost \$15,000].” Mahmoud said that when his brother eventually paid the ransom, Azizullah personally collected the money. Mahmoud said:

In these 22 days [of detention], I saw Azizullah four or five times. He was present when they were beating me. When my brother bought the money, Commander Azizullah himself came to the room and got the money from my brother. They wanted to show me to the coalition forces as an insurgent—because if they find a Talib, they get more money.<sup>138</sup>

While he was detained, Mahmoud says he heard the physical abuse of at least one other prisoner in the check-post, and says he knew of other cases of people being detained from other villages.

While it is difficult to independently corroborate all the allegations against Azizullah, they are numerous and consistent, making them appear to be credible. As the 2010 UN report notes, “We see significant indications that the unintended consequences of employing someone like Commander Azizullah may be the growing hostility of large parts of the population due to his behavior towards the local people both on and off duty.”<sup>139</sup>

## Atta Mohammad Noor

Atta Mohammad Noor was the leading Jamiat commander in northern Afghanistan during the 2001 campaign against the Taliban. He is of mixed ethnicity though he is generally identified as Tajik. After 2001, he was the commander of Afghan military forces in Balkh province, based in the provincial capital, Mazar-e Sharif.<sup>140</sup> Following a series of battles with rival Junbesh leader Dostum in 2003, Atta became the governor of Balkh province, a position he continued to hold as of February 2015. He has become one of northern

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<sup>138</sup> Ibid.

<sup>139</sup> Untitled confidential UN report on “Commander Azizullah’s behavior in southern Barmal district.”

<sup>140</sup> Antonio Giustozzi, “The Resilient Oligopoly: A Political-Economy of Northern Afghanistan 2001 and Onwards,” Afghanistan Research and Evaluation Unit, December 2012, p. 15, <http://www.areu.org.af/Uploads/EditionPdfs/1213E%20Resilient%20Oligopoly%20IP%20Dec%202013.pdf> (accessed May 16, 2013); Kenneth Katzman, “Afghanistan: Politics, Elections, and Government Performance,” Congressional Research Service, April 18, 2013, pp. 19, 45, <http://www.fas.org/sgp/crs/row/RS21922.pdf> (accessed May 16, 2013).

Afghanistan's dominant political figures.<sup>141</sup> Some international and Afghan media credit him with maintaining stability in the province.<sup>142</sup>

According to one commentator:

There is no question that the North's dominant strongman today is Atta. Atta has maintained the Jamiat party structure in the North to a higher degree than has been done by Jamiati leaders in other parts of the country.... Atta maintains a large patronage network of former comrades-in-arms, of which 1,500 have received parcels of land from the Governor. Many received positions not only in the police, but also in the state administration, in Atta's private companies or that of his associates.<sup>143</sup>

Human Rights Watch has documented Atta's maintenance of a network of militias under his effective command that has been implicated in serious human rights abuses. According to one report, in 2011 Atta controlled at least two militia groups, numbering a total of 452 men.<sup>144</sup> Another report found that in Balkh province Atta has "armed over 1500 *arbaki*"<sup>145</sup> and uses these groups as "insurance," should the political situation in the country change.<sup>146</sup> A well-placed official told Human Rights Watch that around early 2011, Atta was providing about US\$30,000 a month to a commander named Wudood, currently the chief of police of Balkh district, to support his network.<sup>147</sup> Since 2001, Atta has

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<sup>141</sup> Giustozzi, "The Resilient Oligopoly," pp. 1, 45.

<sup>142</sup> Carlotta Gall, "In Afghanistan's North, Ex-Warlord Offers Security," *New York Times*, May 17, 2010 <http://www.nytimes.com/2010/05/18/world/asia/18mazar.html> (accessed May 18, 2013); Antonio Giustozzi, "The Resilient Oligopoly," p 43. Human Rights Watch interviews with an Afghan journalist from Balkh province, Mazar-e-Sharif, October 2012.

<sup>143</sup> Antonio Giustozzi, "The Resilient Oligopoly," p. 47.

<sup>144</sup> Maria Abi-Habib, "Ethnic Militias Fuel Tensions in Northern Afghanistan," *Wall Street Journal*, April 21, 2011 [http://online.wsj.com/article/SB10001424052748704530204576232053375098340.html?mod=WSJ\\_hp\\_MIDDLENexttoWhat&NewsSecond#articleTabs\\_slideshow%3D%26articleTabs%3Darticle](http://online.wsj.com/article/SB10001424052748704530204576232053375098340.html?mod=WSJ_hp_MIDDLENexttoWhat&NewsSecond#articleTabs_slideshow%3D%26articleTabs%3Darticle) (accessed May 16, 2013).

<sup>145</sup> *Arbaki* is a generic term for a locally based militia.

<sup>146</sup> Anthony Bell, David Witter, and Michael Whittaker, "Reversing the Northeastern Insurgency," Institute for the Study of War, April 2011, cited in a confidential official security report, 2011, that is on file with Human Rights Watch.

<sup>147</sup> Human Rights Watch interview with Afghan Official No. 1 (name withheld), January 2013. The official was well-placed to have access to credible information, but because of security concerns, requested that his name and other details be withheld. Balkh is the name both of the province and of a district within it. According to a local journalist, Wudood controls forces across four districts in the province. Human Rights Watch phone interview with Afghan journalist from Balkh province, October 2014.

supported a wider network of former militia members, helping about 1,500 of them with land grants.<sup>148</sup>

Many of these informal armed groups were able to obtain official status through integration into the Afghan Local Police, subverting the stated purpose of the ALP to be a genuinely community-based force under the ultimate control of the Ministry of the Interior.<sup>149</sup> A senior international official knowledgeable about the ALP program stated in April 2011 that, “If you took the armed groups in the north and tried to convert them into ALP, they wouldn't qualify.”<sup>150</sup> Nonetheless, this is exactly what happened with the militias controlled by Atta.<sup>151</sup> An informed official told Human Rights Watch that in Balkh province, “80 percent of the ALP are Atta's people.”<sup>152</sup>

A confidential NATO official security report obtained by Human Rights Watch noted that Atta exerts “significant control over the ANP on district level, and has by the instigation of armed militia tried to legalize and incorporate them with the police.”<sup>153</sup> The report also noted that the experience of setting up security forces in Balkh showed that they “were likely to commit more violations against basic human rights than the regular police due to lack of education and oversight.”<sup>154</sup>

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<sup>148</sup> Antonio Giustozzi, “The Resilient Oligopoly,” p 44.

<sup>149</sup> Human Rights Watch interview with UN official No. 1, Kabul, October 2012. Indeed, the government's initial refusal to establish an ALP presence in Balkh was cited by Atta as one reason for establishing the militias. Abi-Habib, “Ethnic Militias Fuel Tensions in Northern Afghanistan.”

<sup>150</sup> Maria Abi-Habib, “Ethnic Militias Fuel Tensions in Northern Afghanistan,” April 21, 2011.

<sup>151</sup> The same official source reported that the great majority of commanders Atta proposed for the ALP were in fact associated with him, many with abusive or criminal backgrounds, and that objections from within the Afghan security forces to their appointment were overridden: “The point was that they [the commanders] should be people who were supported by him.” Human Rights Watch interview with Afghan Official No. 1, January 2013. One consequence of the ALP forces not being genuinely local has been that they are used in offensive military operations rather than for community protection. A Balkh ALP commander told Human Rights Watch that his men were actively taking part in operations beyond their local areas alongside the police and army. “We kill Taliban” was how he described their role. Human Rights Watch interview with ALP commander, Balkh province, October 2012. The commander claimed that his force did not get direct support from Atta as the ALP came under the Ministry of the Interior, but that indirectly the governor gave “private support,” which included money, food, and fuel. He claimed his men were all local to his area, but that there were also a number of “armed people” from the provincial government of which the Ministry of Interior was unaware.

<sup>152</sup> Human Rights Watch interview with Afghan Official No 1, January 2013.

<sup>153</sup> Confidential official ISAF security report for Mazar-e Sharif area, September 2011. Copy on file with Human Rights Watch.

<sup>154</sup> Ibid.

The informal nature of militias can make it difficult to establish who has ultimate command responsibility for their actions.<sup>155</sup> However, the available evidence indicates that they could not operate without Atta's consent and have been effectively under his control, including at the time of the alleged abuses.<sup>156</sup> According to a confidential NATO security report from 2011:

[M]any officials with influence in [the west of Mazar-e Sharif], like most officials in Balkh province, have been closely tied to Gov. Atta, especially individuals within the ANSF. These people have been utilized to achieve and defend Gov. Atta's interests and personal aims in the area. Political influence has probably been consolidated by destabilizing the area during the [2009] elections. Also by using his patronage network to assassinate and harass political opponents, Atta has attempted to further strengthen his political position. Moreover, the relationship with criminals, especially drug traffickers, has likely been profitable and contributed to Gov. Atta's financial resources. The increase of militia ties to Atta has likely been yet another way of countering the growing opposition. Gov. Atta is said to canalize his influence in [the west of Mazar-e Sharif] primarily through the following structures, namely Officials of the Balkh administration, particularly ANP commanders and various militias and Arbakis.<sup>157</sup>

Nassir Khan (pseudonym), a Pashtun elder from the Afghaniya area north of Mazar-e Sharif, told Human Rights Watch that militia forces under Atta's command had stolen from local people and made arbitrary arrests. The militia's abuses included the forced abduction of two women from the village of Afghaniya on the justification that they were Tajiks married to Pashtun men.<sup>158</sup> Nassir Khan told Human Rights Watch that the villagers protested the abduction to the district governor, but to no avail. A second elder from Afghaniya,

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<sup>155</sup> Local communities often understand ALP units to have both an "official" and "unofficial" commander, one who officially leads the unit on paper, and perhaps has day-to-day operational responsibilities, and another, a tribal leader or other local powerbroker, who wields power behind the scenes.

<sup>156</sup> Nassir Khan identified Qadir as a well-known sub-commander of an armed group of about 80 men controlled by Alam Khan Azadi, an MP from the Arab ethnic group. Azadi was a Jamiati commander and a subordinate of Atta before 2001, and his nephew married into Atta's family. A local journalist described him as a close ally of the governor and politically subordinate to him. Human Rights Watch interview with journalist from Balkh province, March 2014.

<sup>157</sup> Confidential official ISAF security report for Mazar-e Sharif area, September 2011. Copy on file with Human Rights Watch.

<sup>158</sup> Ibid. The attack reflects underlying tensions between Tajik and Pashtun communities in Balkh.



Mohammad Jan (pseudonym), told Human Rights Watch that militia under Atta's control had beaten him and threatened his life during a search of the village after an attack on Atta's militia force around the time of the 2009 presidential election.<sup>159</sup> According to a 2011 official security report, "Pashtun communities in general remain underserved due to weak to nonexistent governance, distant [government] officials, [and] abusive *arbaki* posing as Afghan Local Police."<sup>160</sup>

When Nassir Khan and other villagers complained in-person to Governor Atta about the September 2011 killings mentioned above, they say that he told them, "Please forgive [the killer], it was just a mistake."<sup>161</sup> No one has been held accountable for the killings.

A number of credible sources have alleged that some members of Atta's network of allied security forces have been directly involved in criminal activity and human rights abuses. According to the same confidential official security report:

Governor Atta controls many parts of society in Balkh province. Through corruption and patronage he is able to exert influence on e.g. the commercial life, politics, media, the judicial system, and even criminality. Gov. Atta's objective to maintain influence in the west of [Mazar-e-Sharif] is likely to be seen as included in his ambition to preserve power in the whole of Balkh province, both through formal and informal structures. Gov. Atta's interest in [the west of Mazar-e-Sharif] are most likely related to his aspiration for increased political leverage but also his probable involvement in illicit activities, particularly drug trafficking.<sup>162</sup>

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<sup>159</sup> Human Rights Watch interview with Mohammad Jan (pseudonym), a Pashtun elder, Balkh province, October 2012. He told Human Rights Watch: "Alam Khan called to the Arbakai leader[of the group conducting the search operation] and he said kill [him].... The village is 7km from the place where the attack happened. I said why are you searching the village ... Then they beat me – hit me on the nose with the gun – [they were] trying to hit me in the eyes. They tied my hands. They called to Alam Khan and I heard what he said on the phone." The elder said he was eventually freed with the help of a contact in the security forces, but feels unable to travel openly to the villages because he fears the militias.

<sup>160</sup> Confidential official ISAF security report for Mazar-e Sharif area, September 2011. Copy on file with Human Rights Watch.

<sup>161</sup> Human Rights Watch interview with Pashtun elder Nassir Khan (pseudonym), Balkh province, October 2012. Afghans often blur the distinctions between informal armed groups, with the terms ALP and *arbakai* used interchangeably. But in this case, Nassir Khan was clear when questioned that the Sia Gerd militias were not in fact official ALP, which Nassir Khan told Human Rights Watch was limited to the areas of Chemtal, Chorbalak, and Balkh. Human Rights Watch interviewed one resident of Balkh district who said the ALP had only recently been established there and had not been the subject of any complaints.

<sup>162</sup> Confidential ISAF official security report for Mazar-e Sharif area, September 2011. Copy on file with Human Rights Watch.

Two well-placed official sources independently told Human Rights Watch that several of Atta's commanders within the security services have operated criminal gangs that have been involved in kidnappings and killings, among other abuses.<sup>163</sup> Both sources, who asked for anonymity to protect them from reprisals, named the head of the police Criminal Investigation Department (*Mudir-e Jinay*) Sultan Mohammad, NDS Deputy of Operations (*Maween-e Operatifi*) Said Shah (a brother-in-law of Governor Atta), and General Aziz, a senior officer within the Balkh NDS, as among the commanders most involved in criminal activities.<sup>164</sup>

One unpublished internal Afghan government report<sup>165</sup> from 2012 to which Human Rights Watch had access details how Atta's brother-in-law Said Shah and General Aziz operated unofficial "secret bodyguard" units that engaged in criminal activities and harassed local residents in Mazar-e Sharif.<sup>166</sup> Human Rights Watch viewed a second unpublished internal official report from the same source, also written in 2012, which alleged that Atta provided support to a notoriously brutal kidnapper and former Jamiat commander named Habib ul Rahman.<sup>167</sup> Habib ul Rahman's victims allegedly included children: one father told Human Rights Watch he had paid a ransom only to find that the kidnap gang (which police told him was led by Habib ul Rahman and Said Shah among others) had killed his young child shortly after the child's abduction.<sup>168</sup>

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<sup>163</sup> Human Rights Watch interviews with Official No. 1 and Official No. 2, Balkh, October 2012. The other abuses alleged by one of the sources included false imprisonment and corruption.

<sup>164</sup> Ibid.

<sup>165</sup> The author and date of the report has been withheld to protect the source who supplied it.

<sup>166</sup> Official report on the situation in Balkh province, dated 2012.

<sup>167</sup> Another noted case involves Maulavi Qaher, a cleric implicated in inciting the 2011 attack on the UN compound in Mazar that killed seven staff. A well-placed official source told Human Rights Watch that Qaher, a Tajik he claimed previously fought with Jamiat, was arrested on orders from Kabul, but the Afghan security forces received a call from Atta telling them to release him immediately – in theory, an order he was not empowered to give. At least one of the attackers was also alleged to be linked to Sultan Mohammad. While Qaher denied that he incited the attack, the report reinforces the picture of Atta's dominance over the security forces. Human Rights Watch interview with Official No. 1, Balkh province, October 2012. For more background see Abasin Zaheer, "Clerics seen behind violent Mazar protest," *Pajhwok Afghan News*, April 10, 2011 <http://www.pajhwok.com/en/2011/04/10/clerics-seen-behind-violent-mazar-protest> (accessed May 19, 2013); Farhad Peikar, "Police failed to stop killing of UN staff," *Sydney Morning Herald*, April 4, 2011, <http://www.smh.com.au/world/police-failed-to-stop-killing-of-un-staff-20110403-1ct71.html?skin=text-only> (accessed May 19, 2013); Ulrike Demmer, Susanne Koelbl and Enayat Najafizada, "April 1 Attack in Afghanistan: German Army Criticized For Failing to Protect UN Workers," *Spiegel*, April 11, 2011, <http://www.spiegel.de/international/world/april-1-attack-in-afghanistan-german-army-criticized-for-failing-to-protect-un-workers-a-756307.html> (accessed May 19, 2013).

<sup>168</sup> Human Rights Watch interview with father of kidnap victim (name withheld), Kabul, October 2012.

According to the report, Afghan police arrested Rahman in January 2012, but Atta personally intervened to prevent Rahman's transfer to Kabul for prosecution. Had he been transferred, Atta would have less influence on Rahman's trial and sentencing than he would in Mazar. The heinous nature of Rahman's crimes and the publicity surrounding them meant that the trial needed to be minimally credible,<sup>169</sup> and the court in Mazar convicted Rahman and sentenced him to a 17-year prison term in late 2012.<sup>170</sup> However, the report stated that despite that conviction and prison sentence, Atta intervened to ensure Rahman was imprisoned in relative comfort and that he continued to supervise his criminal gang's operations—including kidnappings—from prison.<sup>171</sup>

## Haji Najibullah Kapisa

Najibullah Kapisa is National Directorate of Security chief for the northern province of Takhar. An ethnic Tajik, he was a commander with Jamiat before 2001.<sup>172</sup> Forces under the command of Kapisa, who has been NDS chief since mid-2010,<sup>173</sup> have been linked to serious abuses. These include at least one documented death in custody, and the arrest and abusive interrogation of two 17-year-old girls, "Najla" and "Fawzia." The two were among 15 people the police detained in June 2012 following a series of suspected cases of poisoning at schools in Takhar that began in April that year. The arrests took place despite the fact that tests by medical experts from NATO, the World Health Organization, and the UN found no physical evidence of poison in Takhar, or in any of the dozens of other cases of alleged school poisoning in Afghanistan.<sup>174</sup>

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<sup>169</sup> Telephone interview with official source, (name withheld) January 6, 2015.

<sup>170</sup> Unpublished internal official report on the political and security situation in Balkh province dated 2012; Human Rights Watch interview with Afghan Official No 1, January 2013.

<sup>171</sup> Unpublished internal official report on the political and security situation in Balkh province, dated 2012.

<sup>172</sup> Human Rights Watch interview with Afghan journalist, Takhar province (name and location of interview withheld), October 2012.

