

# Immigration and Refugee Board of Canada

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## Responses to Information Requests

Immigration and Refugee Board of Canada / Commission des réfugiés et des immigrants



Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's [Refworld](#) website.

30 April 2013

### AFG104294.E

Afghanistan: Human rights abuses committed by the Afghanistan National Army and security forces (1989-2009)  
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

#### 1. Political Situation (1989-2009)

*Political Handbook of the World 2012 (PHW)* says that, from 1987 until April 1992, Mohammad Najibullah was the president of the Republic of Afghanistan (2012, 3).

President-designate Sebghatullah Mojaheddi proclaimed "the formation of an Islamic republic" in April 1992 (*PHW* 2012, 3). According to the Human Security Report Project, an independent research centre in Vancouver (HSRP n.d.b.), the state was referred to as the Islamic State of Afghanistan (ISA) (HSRP n.d.a). Burhanuddin Rabbani took over as president of the ISA in June 1992 although "the new administration was never effectively implemented" (*PHW* 2012, 4). The Afghanistan Justice Project (AJP), an independent research and advocacy organization focusing on "war crimes and crimes against humanity" during the conflict in Afghanistan between 1978 and 2001 (AJP n.d.), reports similarly in its 2005 report entitled  *Casting Shadows: War Crimes and Crimes Against Humanity: 1978-2001* that, following the proclamation of the ISA, the regime held limited power, while "rival factions" had established themselves in different parts of Kabul and its environs, and some other urban areas had a functioning administration (ibid. 2005, 62). In December 1992, Rabbani was elected president of the country for a two-year term (HSRP n.d.a.; *PHW* 2012, 3). He remained in power until late 1996 (HSRP n.d.a.; US 30 Jan. 1997).

*PHW* states that, with the exception of areas of the north and northeast that were never taken by Taliban forces, Afghanistan was under Taliban control between 1996 and 2001, and that the country was renamed the Islamic Emirate of Afghanistan in 1997, with Mullah Mohammed Omar as emir (2012, 4-5). Sources note that the Taliban government was recognized in 1997 by Pakistan and Saudi Arabia (BBC 25 Feb. 2013) and the UAE (International Crisis Group Jan. 2010).

Rabbani's government relocated to northern Afghanistan (*PHW* 2012, 4), and Rabbani continued to represent Afghanistan at the United Nations (HSRP n.d.a.). The International Crisis Group reports that the "United Front (Northern Alliance), [a] mainly non-Pashtun opposition coalition, retained strongholds in northeastern Afghanistan, formed under the authority of [former ISA Minister of Defence] Ahmed Shah Masood" (Jan. 2010). *PHW* refers to the United National Islamic Front for the Salvation of Afghanistan (UNIFSA) for the opposition forces in the northeast for the 1997-1999 period, replacing it with the term Northern Alliance for after the summer of 1999 (2012, 4). Human Rights Watch writes that the Northern Alliance was "the alliance of different anti-Taliban forces who fought the Taliban from the late 1990s through 2001" (2003, 6).

In October 2001, the US launched an attack against the Taliban government with the assistance of the Northern Alliance (BBC 25 Feb. 2013; *PHW* 2012, 5). Following attacks from the north by the US, the Taliban leadership fled Mazar-i Sharif, Kabul, and finally Kandahar, in November 2001 (*PHW* 2012, 5).

After the Bonn agreement, discussions for which began in November 2001, Hamid Karzai was instated as interim head of government on 5 December 2001 (*PHW* 2012, 5). He was elected interim head of state in June 2002 and elected president of the Islamic Republic of Afghanistan in late 2004 (BBC 25 Feb. 2013). Karzai won re-election in October 2009 (ibid.).

#### 2. Relationship of Afghan National Army with Security Forces and Militias (1989-2009)

The AJP writes that, after the Soviet withdrawal in 1989, "the government [of the Republic of Afghanistan] increasingly relied for its defense on regional militias" (2005, 48), highlighting two examples in particular: Abdul Rashid Dostum's Jauzjan militia, which was incorporated into the security forces as the 53rd Division and which reported directly to then-President Najibullah, and eight militias in the area around Mazar-i Sharif, which were "linked to the Ministry of National Security, each with sectoral responsibilities for the security of the city's perimeters" (AJP 2005, 50-51).

In a 1991 report for which research was conducted between June and August 1990, Human Rights Watch also notes that "the government [of the Republic of Afghanistan] uses paramilitary forces from various tribal groups to supplement its security around the cities and to provide extra forces on the battlefield" (Human Rights Watch 1 Feb. 1991). The report continues:

Although the Ministry of State Security signs protocols with the militia, these groups operate outside the chain of command of the ordinary armed forces. The government effectively abandons any effort to assume administrative control over these groups while providing them with the same range of weapons available to its regular forces. (ibid.)

The AJP notes that, from April 1992 until 1996, there were a number of militias in control in different regions of Afghanistan (AJP 2005, 61). Human Rights Watch writes that military members of Jamiat-e Islami [also Jamiat-i Islami], the dominant political party operating in the Northern Alliance and led by Rabbani, were often also members of Shura-e Nazar [also Shura-i Nazar], originally an alliance of mujahideen commanders led by Ahmed Shah Massoud [also Masood] (Human Rights Watch 2003, 6-7). Human Rights Watch further writes that "[m]any Afghans refer to members of Jamiat-e Islami and Nahzat-e Mille, as well as other groups allied with them, as Shura-e Nazar" (ibid., 7). The US Department of State's *Country Reports on Human Rights Practices for 1995* notes that "[Rabbani's] authority was maintained by the military forces of de facto Defense Minister Ahmed Shah Masood" (US 30 Jan. 1996).

The following militias were also operating during the period of the