<sup>173</sup> "Treatment of Conflict-Related Detainees in Afghan Custody: One Year On," p. 44. One other source, an international official based in Kunduz, told Human Rights Watch that he believed Kapisa had been in post since mid-2009. Human Rights Watch interview with international official based in Kunduz (name withheld), Kunduz province, October 2012.

<sup>174</sup> Lawrence Bartlett, "Doubt cast over 'attacks' on Afghan schoolgirls," *AFP*, May 27, 2012

[http://www.google.com/hostednews/afp/article/ALeqM5juslzo8uDID-](http://www.google.com/hostednews/afp/article/ALeqM5juslzo8uDID-tysdTAMG1lOl5GOW?docId=CNG.8d843cee9bc5c16ad9f875979194c29e.3e1)

[tysdTAMG1lOl5GOW?docId=CNG.8d843cee9bc5c16ad9f875979194c29e.3e1](http://www.google.com/hostednews/afp/article/ALeqM5juslzo8uDID-tysdTAMG1lOl5GOW?docId=CNG.8d843cee9bc5c16ad9f875979194c29e.3e1) (accessed May 20, 2013); Matthieu Aikins, "Are the Taliban Poisoning Afghan Schoolgirls? The Evidence," *Newsweek*, July 9, 2012

<http://www.thedailybeast.com/newsweek/2012/07/08/are-the-taliban-poisoning-afghan-schoolgirls-the-evidence.html> (accessed May 20, 2013).

Human Rights Watch interviewed the families of both girls. “Fawzia” father said he came home from work on June 6, 2012, to find a note from the NDS saying they had arrested his daughter:

So we went to the NDS. It was after dark. On the first visit, I heard her [“Fawzia”] crying like someone who was being beaten. Her voice came from a few meters away. I was there until eleven at night, but they did not let me see her. I went there the next morning at nine. I was [allowed] to sit with her. I asked her why she had been crying the night before and she said, ‘They were beating me.’ Her skin was black [with bruises]. I saw it myself on her legs and hands.<sup>175</sup>

“Fawzia” confirmed that NDS personnel had physically abused her in custody. She told Human Rights Watch that a female NDS officer called Zainab conducted her five-hour initial interrogation on June 6, 2012:

Zainab arrived— she said ‘I am from the human rights [sic],<sup>176</sup> I can help you.’ I said that I had done nothing and that I was not guilty. Zainab told me that ‘The commander will come and he will beat you and give you electric shocks and cut your hair and tear out your nails.’ She said: ‘Please tell him a lie [that you poisoned the students at the Bibi Hajira high school on May 23, 2012].’ My mother was not there—this was late at night. Zainab said she would bring the Americans [and they would sexually abuse me].

She insulted me very badly. I was crying. She slapped me. She told me: ‘Please lie—say that you put the poison [in the school well].’ She pulled my hair. She stepped on my feet with her heel. She said: ‘If you don’t tell me, we will have to give you electric shocks.’

Then she filmed me and I told lies. My head was hurting and I did not understand. They put me under a lot of pressure. They taught me the lies

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<sup>175</sup> Human Rights Watch interview with “Rasul”(pseudonym), Takhar province, October 2012.

<sup>176</sup> Zainab’s mention of being from “the human rights” could be a reference to the human rights section of the NDS, or Zainab could have been posing as an official of the Afghan Independent Human Rights Commission.

and then I told these lies. Then they took me into another room. There was another girl there [“Najla”]. So this girl said that she used the poison. Zainab also told this girl to tell a lie – she looked as if she had been really beaten.<sup>177</sup>

The NDS interrogators recorded the girls’ confessions and soon after distributed them to the domestic media for broadcast.

The accounts “Fawzia” and her family provided to Human Rights Watch matched the accounts they gave in earlier media reports.<sup>178</sup> World Health Organisation (WHO) investigators who interviewed the girls when they were in custody said that both made similar allegations, and that their stories appeared credible.<sup>179</sup> There are no allegations that Kapisa himself directly participated in the girl’s initial interrogation. However, he was involved in the investigation,<sup>180</sup> and as the senior NDS official in the province, Kapisa oversaw the police who arrested the girls and mistreated them in detention.

“Fawzia” told Human Rights Watch that her interrogation continued for another two days under the supervision of an NDS investigator dispatched from Kabul, but without any of the physical abuse she endured previously.<sup>181</sup> On the third or fourth day of her detention, she said, the NDS permitted UN officials to visit her and “Najla.” After about a week, the NDS sent “Fawzia” and “Najla” along with the 13 other suspects in the school poisoning case to Kabul. The NDS confined them in an NDS detention facility in the Kabul

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<sup>177</sup> Human Rights Watch interview with “Fawzia,” Takhar province, October 2012.

<sup>178</sup> Matthieu Aikins, “Are the Taliban Poisoning Afghan Schoolgirls? The Evidence,” *Newsweek*, July 9, 2012 <http://www.thedailybeast.com/newsweek/2012/07/08/are-the-taliban-poisoning-afghan-schoolgirls-the-evidence.html> (accessed May 20, 2013). Aikin reports that “Fawzia” ‘s mother “managed to smuggle in a cellphone, hidden in her infant daughter’s diaper, and she surreptitiously used it to record the schoolgirl’s account of her interrogation. The girl wept as she told how her interrogator bullied her into making a false confession. ‘She took my hair and slapped my face,’ the girl says in the recording. She tells of the interrogator slamming her head against a table and stomping on her foot with high heels. The abuse left marks that were visible the next day, the family says. The interrogator promised far worse, “Fawzia” told them. ‘She said: ‘I’ll bring the Americans. You’re a small girl. I’ll put them on you, and they’ll rape you.’”

<sup>179</sup> Ibid.

<sup>180</sup> According to “Fawzia” ‘s father, three or four days after “Fawzia” ‘s arrest, Kapisa met with him and told him: “Your daughter brought a can [of poison] to you. Please bring the can to me and I will free your daughter.” “Fawzia” ‘s father denied any knowledge of such an object. Human Rights Watch interview with “Rasul,” Takhar province, October 2012.

<sup>181</sup> Human Rights Watch interview with “Fawzia,” Takhar province, October 2012. The investigative team included officials from the NDS prosecutor’s office, the Attorney General, and the Interior Ministry. Human Rights Watch phone interview with international official based in Kunduz, September 13, 2013.

neighborhood of Shashdarak and interrogated the two girls again. However, “Fawzia” said that those interrogations occurred without any physical ill-treatment or intimidation.<sup>182</sup>

After more than a month in detention, the NDS released “Fawzia” and “Najla” due to lack of evidence.<sup>183</sup> “Fawzia” told Human Rights Watch that the arrest and the continuing suspicion of her classmates have made it impossible for her to return to school.<sup>184</sup>

Human Rights Watch also obtained information regarding abuse by the NDS under Kapisa’s command that resulted in the death of a detainee. According to internal Afghan government documents and other sources, the NDS in Takhar arrested Shah Wali, a Tajik resident of the Taloqan area and a former militia commander on June 7, 2011. The NDS accused Wali of involvement in the May 2011 assassination of General Daoud, the police commander for the 303 Pamir zone, an attack that also killed the Takhar chief of police, Shah Jahan Noori.<sup>185</sup>

According to an internal government report, Shah Wali died in NDS custody on June 10 or June 11, 2013.<sup>186</sup> The NDS has claimed that Shah Wali died on June 11 while en route to the hospital because of complications related to high blood pressure.<sup>187</sup> However, witnesses described Shah Wali’s body bearing what they described as signs of torture, including multiple bruises on the buttocks, back, shoulders, and ears.<sup>188</sup> One witness reported observing Wali during an NDS interrogation and said that he had burn marks on his waist that appeared to be the result of electric shocks.<sup>189</sup> Another witness saw Shah Wali collapse in the courtyard of the NDS detention facility on June 10, but said that he was not taken to the hospital—where he was dead on arrival—until June 11.<sup>190</sup>

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<sup>182</sup> Human Rights Watch interview with “Fawzia,” October 2012.

<sup>183</sup> Human Rights Watch interview with Abdul Hameed, Takhar province, October 2012; Human Rights Watch interview with “Fawzia,” Takhar province, October 2012.

<sup>184</sup> Interview with “Fawzia,” Takhar province, October 2012.

<sup>185</sup> Documentary evidence on file with Human Rights Watch, including an unpublished internal Afghan government report, June 2011. Copy on file with Human Rights Watch.

<sup>186</sup> Ibid.

<sup>187</sup> Ibid.

<sup>188</sup> Ibid.

<sup>189</sup> Ibid.

<sup>190</sup> Ibid.

There are other documented cases of human rights abuses allegedly perpetrated by forces under Kapisa's command in Takhar. In September 2011, ISAF suspended transfers of prisoners to Afghan custody in the province and 15 other NDS and ANP locations across the country after a UNAMA report documented credible evidence of abuses in detention.<sup>191</sup> ISAF lifted the ban on transfers in Takhar in March 2012, but reimposed it on August 6 that year "following multiple credible accounts of torture resulting from NDS Takhar's investigations of alleged poison attacks on girl's schools in May 2012."<sup>192</sup> The January 2013 report documented evidence of torture of detainees in NDS custody interviewed by UNAMA from October 2011 to October 2012, including in Takhar. These abuses included beatings with electric cables on the soles of the feet and threats of sexual violence.<sup>193</sup>

There have also been a number of reported cases of torture and other ill-treatment of detainees in the custody of the NDS in Takhar. Despite some marginal improvement since 2011, at least as of January 2013 these problems reportedly persisted.<sup>194</sup> Takhar is among 11 NDS facilities across the country in which the UNAMA has found "sufficiently reliable and credible" evidence of torture.<sup>195</sup>

## Mir Alam

Mir Alam, an ethnic Tajik, is a former senior commander with the Jamiat party.<sup>196</sup> In late 2001, Mir Alam led a division during the campaign that drove the Taliban from power.<sup>197</sup> The Afghan government eventually disbanded that unit as part of demobilization and disarmament programs that operated from 2003 to 2006.<sup>198</sup> However, the relative

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<sup>191</sup> "Treatment of Conflict-Related Detainees in Afghan Custody: One Year On," UNAMA, p 7.

<sup>192</sup> *Ibid.*, p 8 (footnote).

<sup>193</sup> *Ibid.*, pp iii, 42, 44.

<sup>194</sup> "Treatment of Conflict-Related Detainees in Afghan Custody: One Year On," UNAMA, pp. 1-7. The UN report was based on site visits to NDS facilities in 30 provinces, and found torture or ill-treatment in 11 of them. More than half of the 635 detainees interviewed had been tortured or ill-treated in some way.

<sup>195</sup> The other sites where torture and ill-treatment were reported were NDS detention facilities in Herat, Khost, Laghman, Faryab, Kunduz, Nangarhar, Paktika, NDS Department 40 in Kabul and NDS provincial headquarters in Sherbeghan (Jawzjan province). UNAMA, "Treatment of Conflict-Related Detainees in Afghan Custody: One Year On," pp. 1-7.

<sup>196</sup> Jamiat-e-Islami was one of the main armed opposition groups during the war against the Soviet occupation of Afghanistan in the 1980s.

<sup>197</sup> Formerly the 54<sup>th</sup> Division of the armed forces of the Islamic State of Afghanistan between 1992 and 1996.

<sup>198</sup> *Securing Afghanistan's Future: Accomplishments and the Strategic Path Forward Disarmament, Demobilization, and Reintegration of Ex-Combatants: Technical Annex*; Patricia Gossman, "Transitional Justice and DDR: the case of Afghanistan,"

ineffectiveness of that effort allowed Alam and other commanders to hide away many of their forces' weapons.<sup>199</sup>

Although Mir Alam holds no official post,<sup>200</sup> he remains among the most powerful figures in Kunduz. He was a close ally of former Vice President Marshal Mohammad Qasim Fahim, who directly supported Mir Alam until Fahim's death in March 2014.<sup>201</sup> A leaked US embassy cable from 2009 described Alam as "the most powerful power broker" in the province, a view that US and UN officials have echoed in recent interviews.<sup>202</sup>

Kunduz is home to numerous armed groups affiliated with a variety of formal and informal military commanders. Estimates of the total number of militia members in Kunduz range from 4,500 to about 10,000.<sup>203</sup> Local residents have implicated some of these forces in significant abuses, including forces that reportedly receive support from the US military.<sup>204</sup>

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International Center for Transitional Justice, June 2009 <http://ictj.org/sites/default/files/ICTJ-DDR-Afghanistan-ResearchBrief-2009-English.pdf> (accessed July 28, 2013).

<sup>199</sup> Hewad, "Legal, illegal: Militia recruitment and (failed) disarmament in Kunduz;" US Embassy cable (09KABUL3661 "Unconventional security forces: what's out there?").

<sup>200</sup> Mir Alam was offered the post of mayor of Kunduz in 2009, but declined it. US Embassy cable (09KABUL840 "Kunduz – Governor raises concerns"), April 3, 2009 <http://wikileaks.org/cable/2009/04/09KABUL840.html> (accessed May 22, 2013).

<sup>201</sup> US Embassy cable (09KABUL3661 "Unconventional security forces: what's out there?"), November 12, 2009 <http://wikileaks.org/cable/2009/11/09KABUL3661.html> (accessed April 9, 2014).

<sup>202</sup> US Embassy Cable (10KABUL12\_a "Militias in Kunduz: A tale of Two Districts"), January 3, 2010 [https://www.wikileaks.org/plusd/cables/10KABUL12\\_a.html](https://www.wikileaks.org/plusd/cables/10KABUL12_a.html) (accessed July 28, 2013) US Embassy cable (08KABUL576 "Baghlan, Afghanistan: New Leadership to Address Provincial Challenges"), March 6, 2008 <http://wikileaks.org/cable/2008/03/08KABUL576.html> (accessed May 22, 2013); Human Rights Watch interview with UN official, October 2012; Human Rights Watch interview with security official (name withheld), Kunduz, October 2012.

<sup>203</sup> Hewad, "Legal, illegal: Militia recruitment and (failed) disarmament in Kunduz."

<sup>204</sup> One example can be found in Aliabad, south of Kunduz city, where Commander Aman-e-Trening has a significant ALP force that has received funding from the US military. A small group of elders from the district told Human Rights Watch how in July 2012 Aman's militia raided their village following a mine explosion. The militiamen arrived in civilian clothes with a white Ford Ranger marked "ALP" and arrested about 28 men, pulling them out of the mosque where they were praying. All those Human Rights Watch interviewed said Aman's men beat them and then detained them for two days. One elder said: "They tied my hands with our turbans and started beating me – Aman himself beat me with a stick. It was about 10 minutes before other cars came and they took us to their fort. ... The elders called the police commander of Aliabad but he said 'my power does not go so far' [that I can make Aman release the elders]. ... He said 'they are also abusing me, I can do nothing.'" The ALP is supposedly a village-level defense force under the control of local elders; in this case it was acting as an independent armed group unaccountable to the local community it is serving. Dexter Filkins, "After America: Will civil war hit Afghanistan when the U.S. leaves?" *New Yorker*, July 9, 2012 [http://www.newyorker.com/reporting/2012/07/09/120709fa\\_fact\\_filkins?currentPage=all](http://www.newyorker.com/reporting/2012/07/09/120709fa_fact_filkins?currentPage=all) (accessed May 23, 2013); Human Rights Watch interview with a group of Aliabad elders, October 2012.



However, Mir Alam's militia has a particularly notorious reputation. Alam was the chief of police of Baghlan province from 2005-2007, during which time he earned a reputation among US officials as corrupt, ineffective, and linked to drug mafias.<sup>205</sup> According to a 2006 US embassy cable that also described another controversial police chief, Mutaleb Beg,<sup>206</sup> "both continued to act as mujahedin<sup>207</sup> commanders rather than professional police officers." The cable alleged that the two men "abused their positions of authority to engage in a broad range of criminal activity, including extortion, bribery and drug trafficking."<sup>208</sup> Another cable from December 2005 stated that: "The situation in Baghlan started to deteriorate after the June 2005 appointment of General Mir Alam."<sup>209</sup>

In response to international pressure, the Afghan government eventually removed Mir Alam from his post in 2006 as part of the Pay and Rank Reform process.<sup>210</sup> However, with his network intact, Alam continued to wield considerable political and military influence in the region. In response to the re-emergence of the Taliban threat in the north, in 2009 the NDS and some provincial governors reactivated former militia networks that had controlled the area during the anti-Soviet resistance and civil war.<sup>211</sup> One of these was that of Mir

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<sup>205</sup> US Embassy cable (05KABUL5181 "Kunduz Politics Of Corruption In The Baghlan Police Forces"), December 20, 2005 (cable released September 1, 2011) <http://www.cablegatesearch.net/cable.php?id=05KABUL5181> (accessed May 2013); US Embassy cable (09KABUL3366 "Kunduz Authorities Turn To Militias As Security Deteriorates"), October 19, 2009 (cable released September 1, 2011) <http://www.cablegatesearch.net/cable.php?id=09KABUL3366> (accessed May 22, 2013).

<sup>206</sup> Mutaleb Beg was a Jamiat-e-Islami commander from Takhar province. An Uzbek, he fought against the Soviet Union and the Taliban in Takhar. After 2001 he served as Provincial Police Commander in Takhar and Kunduz provinces, and as Deputy Minister of Border and Tribal affairs. He was elected to Parliament in 2010, and killed in a bomb attack in Takhar in 2011.

<sup>207</sup> The mujahedin were those who fought in the jihad – literally "struggle" in Arabic but also meaning "holy war" – against invading Soviet Union forces in the 1980s.

<sup>208</sup> US Embassy cable (06KABUL2862 "PRT/Kunduz: New Police Chiefs Raise Hopes"), June 25, 2006 (cable released January 23, 2011) <http://wikileaks.mediapart.fr/cable/2006/06/06KABUL2862.html> (accessed May 22, 2013).

<sup>209</sup> US Embassy cable (05KABUL5181 "Kunduz Politics of Corruption in the Baghlan Police Forces"), December 20, 2005 (cable released January 23, 2011) <http://wikileaks.mediapart.fr/cable/2005/12/05KABUL5181.html> (accessed July 28, 2013).

<sup>210</sup> US Embassy cable (08KABUL576 "Baghlan, Afghanistan: New Leadership to Address Provincial Challenges") On Pay and Rank Reform, see "Reforming Afghanistan's Police," International Crisis Group, Asia Report N°138, August 30, 2007, pp 12-13 [http://www.crisisgroup.org/~media/Files/asia/south-asia/afghanistan/138\\_reforming\\_afghanistan\\_s\\_police.pdf](http://www.crisisgroup.org/~/media/Files/asia/south-asia/afghanistan/138_reforming_afghanistan_s_police.pdf) (accessed May 22, 2013). The Pay and Rank Reform was a process that was designed to reform the structure of the police and remove the least well-trained officers and those with the worst human rights records.

<sup>211</sup> Unpublished UN security assessment, on file with Human Rights Watch. Afghanistan NGO Safety Office (ANSO), "ANSO Quarterly Data Report Q.2 2010," July 2010, p.7, [http://www.afgnso.org/2010Q/ANSO%20Quarterly%20Data%20Report%20\(Q2%202010\).pdf](http://www.afgnso.org/2010Q/ANSO%20Quarterly%20Data%20Report%20(Q2%202010).pdf); "ANSO Quarterly Data Report Q.4 2010," January 2011, [http://www.afgnso.org/2011Q/ANSO%20Quarterly%20Data%20Report%20\(Q4%202011\).pdf](http://www.afgnso.org/2011Q/ANSO%20Quarterly%20Data%20Report%20(Q4%202011).pdf); *Just Don't Call it a Militia*, pp. 29-40. According to AAN, "the number and different types of militias in Kunduz are various and confusing. From 2008, and encouraged by international forces, militias were recruited by the National Directorate for Security

Alam, whose militia was linked to the Kunduz NDS but operated autonomously.”<sup>212</sup> US diplomats noted in a January 2010 diplomatic cable that such abuses and related impunity were a potentially destabilizing factor in Kunduz province: “As the militias loyal to Mir Alam are mostly Tajiks, there exists a real risk that conflict between the population and militias or among the militias themselves will take on an ethnic dimension, in which the militias are perceived by Pashtuns as not anti-Taliban but anti-Pashtun.”<sup>213</sup>

In January 2011, then Vice President Fahim reportedly instructed the NDS head, Amrullah Saleh, and Mir Alam to provide weapons to militias in order to “prevent a Taliban takeover.”<sup>214</sup> As a result, most of the *arbakis* were either supported by Mir Alam or the NDS, and rival groups often clashed.

When Human Rights Watch raised concerns about the militia abuses in an interview with Mir Alam in 2011, he said he had no involvement with militias: “Whoever says that I have *arbakis* and supporting them is completely wrong. I am not denying that I was a jihadi commander, but all people under my command have been disarmed through the DDR and DAIG process.”<sup>215</sup> By contrast, a 2011 US embassy cable stated that:

Mir Alam’s Kunduz militia—ethnically divisive, controlled by one man, grounded in contempt for DIAG [Disbandment of Illegal Armed Groups, the second phase of the disarmament program] and the rule of law—

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– under its then director Amrullah Saleh, now an opposition politician – to fight the growing insurgency; they were mainly composed of former mujahedin. After two years, President Karzai ordered the programme to be shut down, but the mobilised militiamen did not go away. Some joined the Afghan Local Police (ALP) programme. ” Gran Hewad, For a Handful of Bolani: Kunduz’s New Problem with Illegal Militias,” October 8, 2012, <https://www.afghanistan-analysts.org/for-a-handful-of-bolani-kunduzs-new-problem-with-illegal-militias/> (accessed January 4, 2015).

<sup>212</sup>A US State Department cable released by Wikileaks stated that, “[W]arlord Mir Alam Khan’s Kunduz militia ... is reportedly connected to the National Directorate of Security (NDS) but seems to operate without government guidance, command or control.” Extract from a US Embassy cable 09 KABUL3661, released by Wikileaks, Extract from: “Unconventional Security Forces – What’s Out There?” Cable Date: November 12, 2009. Released by Wikileaks, January 24, 2011, <http://wikileaks.enet.gr/cable/2009/11/09KABUL3661.html> (accessed March 24, 2011).

<sup>213</sup> US Embassy Cable (10KABUL12\_a “Militias in Kunduz: A Tale of Two Districts”).

<sup>214</sup> Human Rights Watch telephone interview with local journalist, February 23, 2011.

<sup>215</sup> Human Rights Watch telephone interview with Mir Alam, March 31, 2011.

exemplifies a quick fix with dangerous implications: tactical gains at strategic cost.<sup>216</sup>

In November 2012, the Afghanistan Analysts Network (AAN) described that relationship as essential to the continuation of Alam’s unlawful activities and related impunity:

Mir Alam’s relationship with [Kunduz NDS head Rais Mohammad] Daud and his already strong network of armed commanders— who had gone through a disarmament process during 2003– 06 by name only— were the assets that helped him to run a proxy power structure in the province. ‘His brother-in-law [Rais Daud] recruited anyone introduced by Amir Mir Alam. He introduced mainly those who had fought under him during the Jihad and the resistance. These militias have been long taking orders from him, and they are fully under his control now.’<sup>217</sup>

Diplomats, government officials, and ordinary Afghans have accused Alam and his illegal militia of a range of abuses, including forced collection of “religious taxes.”<sup>218</sup> According to AAN, the provincial authorities turn a blind eye to this illegal tax collection because “commanders of illegal militias like Mir Alam belong to the same *tanzim* (mujahedin party) networks that dominate the provincial administration.”<sup>219</sup>

A serious incident linked to the militia forces under Alam’s command or benefitting from his patronage occurred in September 2012 in Konam-e-Kalan, a predominantly Pashtun village in Kunduz province. That morning, witnesses allege that forces under Alam’s command, together with militias supported by him, killed 12 villagers in retribution for the

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<sup>216</sup> Extract from US Embassy Cable 09KABUL3661, released by Wikileaks: “Unconventional Forces – What’s out there,” Cable date, November 12, 2009, Cable Released, January 24, 2011. <http://wikileaks.enet.gr/cable/2009/11/09KABUL3661.html> (accessed March 24, 2011); Human Rights Watch, *Just Don’t Call it a Militia*, p. 31.

<sup>217</sup> Hewad, “Legal, illegal: Militia recruitment and (failed) disarmament in Kunduz,” November 10, 2012.

<sup>218</sup> The taxes in question, *zakat* and *ushr*, are obligatory Islamic tithes and taxes on produce from land, and are among the central principles of Islam. Some armed groups invoke them to obtain a religious justification for extorting local populations.

<sup>219</sup> Gran Hewad, “For a Handful of Bolani: Kunduz’s New Problem with Illegal Militias,” Afghanistan Analysts network, 8 October 2012, <http://www.afghanistan-analysts.org/for-a-handful-of-bolani-kunduzs-new-problem-with-illegal-militias> (accessed May 12, 2014).

assassination of a militia member, Jalil Chunta.<sup>220</sup> Shortly afterwards, Human Rights Watch interviewed victims, family members, and witnesses from Konam, both individually and in a group, who gave detailed accounts of the killings that occurred over several hours from the early morning of September 2, 2012.

The witnesses consistently identified a number of those taking part in the attacks, including commanders Qadirak, who was Chunta's cousin,<sup>221</sup> Abdul Hakim, and Khuda-e-Noor.<sup>222</sup> Although provincial authorities initially claimed the attack on Konam was carried out by insurgents, the evidence strongly indicates that a militia led by commander Qadirak was responsible.<sup>223</sup>

Nur Mohammad (pseudonym) told Human Rights Watch that from his home—about a 10-minute walk from Konam—he heard shooting early in the morning of September 2 and climbed up onto the roof of his house to see what was happening:

I saw about 50 to 60 people surrounding my home. This was at 5:40 a.m. I looked at my watch. I went on the roof of the house and saw we were surrounded by armed men. They fired on me. I went into the house. As I went in, they saw me [through] the gaps of the gate and fired on me.

My father was sitting there and said: 'Say your whole *kalima*<sup>224</sup> because I think that today we shall all die.' Then they fired on the gate a lot, but it held. But eventually they climbed over the wall... on each other's shoulders.

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<sup>220</sup> Konam-e-Kalan is the Dari translation of the Pashto name Loya Konam. Villagers told Human Rights Watch that the attack occurred in response to the September 1, 2012 killing of Jalil e Chunta, a relative of Qadirak, a sub-commander of Mir Alam.

<sup>221</sup> Commander Qadirak, an ethnic Aimaq who commanded Hazara and Tajik militia forces, was based in Chahrtut, in Khanadad district; Mir Alam was his patron. His forces were notorious for extorting local Pashtun villagers and carrying out other abuses, and were engaged in many battles with rival militias. He was killed by the Taliban in August 2014. Christian Bleuer and Obaid Ali, "Security in Kunduz Worsening Further: The case of Khanabad," *Afghanistan Analysts Network*, October 28, 2014, <https://www.afghanistan-analysts.org/security-in-kunduz-worsening-further-the-case-of-khanabad/> (accessed January 4, 2015); Hewad, "For a Handful of Bolani," October 8, 2012.

<sup>222</sup> Elders from the village also named commanders Shukur, Said Hussein, Wala e Ismat, Nasser, Bassir e Dauruk, and Khaluldeen, the son of Commander Faizak, as having been present. Human Rights Watch interview with a group of Konam elders, October 2012.

<sup>223</sup> Gran Hewad, "For a Handful of Bolani," October 8, 2012.

<sup>224</sup> A *kalima* is a Muslim statement and profession of faith, of which the most well-known part is: "lā ilāha illā -llāh, muḥammadun rasūlu -llāh" (There is no god but Allah, and Mohammad is the messenger of Allah).

We said, ‘Please don’t do this.’ They said, ‘Shut up.’ They took my younger brother, who was 18-years-old, and beat him with [their] guns. They beat him for about 10 minutes. At the end he was unconscious—we went to bring him in and we thought he was dead. [Now] he is still covered in bruises and limps on one leg.

Then they took my father out of the house. As I was massaging my brother’s legs to try to make him conscious, two soldiers came and said, ‘You must also come.’ My father was a strong man and held onto the gate because he did not want to be taken out. My grandfather came with the Quran and said ‘Please do not take him.’ They kicked my grandfather and he fell down and the Quran fell onto the ground.

It was Qadirak who did this. Qadirak was also among those beating my brother – also Abdul Hakim. They took me out and the women grabbed me and said, ‘Where are you taking them?’ They said, ‘We are taking them to the mosque, we need them.’ When we got out of the house they took us in opposite directions – me they took to the right, my father to the left. The women also came out of the house to stop it and so they were also beating them. My sister was injured by that person – she was beaten with guns.

They took them [the women] back into the house.

Qadirak, Abdul Hakim, and Qali Ismat—these three people gathered around my father and killed him. They were standing in the street. The distance from me was about 30 meters. They fired on him—two people also fired on me. But they did not hit me. They fired at the ground near me. They did not want to kill me.<sup>225</sup>

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<sup>225</sup> Human Rights Watch interview with Nur Mohammad (pseudonym), a villager from Konam, Kunduz province, October 2012. He added that after the shooting, two militia members came back from the crossroads and stole 142,600 Afghanis (\$2,850), and a Russian hunting gun worth 20,000 Afghanis (\$400).

That same morning, the militia members arrived at the house of Said Hashem (pseudonym):

I had only two sons and both of them were killed. [My son] went to the door [when the attackers arrived]—he was behind the door but they shot [through] it [into the house]. I saw it in front of me. My other son ran to rescue his brother and was shot and killed. The names of the killers were Abdul Hakim and Khuda e Noor. I know them—they are neighbors. They both fired. The faces of the other people were covered.<sup>226</sup>

Other victims also recognized their attackers, among them Abdul Hakim and Khuda-e-Noor. In his house inside the village, Lal Jan (pseudonym) heard firing. About 10 minutes later, a little before 7 a.m., four or five men climbed over the wall surrounding his home:

I recognized Khuda-e-Noor. Commander Abdul Hakim was with them — these were the big ones. The others were [militia members] I did not recognize. My brother was in the courtyard. They took him [from there]— they took him outside. I thought they [just] took him as a prisoner. He is 17. He was a student at the school. They took him. I could hear that there was a lot of shooting in the village, so I did not go out [of the house]—or they might have taken me.

[Afterwards] someone came and told me ‘Come, your brother is here.’ I went and found his body there—on the edge of the river. He was lying there with his hands tied. ... He had been shot with two to three bullets on the right side of his chest, and also on his right hand. The index finger on his left hand was shot off. We are neighbors of the people who took him—we have land next to each other.<sup>227</sup>

Around the same time, Noorullah (pseudonym) was at home when a group of five militia members arrived. He told Human Rights Watch he recognized several of them:

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<sup>226</sup> Human Rights Watch interview with Sayed Hashem (pseudonym), a villager from Konam, Kunduz province, October 2012.

<sup>227</sup> Human Rights Watch interview with Lal Jan (pseudonym), a villager from Konam, Kunduz province, October 2012.

There were five people. They arrived at our house, broke [open] our door, and arrested me and my [25-year-old] son. My arms were completely black [with bruises] — I was beaten very seriously. I was beaten and my son was shot [dead] in front of me. ...They beat me with rifles— with the barrel of an AK-47. I think they entered around 7 a.m. and they were with me about 20 minutes...when they heard that the security forces were coming they were in a hurry. I know [two of] those people because they are my neighbors—the faces of the other three were covered [with scarves].

We were taken out of the house in front of the women [of my house]. When they heard the shooting they came out. My women and female members of the family took the dead body [of my son] inside the house. I had nothing and my innocent son was killed and I had nothing to defend him. Everyone is going to die, but when you are innocent and someone comes to kill you it is very difficult. I will never forget this killing.<sup>228</sup>

Other witnesses told Human Rights Watch similar stories. Journalists and researchers recorded additional accounts,<sup>229</sup> including that of a husband and wife who were shot dead after she had thrown herself on him to protect him. Their daughter was wounded trying to protect her mother.<sup>230</sup>

After the attack, Alam sought to distance himself from the forces that carried out the killings, and Qadirak and Faizak in particular: “These are not my men anymore,” he told the *New York Times*. “They are trying to defame me. The government can arrest and punish them any way they want.”<sup>231</sup>

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<sup>228</sup> Human Rights Watch interview with Noorullah (pseudonym), a villager from Konam, Kunduz province, October 2012; an international official confirmed to Human Rights Watch that they had seen Noorullah with bruised arms after the attack. Human Rights Watch interview with international official based in Kunduz, Kunduz province, October 2012.

<sup>229</sup> Abdul Matin Sarfraz and Rod Nordland, “Afghans Protest Vengeful Militias,” *New York Times*, September 2, 2012, [http://www.nytimes.com/2012/09/03/world/asia/afghan-villagers-protest-vengeful-militias.html?\\_r=0](http://www.nytimes.com/2012/09/03/world/asia/afghan-villagers-protest-vengeful-militias.html?_r=0) (accessed January 4, 2015); Gran Hewad, “For a Handful of Bolani.” October 8, 2012.

<sup>230</sup> Gran Hewad, “For a Handful of Bolani.” October 8, 2012.

<sup>231</sup> Abdul Matin Sarfraz and Rod Nordland, “Afghan Villagers Protest Vengeful Militias,” *New York Times*, September 2, 2012, [http://www.nytimes.com/2012/09/03/world/asia/afghan-villagers-protest-vengeful-militias.html?\\_r=0](http://www.nytimes.com/2012/09/03/world/asia/afghan-villagers-protest-vengeful-militias.html?_r=0) (accessed May 22, 2013).

However, one member of the local tribal council cited “people who we know in their ranks” telling AAN that “Mir Alam ordered other militia commanders, namely Nezam and Sayed Hussain who are his juniors, to join Qadirak when he attacked the village.”<sup>232</sup> When village elders saw militia members begin to gather near the village, they alerted provincial authorities. One village elder filed a statement with provincial authorities to complain about the lack of protection.<sup>233</sup> The day after the killings, Konam villagers held a demonstration in the provincial capital, Kunduz, to protest the lack of action by the authorities.<sup>234</sup> Human Rights Watch separately interviewed two people who stated that the men who warned them explicitly referred to being ordered into Konam by Alam.<sup>235</sup>

Even if he did not order the attack, Mir Alam may face criminal liability for the Konam killings as a matter of command responsibility. Qadirak is known to be a member of Mir Alam’s militia network, and while the militias are less formal and disciplined than official Afghan security forces, Mir Alam appears to have genuine control over them.<sup>236</sup> A leaked US embassy cable from late 2009 states: “While [Mir Alam] Khan claims that his 500-man militia is under the legal control of the NDS, he maintains operational control of the force and distributes its pay.”<sup>237</sup> If he maintained that control in September 2012, he would be responsible for the militia’s actions at that time.

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<sup>232</sup> Gran Hewad, “For a Handful of Bolani,” October 8, 2012.

<sup>233</sup> One serious question in the Konam incident relates to the lack of immediate response when village elders passed the warning on to the provincial authorities some hours before the attack. One source told AAN: “I called the deputy provincial police commander and informed him about the intention of the militias to attack our village. I kept calling security officials to ask them to be prepared to prevent this from happening. I then called the local NDS staff and the provincial police commander at around seven o’clock in the morning and finally, made a call to the governor. Almost eight hours passed, but the police did not do anything. Though the village is no more than 15 kilometers away from the police headquarters, police reached here around 10 o’clock in the morning, only when the perpetrators had done what they wanted and escaped.” Gran Hewad, “For a Handful of Bolani,” October 8, 2012. This version of events was confirmed by Konam residents interviewed by Human Rights Watch. Human Rights Watch interviews with Konam elders Nos. 2 and 3, Kunduz province, October 2012.

<sup>234</sup> Abdul Matin Sarfraz and Rod Nordland, “Afghan Villagers Protest Vengeful Militias,” September 2, 2012.

<sup>235</sup> In one of the two cases the source told Human Rights Watch that his interlocutor said Mir Alam had ordered the militias to come to collect the body of Jalil – but this was accompanied by a direct warning from the interlocutor to flee the village. In the second case the source alleged the interlocutor explicitly referred to the militia commanders being called together by Mir Alam on the night before the attack for a *shura* (council) and being ordered to attack and destroy the village. That source told Human Rights Watch his interlocutor said: “We received an order from Kira Alm that we should attack Kanam village and kill anything we find.” Separate Human Rights Watch interviews with Kunduz elders No 1 and No 3, Kunduz province, October 2012.

<sup>236</sup> Human Rights Watch interview with international official based in Kunduz, Kunduz province, October 2012.

<sup>237</sup> US Embassy Cable (09KABUL3661 “Unconventional Security Forces– What’s out there?”).



Several sources also alleged that Mir Alam and his forces enjoyed protection from senior government officials, including former Vice-President Marshall Fahim. A few days after the Konam attack, elders from the village met with the Kunduz Deputy Chief of Police. A source who attended the meeting told Human Rights Watch that Marshal Fahim phoned the deputy chief of police during the meeting and said he would personally ensure the arrest of the militia commanders implicated in the Konam killings.<sup>238</sup> However, in December 2012 the Ministry of the Interior replaced the provincial chief of police, Samiullah Qatra, reportedly at the behest of Marshal Fahim and Mir Alam, who demanded Qatra's removal after he had attempted to arrest Qadirak and Faizak for their part in the attacks.<sup>239</sup>

An international official based in Kunduz, who requested anonymity to speak openly about a sensitive issue, told Human Rights Watch that the chief of police of Khanabad district, Sufi Habib, had located Qadirak in June 2013 and was preparing to arrest him. Habib told the official that while en route to arrest Qadirak, Fahim personally contacted Habib and ordered him to not arrest Qadirak.<sup>240</sup> About a week later, the Interior Ministry dismissed Habib from his post in apparent reprisal for seeking Qadirak's arrest.<sup>241</sup>

Separately, another elder from Konam told Human Rights Watch that in August 2012 he saw police forces allow several sub-commanders of Mir Alam, suspected of killing three Pashtun men at a funeral ceremony, escape arrest.<sup>242</sup> The elder said that the police had cornered the suspects close to Kunduz city, but failed to follow through with arrests after interventions by Mir Alam and Marshal Fahim. He said, "I was there and saw them open the road to them." He told Human Rights Watch that a senior police officer told him he had

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<sup>238</sup> Human Rights Watch interview with an official (name withheld) who attended the meeting of Konam elders with the Kunduz deputy Chief of Police, Kunduz province, October 2012.

<sup>239</sup> According to AAN, "When he came to know about Police Chief Qatra's intention to arrest the two commanders, Mir Alam requested Vice President Fahim's intervention. Days later, Qatra was replaced by Khalil Andarabi as Kunduz chief of police. After Qatra's demotion, the then deputy chief of police, Ghulam Farhad, decided to arrest Mir Alam's two commanders, but was opposed by Andarabi. Shortly after Ghulam Farhad was sacked. However, an alternative version of events is that Ghulam Farhad was dismissed due to his involvement in drug trafficking and armed clashes with the border police in which a policeman was killed and others wounded." Lola Cecchinel, "The End of a Police Chief: Factional rivalries and pre-election power struggles in Kunduz," *Afghanistan Analysts Network*, January 31, 2014, <http://www.afghanistan-analysts.org/the-end-of-a-police-chief-factional-rivalries-and-pre-election-power-struggles-in-kunduz> (accessed April 10, 2014).

<sup>240</sup> Ibid.

<sup>241</sup> Ibid.

<sup>242</sup> Human Rights Watch interview with Konam elder No 2 (name withheld), Kunduz province, October 2012.

been called first by Mir Alam and then by Marshal Fahim “and he told [him] that [he] should let those people go.”<sup>243</sup>

Since the Konam killings, Qadirak has continued to operate as part of Mir Alam’s militia network. An analyst who has collected data on militias in Kunduz since 2013 described abuses that occurred during the 2014 presidential election:

It is hard to say who the local people fear more, though: their ‘defenders’ — ALP and other militias— or the Taliban themselves. According to a resident, shortly before the elections, many houses in the area were looted by Mir Alam’s commanders, including Commander Qadirak. As residents had feared what the Taleban might do to them on election day, they fled the area, only to return and find their houses ransacked by Mir Alam’s militias.<sup>244</sup>

Alam has continued to play a central role in controlling militia networks among the armed groups in Kunduz.<sup>245</sup> As of January 2015, no arrests had taken place for the Konam killings.<sup>246</sup>

## Asadullah Khalid

Asadullah Khalid was appointed as the head of the National Directorate of Security in September 2012. He was seriously injured in an assassination attempt by a suicide bomber in December 2012, and in August 2013 his predecessor, Rahmatullah Nabil, was

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<sup>243</sup> Ibid.

<sup>244</sup> Lola Cecchin, “Taliban Closing in on the City: The next round of the tug-of-war over Kunduz,” *Afghanistan Analysts Network*, September 2, 2014, <https://www.afghanistan-analysts.org/the-next-round-of-the-tug-of-war-over-kunduz/> (accessed January 4, 2015).

<sup>245</sup> As the Taliban began to re-establish a presence in the province after 2006, the already limited progress towards disarmament was reversed. Small militia groups were established – or in many cases re-legitimized – under Ministry of Interior or NDS sponsorship, a process that accelerated after an attack on a convoy in which Marshal Fahim was travelling in 2009. AAN found that “Mir Alam has placed himself at the heart of the province’s political networks and nowadays plays a central role in the militias’ command; thanks to his Jamiati background he has also strong links with the provincial police commander, General Samiullah Qatra, and prominent powerbrokers in Kabul.” Gran Hewad, “Legal, illegal: Militia recruitment and (failed) disarmament in Kunduz,” *Afghanistan Analysts Network*, November 10, 2012, <https://www.afghanistan-analysts.org/legal-illegal-militia-recruitment-and-failed-disarmament-in-kunduz/> (accessed August 23, 2014).

<sup>246</sup> Human Rights Watch phone interview with international official (name withheld) based in Kunduz, Kunduz province, March 2014.

appointed acting NDS head. Sources close to the NDS report that Khalid retains some influence within the NDS.<sup>247</sup> Khalid previously served as Minister of Border and Tribal Affairs (2008-2012),<sup>248</sup> Governor of Kandahar (2005-2008), Governor of Ghazni (2002-2005), and the security commander for the Southern Zone (2011-2012).<sup>249</sup> Immediately after the fall of the Taliban government in late 2001, he served as commander of Directorate 5 of the NDS.<sup>250</sup>

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<sup>247</sup> At the time of writing, Asadullah Khalid was still recuperating from injuries sustained in a suicide bomb attack on December 6, 2012. Following the attack, it was announced that one of his deputies, the Panjshiri General Hassamuddin Khan, would run the agency until he could return to work. Hassam was previously the head of the military affairs department at the Ministry of Defense and a security advisor to First Vice President Fahim. On August 31, 2013, it was announced that Khalid's predecessor General Nabil would return as acting Director of the NDS, although Asadullah Khalid would still officially remain in post. Khalid reportedly returned to Afghanistan from the US where he had been receiving medical treatment on March 14, 2014. Human Rights Watch phone interview with former NDS official, March 2014; Muhammad Hassan Khetab, "Nabil appointed as acting head of NDS," *Pajhwok Afghan News*, August 31, 2013 <http://www.pajhwok.com/en/2013/08/31/nabil-appointed-acting-head-nds> (accessed September 2, 2013); Jay Price and Jonathan Landay, "Afghan spy chief Asadullah Khalid back in U.S. for medical care," *McClatchy*, May 2, 2013, <http://www.mcclatchydc.com/2013/05/02/190241/afghan-spy-chief-asadullah-khalid.html#.UZacbbU3tRE> (accessed May 17, 2013); Julie Super, Spencer Butts, and Jeffrey Dressler, "Unpacking the Attempted Assassination of Asadullah Khalid," Institute for the Study of War, December 20, 2012, [http://www.understandingwar.org/sites/default/files/Backgrounder\\_AsadullahKhalid.pdf](http://www.understandingwar.org/sites/default/files/Backgrounder_AsadullahKhalid.pdf) (accessed May 3, 2013); Ghanizada, "Ex-Afghan intelligence chief Asadullah Khalid returns to Afghanistan," *Khaama Press*, March 15, 2014, <http://www.khaama.com/ex-afghan-intelligence-chief-asadullah-khalid-returns-to-afghanistan-2875> (accessed April 30, 2014).

<sup>248</sup> Despite being rejected as a minister by the parliament in 2008, Khalid continued to serve as the Minister for Border and Tribal Affairs for an extended period. He was re-appointed and finally confirmed as minister in 2010. Thomas Ruttig, "At a Snail's Pace Towards a Full Cabinet," *Afghanistan Analysts Network*, June 26, 2010, <http://aan-afghanistan.com/index.asp?id=858> (accessed May 3, 2013).

<sup>249</sup> Different local sources place the start of Asadullah Khalid's tenure in Ghazni to late 2002 and early 2003. According to a US Embassy cable from 2006 released by Wikileaks, Khalid began his duties as governor of Ghazni in April 2002 before he was officially appointed to the post in May. US Embassy Cable (06KABUL328, "Kandahar: A governor's Intentions"), January 24, 2006 (cable released September 1, 2011), [www.cablegatesearch.net/cable.php?id=06KABUL328](http://www.cablegatesearch.net/cable.php?id=06KABUL328) (accessed May 3, 2013). His appointment as head of NDS (or alternatively as Justice Minister) was reportedly already being pushed by Sayaf in the reshuffle after the presidential election in 2009. US Embassy Cable (09KABUL4070, "The New Cabinet: Better But Not Best"), December 19, 2009 (cable released September 8, 2011), <http://cablegatesearch.wikileaks.org/cable.php?id=09KABUL4070&q=khalid> (accessed May 7, 2013); US Embassy Cable (09KABUL3625, "Cabinet Rumors - Ten Days Before Inauguration"), November 10, 2009, <http://wikileaks.org/cable/2009/11/09KABUL3625.html> (accessed May 7, 2013).

<sup>250</sup> This was Riasat 5 (Anti-terrorism) at that time. It was renumbered as 90 and then 124 in the NDS, and was long implicated in torture. Details of Khalid's biography are based on a combination of diplomatic briefing papers viewed by Human Rights Watch, and public sources. Kate Clark, "Filling the Power Ministries: Biographies of the four candidates," *Afghanistan Analysts Network*, September 12, 2012, <http://aan-afghanistan.com/index.asp?id=2986> (accessed May 3, 2013); Julie Super, Spencer Butts, and Jeffrey Dressler, "Unpacking the Attempted Assassination of Asadullah Khalid"; undated internal UNAMA briefing document provided to Human Rights Watch by former UN Official No. 1.

Khalid is a Taraki Pashtun from the Nawa district of Ghazni, born in 1969.<sup>251</sup> His father was a member of parliament during the reign of King Mohammed Zahir Shah from 1933 through 1973. Khalid had an early link to jihadi politics through his uncle, a mujahideen commander with the Ittihad-e Islami (Ittihad)<sup>252</sup> faction who was killed during the fighting against the Soviets in the 1980s.<sup>253</sup> Khalid has a relatively diverse political network. He is known as a favorite and trusted ally of former President Karzai, but remains close to Ittihad and its leader Abdul Rasul Sayyaf, while also having longstanding ties with Shura-e-Nazar,<sup>254</sup> a group with which Ittihad was allied.<sup>255</sup>

While some observers have described Khalid's personal political base as quite weak, the extent of his network and closeness to Karzai gave him formidable power.<sup>256</sup> Before the assassination attempt that incapacitated him, political observers in Afghanistan viewed him as a possible future president.<sup>257</sup>

Khalid has long had ties to the United States and its intelligence agencies. He is reported to have acted as a liaison between Ittihad-e Islami and the CIA in the latter's effort to buy back Stinger anti-aircraft missiles in 2000 or 2001. He was also "point man for the Kandahar

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<sup>251</sup> The US Embassy cable has 1968 as his date of birth; other sources have 1969. US Embassy cable (06KABUL328 "Kandahar: A governor's Intentions"); Will Calhoun, "The Unwanted," *Fair Observer*, April 3, 2013 <http://www.fairobserver.com/article/unwanted-part-22> (accessed May 17, 2013).

<sup>252</sup> Ittihad-e-Islami is short for Ittihad-i Islami Bara-yi Azadi Afghanistan (the Islamic Union for the Liberation of Afghanistan), a predominantly Pashtun military and political grouping founded by Abdul Rabb al-Rasul Sayyaf and which fought against the Soviet occupation of Afghanistan in the 1980s.

<sup>253</sup> Kate Clark, "Filling the Power Ministries: Biographies of the four candidates," September 12, 2012.

<sup>254</sup> Shura-e Nazar (Council of the North), is the dominant Panjshir-based military faction affiliated with Jamiat-e-Islami. It was led by Ahmad Shah Massoud until his assassination on September 9, 2001.

<sup>255</sup> Richard Opiel, "Western and Afghan Officials Split over Karzai Nomination for Spy Chief," *New York Times*, September 11, 2012 <http://www.nytimes.com/2012/09/12/world/asia/officials-split-over-nominee-for-afghan-spy-chief.html?pagewanted=all&r=0> (accessed May 7, 2013).

<sup>256</sup> Ibid. Elements of Hezb-e-Islami were also reported to be pushing for Khalid's appointment as NDS chief in 2009, according to a leaked US diplomatic cable; Khalid's work on building local militias in Andar has reportedly given him opportunity to further develop links with the movement. His northern links are illustrated by the support given to his candidacy as NDS chief by his predecessor Amrullah Saleh. The two are reputed to have personal links dating from before 2001, when both were based in Tajikistan. Emal Habib, "AAN Reportage: Who fights whom in the Andar Uprising?" August 10, 2008, <http://www.aan-afghanistan.org/index.asp?id=2916> (accessed May 7, 2013); Richard Opiel, "Western and Afghan Officials Split Over Karzai Nomination for Spy Chief," US Embassy Cable (09KABUL3625, "Cabinet Rumors - Ten Days Before Inauguration").

<sup>257</sup> David Ariosto, "Karzai's choice for Afghan intelligence chief suspected of torture, trafficking," *Cable News Network (CNN)*, September 5, 2012, <http://edition.cnn.com/2012/09/04/world/asia/afghanistan-intelligence-chief/index.html> (accessed May 7, 2013).

Strike Force, one of the irregular anti-Taliban militias which have been accused of serious abuses and which work closely with US Special Operations Forces and the CIA.”<sup>258</sup>

Despite numerous, credible reports that Khalid has been involved personally in torture, extrajudicial killings, and sexual violence against women and girls, and has operated private prisons during his time as governor in Ghazni and Kandahar, Khalid has maintained a close relationship with the US government. On December 20, 2012, President Obama personally visited Khalid in a Washington DC-area hospital where he was being treated for injuries sustained in the suicide attack.<sup>259</sup> US Defense Secretary Leon Panetta also visited Khalid.<sup>260</sup> This was despite earlier US government accounts that described serious concerns about Khalid; in 2009 a leaked cable from the US Embassy in Kabul described him as “exceptionally corrupt and incompetent.”<sup>261</sup> Khalid, for his part, has dismissed allegations that he has committed human rights abuses as “propaganda.”<sup>262</sup>

### *Sexual Violence*

There is strong evidence directly implicating Asadullah Khalid in acts of sexual violence against women and girls. A well-placed and credible source who sought anonymity because of security concerns told Human Rights Watch that while Khalid was governor of Ghazni, forces under his command used a false pretext to bring a group of several young women and at least one girl of 16 to a residence where the governor and several other men were present.<sup>263</sup> The source said that Khalid offered the women and girls money to have sex with him and the other men, which they refused. The men were drinking alcohol, and

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<sup>258</sup> Kate Clark, “Filling the Power Ministries,” September 12, 2012.

<sup>259</sup> David Nakamura and Anne Gearan, “Obama criticized for visiting Afghan intelligence official at U.S. hospital,” *Washington Post*, January 8, 2013, [http://articles.washingtonpost.com/2013-01-08/politics/36233348\\_1\\_afghan-intelligence-karzai-asadullah-khalid](http://articles.washingtonpost.com/2013-01-08/politics/36233348_1_afghan-intelligence-karzai-asadullah-khalid) (accessed May 7, 2013).

<sup>260</sup> *Ibid.*

<sup>261</sup> “Ottawa kept abuse charges against ally secret;” US Embassy Cable (09KABUL4070, “The New Cabinet: Better but Not Best”); US Embassy Cable (09KABUL3625, “Cabinet Rumors - Ten Days before Inauguration”).

<sup>262</sup> David Ariosto, “Karzai’s choice for Afghan intelligence chief suspected of torture, trafficking,” *CNN*, September 5, 2012, <http://edition.cnn.com/2012/09/04/world/asia/afghanistan-intelligence-chief/index.html>, (accessed May 7, 2013); Richard Ooppel, “Western and Afghan Officials Split Over Karzai Nomination for Spy Chief,” *New York Times*, September 11, 2012, [http://www.nytimes.com/2012/09/12/world/asia/officials-split-over-nominee-for-afghan-spy-chief.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2012/09/12/world/asia/officials-split-over-nominee-for-afghan-spy-chief.html?pagewanted=all&_r=0) (accessed May 7, 2013).

<sup>263</sup> Human Rights Watch interview with Ghazni source No. 1, October 2012. The location of the building, date of the attack, and other details have been withheld to protect the identity of the source.

Khalid pressured the women to drink as well. When they refused, the men, including Khalid, raped the women and girls.

“Until morning they were doing those things,” the source said, in reference to the rapes. At least one of the victims was reportedly left with blood on her clothes. Afterwards, Khalid allegedly told them that “they would be killed and their families destroyed if they told anyone what had happened.” Then forces under Khalid’s command returned the women and girls to their homes.<sup>264</sup>

Because of the nature and sensitivity of the alleged incident, Human Rights Watch was unable to independently verify the account.

A second, separate source, an official from Ghazni, who also requested anonymity because of security concerns, made similar allegations about Khalid’s involvement in sexual violence against women and girls during his time as governor of Ghazni:

He goes to Jan Maleka [girls’ high school in Ghazni city] and he does moral corruption.<sup>265</sup> He comes to the television [station].... The women he likes he brings from Ghazni to Kabul. ... They are young girls, not married. I will give two examples ... One was 20 and the second 18, something like that. He says to the families that [the girls] have a seminar or a course or a training—in the name of these things they bring them....The girls that are brought from Ghazni, they are told you will be brought back to your families [in the evening], you will go back to Ghazni. And they are left there. At night they have no place to go. By force he brought them to his rooms... [The girls] did not do this willingly. This thing that happened was not with their consent ... It was imposed by force.<sup>266</sup>

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<sup>264</sup> Human Rights Watch interview with Ghazni source No. 1, October 2012.

<sup>265</sup> The implication here was not necessarily that Khalid carried out these acts at the school itself, but rather that he brought the girls to his residence or elsewhere. A perception that the governor carried out this predatory behaviour was certainly common among residents in Ghazni. For example, one woman interviewed by Human Rights Watch, who requested anonymity out of concern for her security, said that: “Assadullah Khaled would take girls from the Jan Maleka high school. (...) Everyone knows about this.” Human Rights Watch interview with woman health worker from Ghazni, October 2012.

<sup>266</sup> Human Rights Watch interview with Ghazni source No. 2, Kabul, May 2005. The reference to the TV station refers to women working there in different capacities.

A third source, a person close to the governor, confirmed several details relating to the case of the two young women described above, which he said took place in the late spring or early summer of 2004.<sup>267</sup> The source said he spoke to one of them, and that she said she was 18 and her sister 15 or 16 at the time.<sup>268</sup> The source saw both of the girls in Kabul, and confirmed that the governor had ordered his men to take them to his residence.<sup>269</sup> However, the source did not have any additional details about allegations of sexual violence.<sup>270</sup>

### *Arbitrary Detention, Torture, and Enforced Disappearances*

Compelling evidence exists of Khalid's involvement in arbitrary detention and torture. Gul Amir (pseudonym), a former prisoner in Kandahar, alleged that Khalid personally tortured him in 2007 and that subsequent to his detention and mistreatment he joined the Taliban.<sup>271</sup> Amir's Taliban affiliations inevitably raise questions about the veracity of his account, but it is consistent with allegations from other sources of Khalid's involvement in abuses.

Amir told Human Rights Watch that NDS personnel arrested him and detained him at the NDS prison in Kandahar in June 2006 on suspicion of having Taliban links.<sup>272</sup> He said that NDS prison guards blindfolded him for his initial interrogation, but one guard told him that "the governor" was coming to interrogate him. Amir was not able to see who was present during the torture that ensued during this initial interrogation session. However, he said he recognized Khalid's voice from his frequent public appearances. Amir said that guards beat his legs so badly with an electric cable that he could not walk immediately afterwards.

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<sup>267</sup> Human Rights Watch interview with Ghazni source No. 3, Kabul, March 2014.

<sup>268</sup> Births are not routinely recorded in Afghanistan, thus many Afghans do not know their precise age.

<sup>269</sup> Human Rights Watch interview with Ghazni source No. 3, Kabul, March 2014.

<sup>270</sup> In April 2010, Canadian diplomat Richard Colvin testified to the Canadian parliament about "anecdotes you would hear in Kandahar about [Khalid's] sexual misconduct with young women." "Afghanistan Public Interest Hearings, Volume 5" (transcript of proceedings held Monday, April 13, 2010), Military Police Complaints Commission, <http://www.scribd.com/doc/29903908/Hearing-Transcript-April-13-2010> (accessed May 7, 2013), p. 19. Canadian government documents from 2007 also refer to Khalid's reputation as a "sexual predator." Graeme Smith, "House of pain: Canada's connection with Kandahar's ruthless palace guard," *Globe and Mail*, April 10, 2010, [www.theglobeandmail.com/news/politics/house-of-pain-canadas-connection-with-kandahars-ruthless-palace-guard/article1372156/?page=all](http://www.theglobeandmail.com/news/politics/house-of-pain-canadas-connection-with-kandahars-ruthless-palace-guard/article1372156/?page=all) (accessed May 7, 2013).

<sup>271</sup> Gul Amir told Human Rights Watch: "At that time I was not really a Talib – this is Afghanistan so maybe my cousin will be Talib, but I saw the things [he did to] me and now I am." Human Rights Watch interview with Gul Amir (pseudonym), a former prisoner, Kandahar, November 2012.

<sup>272</sup> From Gul Amir's testimony, it seems this means the NDS section of the main jail at Sarposha, rather than cells at the NDS headquarters or elsewhere. Interview with Gul Amir, location withheld, November 2012.

He said that two days later he saw Khalid enter his cell, around two hours after the evening meal at 9 p.m.:

[Khalid] came two steps in and then went back out. He put his hand in his pocket and took out a *dismol* [cloth] and put it over his face because of the bad smell from my legs, which were all [cut and bruised] from the beating. Then he came back to me and said, ‘How are you, dog?’ My body was smelling very bad because of a lot of beating and I was bound with chains. So he said ‘Tell me the truth, what is going on?’ He stayed with me for more than an hour. He said: ‘You have the final chance until tomorrow night [to talk]. Tomorrow night I will come again. If you do not tell us which Talibs you are working with, I will bring the Americans and they will rape you.’ I said: ‘We are Muslims and Pashtuns – instead of the Americans why don’t you do this thing yourself?’ He said ‘No—because the Americans’ [sexual organs] are a little bit fat and I want to tear [you].’<sup>273</sup>

Amir said that as Khalid left his cell, he ordered the guards to “give [Gul] a small punishment so that tomorrow he will tell everything truthfully.” He added:

There were two personal soldiers of Asadullah [Khalid] and they entered the room and one tied me and one took a thick [electrical] cable ... and they beat me until I fell unconscious. [Khalid] himself was beating me ... The governor had the cable and he was beating me.<sup>274</sup>

Amir said that the following afternoon prison guards brought him to meet a group of several people he described as “‘Americans,’”<sup>275</sup> since he said they were white men and one white woman who wore uniforms. Gul did not say if he noticed names or symbols on

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<sup>273</sup> Ibid.

<sup>274</sup> Use of electrical cables to whip prisoners is a common feature of other reports of torture from Kandahar in this period. See for example “Commission’s Final Report – MPCC 2008-042 – Concerning a complaint by Amnesty International Canada and British Columbia Civil Liberties Association in June 2008,” Military Police Complaints Commission, [http://www.mpcc-cppm.gc.ca/300/afghan/2012-06-27-12-eng.aspx#\\_Toc313367222](http://www.mpcc-cppm.gc.ca/300/afghan/2012-06-27-12-eng.aspx#_Toc313367222) (accessed May 7, 2013); Parker Donham, “Colvin torture testimony – the full transcript,” post to “Contrarian” (blog), November 19, 2009, <http://contrarian.ca/2009/11/19/colvin-torture-testimony-the-full-transcript/> (accessed May 7, 2013).

<sup>275</sup> Afghans routinely identify foreign military personnel as “American” regardless of their actual nationality.



the uniforms of the group that might identify their nationality and the branch of the military to which they belonged.

When the Americans came there was a woman with them.... I was afraid because I thought this was what [Khalid] said the day before [that he would be raped]. [The prison guards] took me out from my [cell] and sat me on a chair and then they opened my eyes and said do not look around you, only there [straight ahead]. Behind me, a lot of Americans were looking at me but I was told not to look here and there. ... It [should have been] clear to [the foreign military visitors] that I was beaten from my face and my features, it was known to them because my head was [battered] and my eyes were swollen.<sup>276</sup>

Amir said the female soldier asked him a few basic questions such as his name and tribe and then took his photograph. Guards then returned Amir to his cell, from where he was transferred the following day to the general NDS remand prison. Amir told Human Rights Watch that while there he personally witnessed Khalid physically abuse a fellow prisoner when he was let out for exercise with fellow prisoners one day:

There was another prisoner called Jabbar. [Khalid came to the jail] and said 'Who is Jabbar?' And Jabbar said 'I am.' [The governor] ran towards him and karate-kicked him. I saw this with my own eyes—we were out [in the yard] for sunshine and we were a group of about 70-80 people and Asadullah Khalid came.<sup>277</sup>

Amir's account is consistent with other information from Kandahar. Canadian diplomat Richard Colvin testified to a Canadian parliamentary commission in 2009 that Khalid perpetrated enforced disappearances and held people in private prisons:<sup>278</sup>

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<sup>276</sup> Human Rights Watch interview with Gul Amir (pseudonym), Kandahar, November 2012.

<sup>277</sup> Human Rights Watch interview with Gul Amir (pseudonym), Kandahar, November 2012.

<sup>278</sup> Special Committee on the Canadian Mission in Afghanistan, "Special Committee on the Canadian Mission in Afghanistan: Evidence," Parliament of Canada, November 18, 2009, [www.parl.gc.ca/HousePublications/Publication.aspx?DocId=4236267&Language=E&Mode=1&Parl=40&Ses=2#Int-2955390](http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=4236267&Language=E&Mode=1&Parl=40&Ses=2#Int-2955390) (accessed May 7, 2013). CNN quoted an unnamed "high level diplomatic source" as saying that an independent review had offered credible evidence that Colvin's account was indeed accurate. One "former Western official with considerable knowledge of Kandahar" was also quoted confirming that "it was widely believed that (Khalid) got his hands dirty and did

[Khalid] was known to us very early on, in May and June 2006, as an unusually bad actor on human rights issues. He was known to have had a dungeon in Ghazni, his previous province, where he used to detain people for money, and some of them disappeared. He was known to be running a narcotics operation. He had a criminal gang. He had people killed who got in his way. And then in Kandahar we found out that he had indeed set up a similar dungeon under his guest house. He acknowledged this. When asked, he had sort of justifications for it, but he was known to personally torture people in that dungeon. So on a range of issues—governance, security, human rights—he was a serious problem.<sup>279</sup>

A group of Canadian diplomats sent to inspect the main NDS jail in Kandahar in 2007 spoke to one prisoner who said he had been imprisoned for nearly a year, including a month at a one-room private prison of the governor. “He went on to state he had been interrogated by foreigners and the governor. He alleged that the governor beat him and gave him electric shocks. He also stated he was bound by his feet and hands and was made to stand for 10 days.”<sup>280</sup>

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some of this (torture) himself.” David Ariosto, “Karzai’s choice for Afghan intelligence chief suspected of torture, trafficking.” In his testimony, Colvin described his views on Khalid as based on “comprehensive information,” and said he had access to a wide range of political and intelligence sources as a senior official at the Canadian PRT in Kandahar. (“Afghanistan Public Interest Hearings, Volume 5,” pp. 9-10 and 28.) It should also be noted that Chris Alexander, at the time a senior Canadian official with the United Nations, reportedly alleged that Asadullah Khalid had ordered the deaths of five United Nations workers in a bombing, and “suggested that attacks on internationals in Kandahar are increasingly being carried out by ... narcotics interests, that have a stake in continued instability, rather than by insurgents.” “Afghan governor’s rights abuses known in ‘07,” *CBC News*, April 12, 2010, <http://www.cbc.ca/news/politics/story/2010/04/12/afghan-governor-human-rights-abuses.html> (accessed May 7, 2013). Human Rights Watch has interviewed a UN source with access to the original UN document, a senior official who requested anonymity to talk about a sensitive issue. The official said the report was an internal assessment based on analysis of the incident and possible motives but not on physical or witness evidence of Khalid’s involvement. Human Rights Watch has not seen the document itself. Human Rights Watch phone interview with senior UN official who requested anonymity, New York, November 2012.

<sup>279</sup> Special Committee on the Canadian Mission in Afghanistan, “Special Committee on the Canadian Mission in Afghanistan: Evidence,” Parliament of Canada, November 18, 2009, [www.parl.gc.ca/HousePublications/Publication.aspx?DocId=4236267&Language=E&Mode=1&Parl=40&Ses=2#Int-2955390](http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=4236267&Language=E&Mode=1&Parl=40&Ses=2#Int-2955390) (accessed May 7, 2013). In other testimony Colvin referred to multiple sites, saying: “We also began hearing quite early on that Mr. Khalid had indeed set up private detention facilities in Kandahar, as well, and was detaining people in those facilities.” “Afghanistan Public Interest Hearings, Volume 5,” p. 29.

<sup>280</sup> Paul Koring, “Ottawa kept abuse charges against ally secret,” *Globe and Mail*, February 1, 2008, <http://v1.theglobeandmail.com/servlet/story/RTGAM.20080201.wdetainee01/front/Front/Front/> (accessed May 9, 2013). The original document, in its redacted form, is included in another *Globe and Mail* article: Paul Koring and Alan Freeman, “Detainee Abuse: From Canadian Custody into Cruel Hands,” *Globe and Mail*, November 16, 2007,

A separate Canadian government commission published accounts of extensive abuses carried out by Afghan security forces in Kandahar during the period that Khalid was governor.<sup>281</sup> The Canadian government was aware of these abuses, but tried to keep them secret for what they described as “security” reasons.<sup>282</sup> In early 2007, an internal Canadian government document stated that “allegations of human rights abuses by [Khalid] are numerous and consistent. According to multiple sources, including the U.K. embassy, the private detention center is located under the governor's guest house.”<sup>283</sup>

Canadian journalist Graeme Smith also uncovered significant evidence of Khalid’s involvement in enforced disappearances, many of them linked to a unit of about 60 men in Kandahar called Brigade 888:

A source who served on Canada's headquarters staff at Kandahar Air Field said he heard a story of torture from Mr. Khalid’s own mouth. Afghan authorities were trying to decide whether to pay compensation to a man from Maywand district who claimed his brother was killed during interrogation by Mr. Khalid. The governor acknowledged causing the man’s death, the source said, and the brother received a sum equivalent to roughly US\$2,000.

Sources identified at least three locations in the governor’s palace that held prisoners, and indicated that Mr. Khalid probably had other informal

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<http://www.theglobeandmail.com/news/world/from-canadian-custody-into-cruel-hands/article585956/?page=all> (accessed May 9, 2013). US embassy cables mention the reports and say Canadian embassy sources told them “they have heard some other similarly ominous reports of such abuses by Governor Khalid.” The cables appear to identify the location where the man said he was tortured as the basement of the governor’s guest house. A careful reading of the cables, *Globe and Mail* article, and redacted Canadian documents appears to show he was there for a month, rather than nearly a year as the article states. US Embassy Cable (07Kabul1578, “Isaf Detainees: Canadians Conclude New Agreement with GOA”), May 10, 2007 (released September 1, 2011), <http://cablegatesearch.wikileaks.org/cable.php?id=07KABUL1578&q=khalid> (accessed May 9, 2013).

<sup>281</sup> “Commission’s Final Report – MPCC 2008-042 – Concerning a complaint by Amnesty International Canada and British Columbia Civil Liberties Association in June 2008: XII. The Information Environment About Detainee Abuse in Afghanistan,” Military Police Complaints Commission, June 26, 2012,

[http://www.mpcc-cppm.gc.ca/300/afghan/2012-06-27-12-eng.aspx#\\_Toc313367222](http://www.mpcc-cppm.gc.ca/300/afghan/2012-06-27-12-eng.aspx#_Toc313367222) (accessed May 9, 2013).

<sup>282</sup> Koring, *ibid.*; US Embassy Cable (07Kabul1578, “Isaf Detainees: Canadians Conclude New Agreement With GOA”); Parker Donham, “Colvin torture testimony – the full transcript,” *The Globe and Mail*, <http://v1.theglobeandmail.com/servlet/story/RTGAM.20080201.wdetainee01/front/Front/Front/> (accessed May 9, 2013).

<sup>283</sup> “Afghan governor's rights abuses known in '07,” *CBC News*, <http://www.cbc.ca/news/politics/afghan-governor-s-rights-abuses-known-in-07-1.906659> (accessed May 12, 2014).

jails elsewhere in the city. Nor was such activity confined to Brigade 888; the governor was also suspected of using several hundred men assigned to 05 Police Standby Battalion as a personal militia, which also held prisoners outside the Afghan justice system.<sup>284</sup>

Smith interviewed another alleged insurgent who described being the victim of abuses in a private jail which Khalid supervised:

‘When they reached the governor’s palace, they threw me into a room like luggage,’ he said, and the torture started immediately. ‘They asked my name, where I was from, and started hitting me with their hands and kicking me with their soldier’s boots.... I was bleeding from the nose, ears and mouth.’<sup>285</sup>

The man told Smith that the jail guards deprived him of sleep for 18 days. He alleged that Khalid participated in interrogation sessions, but was absent during the incidents of physical violence. Individuals he identified as foreign troops provided him medical treatment during his detention, but he did not know their country of origin.<sup>286</sup>

There is also evidence of serious abuses of individuals held in custodial detention implicating Khalid during his time as provincial governor of Ghazni from 2002 to 2005. Human Rights Watch obtained a copy of a foreign embassy’s confidential report on the human rights and political situation in the province based on face-to-face interviews with numerous local residents shortly after Khalid’s June 2005 departure to Kandahar. A section of the report titled “Detention and torture under former Governor Asadullah” details enforced disappearances and torture perpetrated by Khalid and forces under his direct command:

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<sup>284</sup> Graeme Smith, “House of pain: Canada’s connection with Kandahar’s ruthless palace guard,” *Globe and Mail*, April 10, 2010, <http://www.theglobeandmail.com/news/politics/house-of-pain-canadas-connection-with-kandahars-ruthless-palace-guard/article1372156/?page=all>. (accessed June 25, 2014).

<sup>285</sup> Graeme Smith, “Bondage, beatings and a few questions from the governor,” *Globe and Mail*, April 10, 2010, <http://www.theglobeandmail.com/news/politics/bondage-beatings-and-a-few-questions-from-the-governor/article4314343/>. (accessed May 9, 2013).

<sup>286</sup> *Ibid.*

Testimonies by former detainees and [others] point to the existence during his tenure of five illegal detention places in and around Ghazni city (among others in the basement of the Governor’s guesthouse and the Department of Public Works) directly run by the former Governor and his associates, as well as several others in the districts. Additionally, ‘private detainees’ were held in the official Mol and NDS detention centers. They were routinely moved out of sight whenever delegations visited (AIHRC confirmed that ‘there were always locked doors’). Reports suggest that the illegal detention centers were closed within months of Asadullah [Khalid]’s transfer to Kandahar and that most of the private prisoners have since then been released or ‘legalized.’ AIHRC however estimates that [in 2006] there are still around 40 ongoing legal cases relating to former illegal detainees who have not been released. AIHRC does not know how many people have been held in illegal detention over time, but they know of one location in which up to 300 were being held and estimate that in total around 100 ‘private’ prisoners had been held in NDS detention.<sup>287</sup>

Several aspects of this report have been corroborated by other sources who told Human Rights Watch that the existence of the illegal detention facilities was common knowledge. These sources’ descriptions of the detention facilities are consistent with those in the embassy report.<sup>288</sup> One person from the province, who requested anonymity out of concern for his security, told Human Rights Watch he had seen “four or even five” of the sites himself. These locations included at least one in the *haramsarai* [guesthouse] where the governor had his main residence, another in the basement of the nearby Department for Public Welfare, and a third in a guesthouse next to the shrine of Khwaja Bolghar in the village of Rawza, on the northern outskirts of Ghazni city. The source said that he had not gone inside this building himself, but that “you could easily see that they were bringing people blindfolded and handcuffed”; the same activity was visible at the other two sites.<sup>289</sup>

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<sup>287</sup> “Security, governance and human rights in Ghazni,” report for foreign embassy, May 6, 2006. Copy on file with Human Rights Watch.

<sup>288</sup> Human Rights Watch phone interview with former Ghazni resident, Kabul December 2012; Human Rights Watch interview with Ghazni source No. 2, Kabul, May 2005. “Everyone knows” was the way they described it.

<sup>289</sup> Human Rights Watch phone interview with former Ghazni resident, Kabul, December 2012. The source also confirmed that the governor used the NDS jail for “private prisoners,” and alleged that temporary jails were sometimes set up in the districts, presumably in connection with campaigns against the Taliban. It is possible this source may have been among those interviewed for the embassy report.

Another Ghazni source, Nassir (pseudonym), was also familiar with what he understood were private detention centers operated by Khalid or forces under his command. “Several of my friends were prisoners there—in the Khowjia Burghal in Rawza,” he said, adding that there was another prison in “in the department next to the *haramsara*—the department of Labour and Welfare—in the basement. It was just two or three rooms. Many people were in this jail – [they] are in Ghazni and are my friends.” Nassir also identified another site, near the town of Muqur on the main road to Kandahar, at a former Soviet military base, where he said forces under Khalid’s command detained many suspected Taliban insurgents in the period after the defeat of the Taliban in late 2001.<sup>290</sup>

Many of Khalid’s prisoners were suspected but not charged with involvement in the insurgency, but others were allegedly detained for reasons unrelated to security. The embassy report cites a case linked to a land dispute in Qalati, a mainly Tajik village south of Ghazni city. Khalid and his associates were parties to the dispute, as they were involved in the construction of a commercial development on part of the land.<sup>291</sup> According to the report, a “delegation of elders from the village that went to the Governor two years ago to reclaim the land was beaten. Twelve elders and several prominent villagers were detained and tortured and several village shopkeepers were evicted from their shops.”<sup>292</sup> One of the contributors to the report told Human Rights Watch this information was based on at least one interview with a victim of the beating, and that it was carried out by Khalid in person using the handle of a locally made shovel. Canadian diplomat Richard Colvin noted that: “We heard early on that [Khalid], in his previous governorship in the Province of Ghazni... had private detention facilities, that he would keep businessmen, among others, in those facilities for the purposes of extortion of money and that some of those people were never seen again.”<sup>293</sup>

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<sup>290</sup> It was not clear if this meant active or former Taliban. After 2001 many officials in the Taliban government returned to their homes and did not oppose the government. Nassir listed some of the detainees as Ameri Landai, Maulavi Nasser (who he thought was now the Taliban “shadow governor” for Paktika or Paktiya), Maulavi Qayum, Maulavi Isshaq (a governor for Laghman under the Taliban), and “many other Taliban.” Human Rights Watch interview with Nassir, October 2012.

<sup>291</sup> One informed source told Human Rights Watch that he believed the governor had no direct commercial interest, but wanted the project to go forward. Human Rights Watch phone interview with former Ghazni resident, March 2013.

<sup>292</sup> “Security, governance and human rights in Ghazni,” report for foreign embassy, May 6, 2006. Copy on file with Human Rights Watch.

<sup>293</sup> “Afghanistan Public Interest Hearings, Volume 5,” pp. 28-29.

A military officer in the ISAF coalition who served in Ghazni, and who requested anonymity because of the sensitivity of the issue, described one incident after an attack in late 2004 or early 2005 in which one of Khalid's friends or associates had been killed. Khalid appeared at a meeting with the ISAF officer with blood on his shoes. The officer told Human Rights Watch:

He was very angry about it [the attack]. They caught the guy or someone who had been associated with the attack. They were questioning him and he [Khalid] admitted that he had been using sleep deprivation on him. He said, 'We had him for a couple of days and we have not been allowing him to sleep.' He said either 'we' or 'I' 'got angry and we were rough...we got too rough.'

[He said] 'Goodness, I got blood on my shoes' — either he had kicked [the detainee], or—it did not look like he had [just] stepped in a pool of blood. Clearly they had been severely beating this individual.... He admitted that the individual had [been] beaten. He did not say he had beaten him—the way he said it, it sounded much more like he was present while the person was beaten, in some ways. He may even had said to me or implied [to me] that he used the same techniques the Americans did. I may have said you should not be doing that it is not appropriate for a government official—and he agreed.

There was a rumor that he was holding people—that he had a private prison. I actually had confronted him about that at one point. When I told him that he almost came across as incredulous—he said, 'Yes, we keep people here if we have to question them.' He seemed to take a little offense.<sup>294</sup>

A second coalition officer who served in Ghazni while Khalid was governor expressed skepticism about allegations of torture by Khalid. He told Human Rights Watch that he had not heard any such allegations from his colleagues who were with Khalid every day, and that he was "sure I would have heard something" if there had been serious abuses. The

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<sup>294</sup> Human Rights Watch phone interview with former ISAF coalition officer No. 1 (name, location of interview withheld), December 2012.

coalition officer did say that prisoners taken into coalition custody from the NDS had been abused: “[The Ghazni NDS] had beaten and interrogated some of these individuals pretty badly—so they were quite happy to go with us.”<sup>295</sup> While Khalid did not have formal command responsibility over the NDS in Ghazni, several sources reported that he had a close working relationship with the service and considerable influence over it.<sup>296</sup>

Khalid’s appointment as the head of the NDS in September 2012 was greeted with serious concern by Afghan human rights organizations, notwithstanding that Khalid pledged to address NDS abuses.<sup>297</sup> In the event, he only served for a few months before he was seriously injured in the attempted assassination mentioned above. He reportedly returned to Afghanistan in March 2014, but as of November, had still not returned to an active role in the government or security forces.<sup>298</sup> Khalid has not been charged or tried for torture or any other abuses of which he has been implicated.

### *Abdul Raziq*

At the time of writing, Lt. Gen. Abdul Raziq was the Provincial Police Commander for Kandahar, with command over ANP and ALP in Kandahar Province.<sup>299</sup> Gen. Raziq directly oversees ANP operations in Kandahar city and its immediate environs, including as far away as Spin Boldak.<sup>300</sup>

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<sup>295</sup> Human Rights Watch phone interview with former coalition officer No. 2, December 2012.

<sup>296</sup> Human Rights Watch phone interview with former Ghazni resident, Kabul, December 2012; Human Rights Watch interview with Ghazni source No. 2, Kabul, May 2005.

<sup>297</sup> “Afghanistan: Appoint Rights-Respecting Intelligence Chief,” Human Rights Watch news release, August 31, 2012, <http://www.hrw.org/news/2012/08/31/afghanistan-appoint-rights-respecting-intelligence-chief>. The NDS rejected the allegations of abuse, and soon after his appointment Khalid called on human rights monitoring organizations to control and monitor NDS detention centers. UNAMA, “Treatment of Conflict-Related Detainees in Afghan Custody: One Year On,” p. 115.

<sup>298</sup> Human Rights Watch telephone interview with former NDS official, Kabul, March 2014; Ghanizada, “Ex-Afghan intelligence chief Asadullah Khalid returns to Afghanistan,” March 15, 2014.

<sup>299</sup> The ANP was created as a paramilitary counterinsurgency force. In insurgency-affected areas, it follows a military chain of command. In Kandahar the ANP, and not the army, is the principal ANSF force carrying out counterinsurgency operations. Human Rights Watch interviews with officials at international humanitarian and political agencies, December 2014 – January 2015. Raziq’s status and “cult of personality” gives him direct control over aspects of the chain of command that might otherwise be indirectly part of his remit or fall outside of his control entirely. Human Rights Watch interview with political analyst, February 3, 2015.

<sup>300</sup> *Ibid.*



Raziq was born in 1979. A Pashtun of the Achakzai tribe from Spin Boldak district in southern Kandahar,<sup>301</sup> he is the nephew of Mansour Achakzai, a mujahedin commander who was influential in controlling the border area of Spin Boldak in 1994 when the Taliban first emerged and who was killed by the Taliban as they seized Kandahar.<sup>302</sup> Before his appointment in May 2011, Raziq was the head of the Afghan Border Police in the province.<sup>303</sup> Initially a *protégé* of Gul Agha Sherzai, the governor of Kandahar from 2001 to 2003, Raziq later established a relationship with President Karzai's half-brother Ahmad Wali Karzai, who was head of the provincial council and the major political figure in the province until his assassination in July 2011.<sup>304</sup> Raziq particularly benefitted from his political connection with Asadullah Khalid, the director of Afghanistan's National Directorate of Security, who was seriously injured in an assassination attempt in December 2012.<sup>305</sup> Khalid personally intervened to protect Raziq from prosecution for his alleged involvement in the murder of 16 men from the Nurzai tribe in 2006.<sup>306</sup>

Although a significant number of urban, middle class Kandahar city residents credit Raziq with improving basic security in Kandahar city and Spin Boldak district, the UN has identified the province's security forces as among Afghanistan's most abusive.<sup>307</sup> In January 2010, a commissioner with the AIHRC stated that: "In at least three cases where the chief of the Border Police in Spin Boldak was involved, people gave testimonies that

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<sup>301</sup> The various transliterations of Raziq's name include Razeq, Razik, Razek, Razzaq, and Razzak.

<sup>302</sup> Ahmed Rashid, *Taliban: Militant Islam, Oil and Fundamentalism in Central Asia* (New Haven: Yale University Press, 2000), p. 28. For a fuller account of Raziq's origins, see Matthieu Aikins, "The Master of Spin Boldak," *Harpers Magazine*, December 2009, <http://harpers.org/archive/2009/12/the-master-of-spin-boldak/?single=1> (accessed April 26, 2013); Carlotta Gall, *The Wrong Enemy: America in Afghanistan, 2001-2014* (New York: Houghton Mifflin Harcourt, 2014), p. 44.

<sup>303</sup> Raziq retained the post of border police commander for Spin Boldak after being appointed as provincial chief of police for Kandahar.

<sup>304</sup> Carl Forsberg, "Politics and Power in Kandahar," Institute for the Study of War, April 2010, [http://www.understandingwar.org/sites/default/files/Politics\\_and\\_Power\\_in\\_Kandahar.pdf](http://www.understandingwar.org/sites/default/files/Politics_and_Power_in_Kandahar.pdf) (accessed April 17, 2013), pp. 36-37; Matthieu Aikins, "Ahmed Wali Karzai's assassination leaves gaping hole in Afghan politics," *The Guardian*, July 12, 2011, <http://www.theguardian.com/world/2011/jul/12/ahmed-wali-karzai-assassination-consequences> (accessed January 19, 2014).

<sup>305</sup> Matthew Rosenberg, Sangar Rahimi, and Alissa Rubin, "Afghan Spy Chief Is Wounded in Attack, Officials Say," *New York Times*, December 6, 2012, [http://www.nytimes.com/2012/12/07/world/asia/afghan-spy-chief-is-wounded-in-attack-officials-say.html?\\_r=0](http://www.nytimes.com/2012/12/07/world/asia/afghan-spy-chief-is-wounded-in-attack-officials-say.html?_r=0) (accessed February 15, 2015).

<sup>306</sup> Human Rights Watch interview with a group of Kandahari journalists, Kandahar, November 2012; Human Rights Watch phone interview with former Western diplomat, June 3, 2013.

<sup>307</sup> "Treatment of Conflict-Related Detainees in Afghan Custody: One Year On," UNAMA/OHCHR, p. 5; Human Rights Watch separate interviews with Kandahar residents and journalists, Kandahar, November 2012. Security outside the environs of Kandahar city has deteriorated since 2012.

they were illegally imprisoned and tortured.”<sup>308</sup> Another AIHRC official stated that when at Spin Boldak, Razik [sic] was operating his own prisons and conducting extrajudicial executions.”<sup>309</sup> Despite numerous credible allegations of abuses, Raziq enjoyed the continuing support of both then-President Karzai and the US military and has enjoyed close relationships with senior US officials, including Gen. David Petraeus.<sup>310</sup> Raziq has repeatedly denied all allegations of wrongdoing.<sup>311</sup>

### *Extrajudicial Executions and Forced Disappearances*

Human Rights Watch has obtained documentation compiled by human rights investigators on extrajudicial executions that took place in Kandahar city in 2013. In all of these cases, the victims were first detained by units of the Kandahar police. In some cases, witnesses have identified the police sub-units that detained the men.<sup>312</sup> Witnesses have identified ANP police units who report to Raziq as being responsible for detentions of persons whose bodies were discovered bearing the marks of severe torture and mutilation. UNAMA sources have also reported that detainees in Kandahar have been killed while in police custody.<sup>313</sup>

“Abdul Rahman,”<sup>314</sup> a resident of Kandahar city who had worked for a demining agency, was detained by police from *hauza* (police district) 6 on October 2, 2013. His body was found in the Spin Ziarat area by a local elder; one eye was missing, apparently as the result of torture.<sup>315</sup>

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<sup>308</sup> Matthieu Aikins, “Our Man in Kandahar,” *The Atlantic*, September 21, 2011, <http://www.theatlantic.com/magazine/archive/2011/11/our-man-in-kandahar/308653/> (Accessed February 13, 2015). Torture continues to occur at ANBP facilities, according to the latest UN reports. “Treatment of Conflict-Related Detainees,” p. 11, January 2013, <http://www.unama.unmissions.org/LinkClick.aspx?fileticket=VsBLoS5b370%3D&tabid=12254&language=en-US> (Accessed February 13 2015).

<sup>309</sup> Matthieu Aikins, “The Master of Spin Boldak.” December 2009.

<sup>310</sup> Rajiv Chandrasekaran, “Afghan colonel vital to U.S. despite graft allegations,” *Washington Post*, Monday, October 4, 2010, <http://www.washingtonpost.com/wpdyn/content/article/2010/10/03/AR2010100304094.html?sid=ST2010100304117> (accessed April 30, 2013); Matthieu Aikins, “The Master of Spin Boldak.” Matthieu Aikins, “Our Man in Kandahar,” *Atlantic*, November 2011.

<sup>311</sup> Rajiv Chandrasekaran, “Afghan colonel vital to U.S. despite graft allegations,” *Washington Post*.

<sup>312</sup> Documentation provided to Human Rights Watch by a confidential source.

<sup>313</sup> “Treatment of Conflict-Related Detainees,” p. 5, January 2013, <http://www.unama.unmissions.org/LinkClick.aspx?fileticket=VsBLoS5b370%3D&tabid=12254&language=en-US> (Accessed February 13 2015).

<sup>314</sup> Pseudonyms have been used for the cases in this section.

<sup>315</sup> Documentation provided to Human Rights Watch by a confidential source.

“Turab,” a resident of Kandahar city, was also detained by ANP from *hauza* (police station) 6 on October 2, 2013. His body was found with that of Abdul Rahman (above); it showed signs of severe electrocution.<sup>316</sup>

“Hamid,” a resident of Kandahar city, was also detained by ANP from *hauza* 6 on October 2, 2013. His body was also found with that of Abdul Rahman; it had been partially decapitated.<sup>317</sup>

“Jawad” a resident of Kandahar city was detained on October 2, 2013 by ANP from *hauza* 8 under the command of Police Commander Jajo and Police Sub-Commander Tor Jan. His body was found by local residents in a canal in Sia Chab; Jawad’s head was “riddled with bullets.”<sup>318</sup> Jajo, one of General Raziq’s four senior commanders, was assassinated in May 2014 when a suicide bomber threw himself at Jajo’s vehicle. Jajo’s subcommander, Tor Jan, has succeeded him as Police Commander.<sup>319</sup>

“Juma Gul,” a resident of Kandahar city was detained on October 2, 2013 by police from *hauza* 2 under police sub-commander Ismat. When Juma Gul’s body was found, his head had been “targeted and smashed,” according to human rights investigators.<sup>320</sup>

Two other men, names unknown, were also detained on October 2, 2013 by ANP from *hauza* 8, under the command of Police Commander Jajo and Police Sub-Commander Tor Jan. According to a doctor at Mirwais hospital in Kandahar, they had been tortured by the application of a power drill to their heads.<sup>321</sup>

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<sup>316</sup> Ibid.

<sup>317</sup> Ibid.

<sup>318</sup> Ibid.

<sup>319</sup> A UN official called him one of the “four horsemen” of counterterrorism—four police commanders operating under Raziq who have maintained their own secret detention centers, inaccessible to the UN and ICRC. Anand Gopal, “Kandahar’s Mystery Executions: Are the police using torture to achieve peace?” *Harper’s Magazine*, September 2014, <http://harpers.org/archive/2014/09/kandahars-mystery-executions/> (accessed February 9, 2015). Jajo was killed on May 25, 2014 when a suicide bomber wearing a burqa threw himself at the car in which Jajo was traveling. Nathan Hodge and Habib Khan Totakhil, “Suicide Bomber Kills Afghan Police Commander in Kandahar: Abdul Wadood Sarhadi Jajo Killed by Attacker in Burqa,” *Wall Street Journal*, May 25, 2014, <http://online.wsj.com/news/articles/SB10001424052702304811904579584043787275148>. (accessed 10 October 2014).

<sup>320</sup> Documentation provided to Human Rights Watch by a confidential source.

<sup>321</sup> Ibid.

Human Rights Watch has obtained documentation compiled by human rights investigators on cases of another man taken into custody by the Kandahar police whose whereabouts and fate remain unknown. In mid-2013, “Hesam,” a resident of the district Arghandab, was detained by officer Abdul Wali of the Arghandab district ANP unit under Commander Bismillah. His body was found in the Zheray Desert, with bruises on the neck and other marks of torture.<sup>322</sup>

Journalist Anand Gopal learned that more than 40 unidentified bodies appeared in Kandahar city and elsewhere around the province in October 2013 alone, many of which, “because of smashed teeth, and missing noses, eyes or heads” could not be identified.<sup>323</sup> One of Raziq’s commanders whom relatives of the victims consistently named in connection with the kidnappings and killings was Jajo.<sup>324</sup>

Such extrajudicial executions have continued. Speaking on condition of anonymity out of fear of retaliation from the police, in May 2014 a hospital worker in Kandahar city told the *New York Times*, “We receive dead bodies who have been dumped after killing. Sometimes the police are bringing them and sometimes ordinary people.”<sup>325</sup>

Reports of extrajudicial executions linked to Raziq go back many years. In 2010, two men, each about 21-years-old, were allegedly held by Raziq’s police in a private jail in Spin Boldak and subsequently extrajudicially executed in September 2010.<sup>326</sup> The two men had been detained three to four months earlier. Their bodies were found with the hands bound.<sup>327</sup>

Raziq has been directly implicated in ordering and taking part in the killing of 16 Nurzai tribesmen in March 2006. The incident was apparently a revenge killing directed at one of the men, Shin Nurzai, whom Raziq blamed for the death of his brother in 2004.<sup>328</sup> There is evidence that Raziq’s Border Police killed the additional 15 men simply because they happened to be accompanying the target.

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<sup>322</sup> Ibid.

<sup>323</sup> Anand Gopal, “Kandahar’s Mystery Executions,” September 2014.

<sup>324</sup> Ibid.

<sup>325</sup> Alissa Rubin, “A Death Draws Attention to Afghan Police Methods,” May 12, 2014.

<sup>326</sup> Matthieu Aikins, “Our Man in Kandahar,” November 2011.

<sup>327</sup> Ibid.

<sup>328</sup> Matthieu Aikins, “Our Man in Kandahar,” November 2011.

An April 2006 report by the office of the European Union Special Representative (EUSR) to Afghanistan (EUSR) described the incident:

It has now been clearly established and widely acknowledged that the killings of 16 men in Spin Boldak, Kandahar, on 20/21 March were summary executions, conducted by the Border Police. Based on witnesses and analysis of the crime scene, the findings of the Ministry of Interior initial investigations confirm that the Border Police kidnapped the 16 men in Kabul, transferred them to Spin Boldak, took them to a dried up stream bed on the border and shot them in the head, firing squad style. The acting commander of Border Police in Kandahar, Abdul Razzaq Achakzai [Raziq], has acknowledged killing the victims, but has claimed (claims now proved false) that the killings took place during an ambush he conducted against Taliban infiltrators. He has therefore become a prime murder suspect.<sup>329</sup>

A further confidential EUSR report from January 2007 echoed the conclusions of the 2006 report.<sup>330</sup> The report also detailed separate investigations by the local Criminal Investigation Department and a Ministry of the Interior delegation, and the accounts of “numerous witnesses.”<sup>331</sup> The report described the failure by Afghan authorities to prosecute Raziq as “an apparent total lack of political will.”<sup>332</sup>

After the Spin Boldak killing, Raziq stayed at the house of Asadullah Khalid.<sup>333</sup> Khalid later actively helped to ensure the investigation of the killings was dropped.<sup>334</sup> When EU Special

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<sup>329</sup> Office of the European Union Special Representative, EUSR report 13/2006, Council of the European Union, April 4, 2006 (copy on file with Human Rights Watch).

<sup>330</sup> “The Case Against Abdul Raziq,” Office of the European Union Special Representative, January 6, 2007 (copy on file with Human Rights Watch). Its findings were also supported by Aikins’s investigations. Shin’s group was heading for Mazar to take part in the New Year celebrations there and had stopped overnight in Kabul. See Matthieu Aikins, “Our Man in Kandahar.”

<sup>331</sup> “The Case Against Abdul Raziq,” EUSR report, January 2007.

<sup>332</sup> Ibid.

<sup>333</sup> Matthieu Aikins, “Our Man in Kandahar,” November 2011.

<sup>334</sup> According to an unpublished and undated EU report, “Asadullah Khalid claimed to have convened a joint jirga of 50 Nurzais and 50 Achakzais. In reality he tried to stage-manage the whole thing, by gathering two groups to see the President and trying to intimidate the Nurzais into accepting a dropping of the case. The exercise back-fired and the Nurzais managed to see Karzai separately and demand action against [Raziq]. They also petitioned the Ministry of Interior that Abdul Raziq be tried. But of course there was no follow up and all charges were dropped and no administrative action was taken. The basic point is that the provincial governor [Asadullah Khalid] actively intervened to ensure that action should not be taken against

Representative Francesc Vendrell and his deputy Michael Semple met with Karzai to raise the matter of the Spin Boldak killings and Raziq's apparent role, Semple reported that Karzai "said something to the effect of 'Abdul Raziq is a special case.' The implication that I understood from that was that he was saying that Abdul Raziq was an essential ally against whom he was not prepared to take action, irrespective of the nature of the allegations or the evidence."<sup>335</sup>

EUSR reports also found indications of other abuses by forces under Raziq's command, including the severe beating of three men arrested in Spin Boldak district following an attack on a border post,<sup>336</sup> and a more serious incident Maroof district in mid to late 2006:

We have received fragmentary reports from Maroof [district] to indicate that operations conducted by border police under AR's [Abdul Raziq] command have been accompanied by brutality and harassment of the civilian population – i.e. there is no evidence of a reformed character [since the Shin Nurzai incident]! It is likely that a thorough investigation there would produce more incidents and details.

- During Ramadan Abdul Raziq's forces had about 19 days of fighting with Taliban forces in Maroof.
- At one stage they entered village Charmai and summarily executed two elders, in their houses, then dragged out their corpses to throw them outside and claim they had been killed in battle.
- Similarly, they raided the house of Bari Dad, elder of Village Sami, and stole Rs. 70,000 (US\$1,166) from him.<sup>337</sup>

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AR [Abdul Raziq]." "Update Report on Abdul Raziq," Office of the European Union Special Representative, (undated) (copy on file with Human Rights Watch).

<sup>335</sup> Matthieu Aikins, "Our Man in Kandahar," November 2011.

<sup>336</sup> The EUSR report found that: "On 3 January, there was a Taliban attack on an AR post called Murgha [in Spin Boldak district of Kandahar province]. 2 of AR's [Abdul Raziq's] men were killed. 4km to the west of this post is a Nurzai village, Landi Killi. In retaliation for the Taliban attack, AR seized 3 men from a house (locals Zakarya, Mir Hamza and visitor Fazal Karam). They took the men to the Border Police kandak [regiment] headquarters and subjected them to severe beating. As a result of the beating, Zakarya's arms were broken, Mir Hamza was badly bruised and Fazal Karam was so badly kicked in the groin that it caused kidney failure." While the report records an uncertainty over the year, it is most likely 2007, given the same report discusses the 2006 Boldak killings. "Update Report on Abdul Raziq," EUSR.

<sup>337</sup> "The Case Against Abdul Raziq," EUSR report, January 2007.

The report asserted that abuses by forces under Raziq’s command “is one factor exacerbating conflict in this area and rendering it easier for the Taliban to recruit anti-government fighters.”<sup>338</sup>

### *Enforced Disappearances*

There is credible evidence of enforced disappearances perpetrated by ANP forces in Kandahar.<sup>339</sup>

Human Rights Watch interviewed the brother of Atiqullah (pseudonym), whom Afghan National Police forces detained in mid-2011, shortly after Raziq took over responsibility for the ANP in Kandahar province. The interviewee said that one of Atiqullah’s colleagues witnessed Atiqullah’s abduction after noticing that a Toyota Hilux pickup truck had pulled up outside his shop in Kandahar city:

Two cars of the local police station were stopped nearby—it was written on the cars that they are from the local [police] station. There is usually one [police] car there—but [this time] there was also the *emir* [chief] of the *hausa* [police station]. I did not see him himself but I recognized his car—I had seen him get into it several times. Two people came out of the Hilux. One of them said [to Atiqullah]: ‘My boss needs you.’ [Atiqullah] went to the car and they spoke for two minutes.... They did not say who their boss was. Then one of them slapped [Atiqullah]. The other man said, ‘Don’t slap him.’ They forced him into the vehicle.<sup>340</sup>

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<sup>338</sup> Ibid.

<sup>339</sup> Enforced disappearance is defined under the UN convention on enforced disappearance as “the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.” International Convention for the Protection of All Persons from Enforced Disappearance, adopted December 20, 2006 Doc. A/61/488. C.N.737.2008, October 2, 2008, entered into force December 23, 2010 <http://www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx> (accessed July 1, 2013).

<sup>340</sup> Human Rights Watch interview with brother of Atiqullah (pseudonym), a Kandahar shopkeeper, Kandahar, November 2012. A second family member interviewed separately in Kabul in October 2012 gave a similar account. Human Rights Watch interview with cousin of Atiqullah (pseudonym), Kabul, October 2012.

The brother told Human Rights Watch that two months later, local tribesmen found Atiqullah's body in the desert with bullet and knife wounds. They brought his body to the Red Cross in Kandahar, where Atiqullah's family eventually recovered it.<sup>341</sup>

Enforced disappearance and extrajudicial executions carried out by the Kandahar police (ANP and ALP) represent part of a wider pattern. UNAMA has reported receiving reports of the alleged enforced disappearance of 81 men taken into ANP custody in Kandahar province between September 2011 and October 2012. A local official with the AIHRC in Kandahar, Sahebzada Nalan, stated that “[C]omplaints of the people are received every day” about a missing brother, uncle, or other relative. As the brother of one victim—whose body showed the signs of massive electrocution—stated, “You think about it....He was picked up by a Humvee,<sup>342</sup> and two days later we find him in a government hospital with police. You tell me.”<sup>343</sup>

### *Torture*

There are credible allegations of torture perpetrated by the ANP in Kandahar.. Human Rights Watch met with Hilaluddin (pseudonym), the brother of another detainee, Amrullah (pseudonym), who was also allegedly the victim of torture when he was in the custody of the ANP. Hilaluddin told Human Rights Watch that Kandahar ANP forces arrested Amrullah in July 2012, along with more than a dozen others, whose names had been provided by a man whom the police detained on suspicion of having links to the Taliban. Hilaluddin told Human Rights Watch: “When we asked [this man] why, he said that [Amrullah] is his friend, but: ‘I didn’t have any option because [I knew] they will beat me until I give some answer.’”<sup>344</sup>

Hilaluddin said that the ANP detained Amrullah for 16 days at one of their checkpoints without being brought before a judge, far longer than the 72 hours allowed under Afghan law.<sup>345</sup> A UNAMA report has identified the *hausa* where that check post is located as a

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<sup>341</sup>Human Rights Watch interview with brother of Atiqullah (pseudonym).

<sup>342</sup> The Humvee is a vehicle commonly associated with the Kandahar police. Human Rights Watch interview in Kabul, January 16, 2016.

<sup>343</sup> Anand Gopal, “Kandahar’s Mystery Executions,” September 2014.

<sup>344</sup> Human Rights Watch interview with brother of Amrullah (pseudonym), a teacher, Kandahar, November 2012.

<sup>345</sup> Afghanistan’s Police Law allows suspects to be held 72 hours. Police Law, Official Gazette No: 862, 2005, <http://www.rolafghanistan.esteri.it/NR/rdonlyres/94667686-6B09-4E6E-9972-905E21EE1E4/0/PoliceLaw.pdf> (accessed March 23, 2014), articles 15 and 25; Hossein Gholami, Basics of Afghan Law and Criminal Justice,” EUPOL



locale where systematic torture has occurred.<sup>346</sup> Amrullah's family found him after he was transferred to the prison at the Kandahar Commandaniya, or provincial police headquarters. In accordance with detention facility practices, the authorities permitted Amrullah's family to visit him about three weeks after his arrest. Hilaluddin said:

He said that in these 16 days he was beaten really [badly]. We saw him at the police HQ of Kandahar and we didn't recognize him because his face was totally [beaten]—[at first] we didn't understand if it was him or not. The blood was coming out from his eyes.... They just beat [him] directly on the head and the face.<sup>347</sup>

According to Hilaluddin, Amrullah explained that his injuries resulted from repeated police beatings. At the time of the interview, three months after his arrest, Amrullah remained in police detention on suspicion of links to the Taliban.

UNAMA has detailed similar cases of abuses by police under Raziq's authority. One man recounted how he was arrested at a police checkpoint in Panjwai district in September 2012 and accused of being a Taliban insurgent:

I was taken directly to Kandahar ANP HQ. I was interrogated on the first day of my arrival in the ANP counter-terrorism department. Four ANP officers beat me with a cable on my back and on my legs. The interrogation lasted two hours. The next day, I was given electric shocks on my arms and legs. Another time, they threatened me with a gun saying that they would kill me if I did not confess. I was forced to put my thumb print on a document and I was not interrogated again.<sup>348</sup>

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Afghanistan/Government of Afghanistan/German Federal Foreign Office (Undated), p258, <http://www.auswaertiges-amt.de/cae/servlet/contentblob/343976/publicationFile/3727/Polizei-Legal-Manual.pdf> (accessed July 1, 2013).

<sup>346</sup> UNAMA/OHCHR, "Treatment of Conflict-Related Detainees," p. 11.

<sup>347</sup> Human Rights Watch interview with Hilaluddin (pseudonym), Kandahar, November 2012.

<sup>348</sup> "Treatment of Conflict-Related Detainees," p. 1. "Treatment of Conflict-Related Detainees," p. 11. January 2013, <http://www.unama.unmissions.org/LinkClick.aspx?fileticket=VsBLoS5b370%3D&tabid=12254&language=en-US> (Accessed February 13 2015).

A credible civil society organization collected personal accounts relating to another incident of torture by the ANP following a landmine explosion near a police post in Kandahar city, also in July 2012. The report, shared on condition of anonymity, detailed how after the landmine incident,

[P]olice entered the residential houses and had all the men get out. Without any investigation or referring the men to police headquarters, they abused the people and tortured them. They arrested 10 men in the area and make them sit on the street among the residential houses and then beat them with cables on their back, waist, and shoulders for one hour. The police also insulted the people by using bad language and did not pay attention to what the people told them. They even insulted a woman who wanted to get close to her son; she was beaten by police and thrown on the ground. Without finding any proof and clarifying who did the explosion or who was involved in it [the police] threatened the residents of the area that if such an incident is repeated again they would not leave anybody alive in that area.<sup>349</sup>

The civil society organization also provided Human Rights Watch with what they said were photographs of the victims. The individuals depicted in those photos showed bruising consistent with beatings.<sup>350</sup> It is not known if they sought any redress, apart from allowing their cases to be documented.

In another case, Canadian journalist Matthieu Aikins gathered accounts from two 23-year-old men who said they were beaten with cables and tortured with electric shocks through wires attached to their feet by members of Raziq's Border Police forces in Kandahar city in June 2011. Aikins reported that their feet bore scars consistent with their story, which he said was also corroborated by an officer inside the Kandahar police.<sup>351</sup> The men told Aikins that following the torture, they were taken to meet Raziq himself, who asked them why they had been arrested. Aikins's source told him that Raziq eventually ordered the release

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<sup>349</sup> Written report from civil society organization that requested to remain anonymous, dated summer 2012.

<sup>350</sup> Photos of alleged victims provided by a civil society organization that requested anonymity, copies on file with Human Rights Watch.

<sup>351</sup> Matthieu Aikins, "Our Man in Kandahar," *Atlantic*, November 2011, <http://www.theatlantic.com/magazine/archive/2011/11/our-man-in-kandahar/308653/> (accessed January 16, 2015).

of the detainees; from the accounts, it is evident that he was aware of the extent to which they had been tortured.<sup>352</sup>

The *New York Times* detailed the arbitrary arrest, torture, and death in custody of a 23-year-old man, Ali, who had been arrested by the Kandahar police on May 6, 2014. Four days later his family collected his body, which bore the marks of severe beating and strangulation.<sup>353</sup> The family has accused the police of killing Ali, and the government has promised an investigation.<sup>354</sup> In response to the *New York Times* article, Minister of Interior M. Umar Daudzai stated:

The terrible incident in Kandahar is most definitely not an example of ‘Afghan Police Methods.’ The Ministry of Interior and the Afghan Police have been working diligently with the international community to professionalize the country’s police service and we have made great strides. I am very much concerned that what happened in Kandahar may have been a direct violation of Afghan law and police practice.... The MOI does not consider what happened as ‘business as usual.’ Upon receipt of the report I dispatched an investigation team that will report back to me, and I firmly believe that we have the mechanisms and commitment to investigate violations of our police laws.<sup>355</sup>

There have been no arrests or prosecutions in connection with the incident. As of the time of writing, the results of the MOI investigation had not been made public.

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<sup>352</sup> Ibid.

<sup>353</sup> Alissa Rubin, “A Death Draws Attention to Afghan Police Methods,” May 12, 2014.

<sup>354</sup> Ibid.

<sup>355</sup> Statement by Minister of Interior M. Umar Daudzai, Afghanistan Ministry of the Interior Affairs, “A Death Draws Attention to Afghan Police Methods,” May 13, 2014, <http://moi.gov.af/en/news/a-death-draws-attention-to-afghan-police-methods>. A (accessed August 24, 2014).

### III. Personal Responsibility for International Crimes

Afghanistan has legal obligations to address serious violations of international humanitarian law or the laws of war, and international human rights law.

The laws of war apply to the non-international, or internal, armed conflict between the Afghan government with its international allies and the Taliban and other opposition forces. The applicable law in this conflict includes article 3 common to the four Geneva Conventions of 1949 (Common Article 3),<sup>356</sup> the Second Additional Protocol of 1977 to the 1949 Geneva Conventions (Protocol II),<sup>357</sup> and customary international humanitarian law.<sup>358</sup> The laws of war apply to state armed forces and government-backed militias and non-state armed groups.

Common Article 3 primarily applies to the treatment of persons in custody of either side to the conflict, namely captured combatants and detained civilians. It requires humane treatment and prohibits torture, other ill-treatment, and hostage taking, and requires that trials of those held meet international fair trial standards.

Relevant customary laws of war address the method and means of combat, such as the prohibition on deliberate or indiscriminate attacks on civilians, as well as the treatment of persons in custody.

International human rights law also remains applicable in Afghanistan, though it may be superseded by specific laws of war. Afghanistan is party to the core international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR)<sup>359</sup> and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or

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<sup>356</sup> Afghanistan ratified the 1949 Geneva Conventions in 1956.

<sup>357</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 1125 U.N.T.S. 609, entered into force December 7, 1978. Afghanistan ratified Protocol II in 2009.

<sup>358</sup> See generally, International Committee of the Red Cross (ICRC), *Customary International Humanitarian Law* (Cambridge, UK: Cambridge University Press, 2005).

<sup>359</sup> International Covenant on Civil and Political Rights (ICCPR), opened for signature December 16, 1966, 999 U.N.T.S. 171 (entered into force March 23, 1976. Afghanistan ratified the ICCPR in 1983.

Punishment.<sup>360</sup> Both treaties protect individuals from mistreatment in government custody. The ICCPR prohibits arbitrary detention and sets out the fundamental due process requirements for a fair trial, among other protections.

International law obligates governments to investigate and prosecute as appropriate all individuals responsible for serious violations of the laws of war and human rights law.<sup>361</sup>

War crimes are serious violations of the laws of war committed with criminal intent, that is deliberately or recklessly. War crimes include summary executions, torture, rape and looting, as well as violations of the methods of armed conflict. They may also be held criminally responsible for assisting in, facilitating, aiding, or abetting the commission of a war crime. They can also be prosecuted for planning or instigating the commission of a war crime.

Commanders and other leaders may be criminally responsible for war crimes and crimes against humanity committed by troops under their command. The responsibility of superior officers for crimes committed by their subordinates is known as command responsibility. Although the concept originated in military law, it now also includes the responsibility of civil authorities for abuses committed by persons under their authority. The doctrine of command responsibility was recognized in decisions by the international criminal tribunals for the former Yugoslavia and for Rwanda, and has been codified in the Rome Statute of the International Criminal Court.<sup>362</sup>

There are two forms of command responsibility. The first is direct responsibility for orders that are unlawful, such as when a military or civilian commander authorizes or orders unlawful killings, rapes, or intentional attacks on civilians. Having ordered such a crime, a commander can be found directly culpable so long as the crime was attempted, even if it was not actually committed.<sup>363</sup>

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<sup>360</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, annex, 39, U.N. Doc. A/39/51, entered into force June 26, 1987. Afghanistan ratified the Convention against Torture in 1987.

<sup>361</sup> See ICRC, *Customary International Humanitarian Law*, rule 152; Convention against Torture, art. 7; G. Werle, *Principles of International Criminal Law* (The Hague: Asser Press, 2005) p. 62.

<sup>362</sup> See Rome Statute of the International Criminal Court, art. 28 (Responsibility of Commanders and Other Superiors); see, e.g., Prosecutor v. Delalic et al. (Celebici Case), Case No. IT-96-21-A, ICTY AC, February 20, 2001, para. 195.

<sup>363</sup> ICRC, *Customary International Humanitarian Law*, rule 152.

The second form of command responsibility is imputed responsibility, when a superior failed to prevent or punish crimes committed by a subordinate acting on his own initiative. This requires the superior to have known or had reason to know of the subordinate's crimes, and was in a position to stop and punish them. A commander has "reason to know" when offenses were so numerous or notorious that a reasonable person would conclude that the commander must have known of their commission. If a commander had such notice, he can be held criminally responsible for his subordinates if he failed to take appropriate measures to control the subordinates, to prevent their atrocities, and to punish offenders.

For the doctrine of command responsibility to be applicable, two conditions must be met. A de facto superior-subordinate relationship must exist, and the superior must exercise "effective control" over the subordinate. Effective control includes the ability to give orders or instructions, to ensure their implementation, and to punish or discipline subordinates if the orders are disobeyed.<sup>364</sup>

International human rights law violations include arbitrary arrest and detention, torture and other ill-treatment, and extra-judicial execution, among other abuses.<sup>365</sup> Crimes such as murder, torture, and rape, committed as part of a widespread or systematic attack against a civilian population by government forces or non-state armed groups during or outside of an armed conflict may be crimes against humanity.<sup>366</sup>

Mistreatment of detainees also violates various provisions of Afghan law, including the Criminal Procedure Code (2014), the Law of Prisons and Detention Centers,<sup>367</sup> and articles of the Constitution of the Islamic Republic of Afghanistan.<sup>368</sup>

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<sup>364</sup> The International Criminal Tribunal for the former Yugoslavia (ICTY) has defined "effective control" under international law as the superior "having the material ability to prevent and punish the commission" of violations of international humanitarian law. ICTY, *Blaskic*, (Trial Chamber), March 3, 2000, paras. 300-302.

<sup>365</sup> International Covenant on Civil and Political Rights (ICCPR), G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976, art. 6 (right to life), art. 7 (prohibition against torture and cruel, inhumane and degrading treatment), art. 9 (right to liberty and security of person), art. 14 (rights to a fair trial). See also Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, arts. 1 and 2.

<sup>366</sup> See Rome Statute of the International Criminal Court, A/CONF.183/9 (July 17, 1998), *entered into force* July 1, 2002, art. 7; see also M. Cherif Bassiouni, *Crimes Against Humanity in International Humanitarian Law* (The Hague: Kluwer Law International, 1999).

<sup>367</sup> Law of Prisons and Detention Centers, Ministry of Justice, Official Gazette Issue No. 923, 2007, arts. 23 and 43.

<sup>368</sup> Constitution of the Islamic Republic of Afghanistan, *Ministry of Justice*, 2004, arts. 24 and 29-30.

# Recommendations

## To the Government of Afghanistan

### *Accountability*

- President Ashraf Ghani and Chief Executive Abdullah Abdullah should publicly denounce violations of international human rights and humanitarian law by state security forces, and should support removal from office and prosecution of government officials and security force officers implicated in such abuses.
- The Office of the Attorney General should investigate and, if appropriate, criminally prosecute police, military, intelligence, and militia personnel, regardless of rank, found responsible for human rights abuses and war crimes. It should consider establishing a special independent mechanism to investigate government officials and security force officers implicated in abuses.
- President Ghani should instruct the Ministry of Interior, Ministry of Defense and National Directorate of Security (NDS) to remove, discipline, and appropriately punish all police, military, intelligence, and militia personnel, regardless of rank, found responsible for committing, facilitating, or condoning torture, enforced disappearances, summary executions, and other serious abuses. Measures should include suspension, loss of pension and other benefits, and criminal prosecution.
- The Ministry of Interior should thoroughly vet and remove from the security forces all employees implicated in human rights abuses or corruption. It should vet all new or prospective security force officers and deny employment to all implicated in abuses or corruption.
- The Ministry of Interior should disband irregular armed groups and hold them accountable for abuses they have committed. It should focus first on groups that face the most serious allegations of abuse.
- President Ghani should direct the relevant ministries and security institutions to create a mechanism that would allow victims or family members of victims of extrajudicial executions, enforced disappearance, torture and ill-treatment, or arbitrary arrest and detention to seek compensation directly from the responsible ministry or security institution in accordance with article 51 of the Afghan Constitution.

### *Institutional Reform to Prevent Abuse*

- The Ministry of Interior and the National Directorate of Security (NDS) should prohibit the use of and close all unofficial places of detention operated by the security forces and irregular armed groups, and permit independent monitoring of all detention facilities (including by AIHRC, UNAMA and others).
- The National Directorate of Security should make public all decrees, laws, and procedures regulating NDS detention and interrogation.
- The Ministry of Interior should establish a centralized register of all detainees held in police and NDS custody, and ensure that it is accessible to independent monitors and is updated regularly and in a transparent manner. The Interior Ministry should publicly report on remedial actions taken in response to outside monitors' findings.
- The Ministry of Interior and National Directorate of Security should ensure that defense lawyers are able to visit all detention facilities and offer their services to any person once they are in detention and at all stages of the legal process (including during interrogation) as required by Afghan law.
- The Afghan Parliament should revoke the National Reconciliation, General Amnesty and Stability Law, popularly known as the amnesty law, because it is incompatible with Afghanistan's international obligations.

### *Protection of Complainants and Witnesses*

- The Ministry of Interior and National Directorate of Security should provide protection as necessary for all witness and victims who report abuses by government officials and state security forces. Protection should include careful management of information regarding the individuals' identities, location, and, where necessary, reassignment to comparable positions elsewhere, remote testimony or testimony under seal, and relocation with their families within or outside of Afghanistan.
- The Ministry of Interior should create an independent external complaints body to allow members of the public to report abuses by the police forces, the Afghan Local Police, and other militias. Particular attention should be given to monitoring abuses by the ALP.



### *International Instruments*

- President Ghani and Chief Executive Abdullah should make the signing and ratification of the Optional Protocol to the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) a policy priority.
- President Ghani and Chief Executive Abdullah should ensure that their government promptly completes and files Afghanistan's initial state report with the UN Committee against Torture on its implementation of the Convention against Torture.
- President Ghani and Chief Executive Abdullah should make the signing and ratification of the Optional Protocol to the International Convention for the Protection of All Persons from Enforced Disappearance a policy priority.

### **To Major Donors and Partners including the United States and ISAF Members**

- Press the Afghan government's military, police, prosecutors and other relevant institutions to conduct thorough and impartial investigations into all instances of killings and other serious abuses by government agents and security officials, and call for the prosecution of those responsible for abuse, regardless of position or rank.
- Support independent and effective government mechanisms for the oversight and investigation of government agencies and the security forces.
- Support independent monitoring efforts, including by AIHRC and UNAMA.
- Urge the government to meet benchmarks to end torture and other ill-treatment in detention set out in UNAMA reports on abuses in detention.
- Link assistance to Afghan security forces to benchmarked improvements in ANSF accountability mechanisms; the benchmarks should implement the recommendations above, as well as recommendations made in UNAMA reports on detention abuses.

### *To the US Government*

- Fully implement the Leahy Law, which prohibits the provision of military assistance to any unit of foreign security forces where there is credible evidence that such unit has committed gross violations of human rights, such as torture or cruel, inhuman, or degrading treatment or punishment, and "flagrant denial of the right to life,

- liberty or the security of the person” and that no “effective measures” are being taken to bring those responsible to justice.
- Rigorously vet all senior security sector officials who oversee units that receive US assistance—including militia forces, and regardless of whether they require vetting under the Leahy Law—to ensure that they have not been involved in serious human rights abuses.
  - Improve implementation of Presidential Proclamation of August 4, 2011, which bars entry into the United States of non-US citizens who have been involved in serious human rights abuses. Under the proclamation, the Department of State has sole discretion to identify persons covered by the proclamation and is obligated to coordinate with other agencies to ensure that they are barred from the United States.
  - Collect information on abuses involving Afghan personnel and units that receive US assistance. Declassify this information where possible, and provide to Afghan authorities for further investigation and disciplinary action or prosecution as appropriate.
  - Directly link US security assistance to improvements in the accountability mechanisms of Afghan security forces, using specific benchmarks including those previously set forth by UNAMA for detention abuses.
  - Assist the Afghan government in investigating and apprehending individuals responsible for serious abuses; investigate and prosecute as appropriate individuals in the United States who are responsible for serious crimes in Afghanistan that are under US jurisdiction.
  - Request that the Department of State Inspector General investigate the Leahy Law vetting procedures of the US embassy in Kabul, including its coordination with the State Department’s Bureau of Democracy, Human Rights, and Labor, to determine why senior Afghan officials implicated in human rights abuses, and units under their command, have received US assistance in apparent violation of the Leahy Law.

## **Acknowledgments**

This report was researched and written by a Human Rights Watch consultant. The report was edited by Phelim Kine, Asia deputy director. James Ross, legal and policy director, provided legal review, and Joseph Saunders, deputy program director, provided programmatic review. Julia Bleckner, senior associate in the Asia division provided editing and production assistance. Fitzroy Hepkins, administrative manager, provided production assistance.

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## Appendix I: Letter from Human Rights Watch to President Ashraf Ghani

October 9, 2014

Dr. Ashraf Ghani

President-elect, Islamic Republic of Afghanistan

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Re: Senior National Security Officials and Human Rights Concerns

Dear President Ghani and Chief Executive Abdullah,

As you begin the selection process for key government posts in your new government, we would like to wish both of you success in carrying out your duties as President and Chief Executive of the Islamic Republic of Afghanistan.



HRW.org

Human Rights Watch would like to remind you of the opportunity – and the responsibility – you and your new national unity government now have to address the continuing human rights concerns in Afghanistan. One of the most crucial ways you can do so in these early days of your administration is by carefully vetting your appointments to key government posts to ensure that those appointees do not have a documented history of human rights abuses.

Over the last 13 years, Human Rights Watch has documented serious and widespread human rights violations by members of the Afghan National Police (ANP), the Afghan Local Police (ALP), and the National Directorate of Security (NDS), including systematic torture and other ill-treatment, enforced disappearance, and extrajudicial executions. Human Rights Watch has informed Afghan government officials about these abuses, as have the United Nations Assistance Mission to Afghanistan (UNAMA) and the Afghanistan Independent Human Rights Commission. However, we remain deeply concerned that to date no member of the security forces has been prosecuted for such violations.

We urge you to carefully consider these concerns in the coming days as you make appointments to the Ministries of the Interior and Justice, the National Directorate of Security, the Attorney General, and other critical official positions.

We understand that the Afghan National Security Forces are under great pressure at this time due to a rise in insurgent attacks on frontline national police and ALP units over the past few months. We are aware that the national police, in particular, has suffered the heaviest losses in its history. However, it is precisely under such conditions that it is critical for security forces to adhere to Afghan and international law. In this regard, there are several measures that your government can undertake immediately to promote respect for human rights.

As you are aware, after the publication of UNAMA's 2013 report on the treatment of detainees, President Hamid Karzai issued a decree in February 2013 ordering anti-torture measures, including prosecution of officials responsible for torture. However, there have been no prosecutions for such abuses against detainees. While UNAMA reported that torture had been reduced in some facilities, it has continued in others. Lawyers have told

Human Rights Watch that some detainees are shifted among detention centers to conceal the prevalence of torture. Without prosecutions, there is no real deterrent to torture.

The police and NDS continue to carry out torture and summary executions with impunity. They have also been cited in reports of sexual violence and enforced disappearances, and reportedly maintain secret detention centers to which UNAMA and international humanitarian organizations have no access. The paramilitary ALP and other militia forces have been responsible for extrajudicial executions, kidnappings, assaults, and other abuses against local civilians.

In some cases, the role of commanding officers in these abuses is evident. In others, where a police or paramilitary unit has been implicated in numerous abuses, commanders will at least be responsible for crimes committed as a matter of command responsibility – that is, when a commander knows or should have known about abuses by forces under his control, but failed to take action to stop them or punish those responsible.

President Ghani, during your election campaign, you committed publicly to ensuring that members of the Afghan security forces who have been responsible for torture and other human rights violations would be prosecuted. Chief Executive Abdullah, you pledged to strengthen disciplinary frameworks and elevate the level of accountability in the security forces. Out of our concern that due process and emphasis on individual accountability contribute to the rule of law in Afghanistan, Human Rights Watch makes the following recommendations:

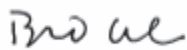
- Appoint as heads of the Ministries of Interior and Justice, the National Directorate of Security, and the Afghan National Police, individuals who are committed to ensuring that Afghanistan abide by Afghan and international law in the treatment of detainees, prisoners, and the local civilian population. People in positions of authority in public institutions should not only bear no taint of involvement in human rights abuses, but should be proponents of respect for human rights.
- Establish an independent oversight and accountability mechanism empowered to conduct investigations into all allegations of torture and other mistreatment in custody.

- Create a national civilian complaints mechanism covering all Afghan security forces, including the armed forces, national police, the Afghan Local Police, and other government-backed militias that would recommend cases for criminal investigation, and assist in vetting security force personnel.
- Remove, discipline, and punish (including by referral to civilian and military prosecutors) all ANP, NDS and ALP officers and their superiors found responsible for committing or condoning torture and other ill-treatment, enforced disappearances, and extrajudicial executions. Measures should include suspension, loss of pension and other benefits, and criminal prosecution where appropriate.
- Publicly denounce human rights violations by government officials and security forces and take action against counter-insurgency measures that rely on the unlawful use of force, extrajudicial killings, torture, and enforced disappearances.
- Disband irregular armed groups and hold their commanders accountable for abuses they have committed.

Human Rights Watch thanks you for your attention to these issues.

We would welcome your response and the opportunity to meet with members of the cabinet to discuss our recommendations.

Sincerely,



Brad Adams  
Executive Director, Asia division  
Human Rights Watch

## Appendix II: Letter from President Ashraf Ghani to Human Rights Watch

نماینده دایمی جمهوری اسلامی افغانستان  
در سازمان ملل متحد - نیویارک



په ملگرو ملتوکی دافغانستان داسلامی  
جمهوریت دایمی نمایندگی - نیویارک

*Permanent Mission of the Islamic  
Republic of Afghanistan to the  
United Nations - New York*

23 January 2015

Dear Mr. Adams,

I have the honour to attach a letter of appreciation from H. E. Mr. Mohammad Ashraf Ghani, President of the Islamic Republic of Afghanistan for sharing the general findings and recommendations of Human Rights Watch with the government of Afghanistan.

Sincerely,

Dr. Zahir Tanin  
Ambassador and Permanent Representative  
of Afghanistan to the United Nations

Mr. Brad Adams  
Executive Director, Asia Division  
Human Rights Watch  
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January 7, 2015

Dear Mr. Adams,

Your letter in regards to Afghan "security forces accountability for serious abuses" was delivered to me. I would like to thank Human Rights Watch on their role for reporting about violations of international human rights and humanitarian law by states and non-state actors. Your commitment to the rule of law and human rights is highly valued.

The government of Afghanistan is currently reviewing the UNAMA draft report on Civilian Torture and soon will prepare its action plan within that context. As I have stated before, the Afghan government will not tolerate torture. Our commitment to human rights and rule of law is strong and we are serious in addressing the allegations of torture in our security sector.

I thank you for sharing your general findings and recommendations with the government of Afghanistan.

Sincerely,

A handwritten signature in black ink, appearing to read "Ashraf Ghani", written over a horizontal line.

Mohammad Ashraf Ghani

Brad Adams  
Executive Director, Asia Division  
Human Rights Watch

# “Today We Shall All Die”

## Afghanistan’s Strongmen and the Legacy of Impunity

In Afghanistan, police commanders, intelligence officials, and other powerful strongmen connected to the government have committed serious human rights abuses with impunity. These individuals and forces under their command, including Afghan National Police units, National Directorate of Security officials, and Afghan Local Police, are responsible for killings, enforced disappearances, rape, and torture.

*“Today We Shall All Die”: Afghanistan’s Strongmen and the Legacy of Impunity*, is based on interviews with Afghan victims of abuse and their family members, witnesses, government officials, community elders, local and international journalists and researchers, civil society activists, United Nations officials, and members of Afghan and international security forces. It analyzes the Afghan government’s failure to hold abusive officials and forces to account, fostering impunity and fueling local grievances that have generated support for the Taliban and other armed opposition groups. The report also documents the propensity of the Afghan government’s international allies, including the United States, to prioritize short-term military fixes over long-term reforms to foster accountability.

The new administration of President Ashraf Ghani and Chief Executive Abdullah Abdullah should investigate all allegations of abuse by security forces and ensure the prosecution of those implicated in such violations. The US and other foreign donors to Afghanistan’s security forces should link continued funding to benchmarks in accountability, including prosecutions for serious crimes.



*Militiamen in Kunduz province, Afghanistan.*

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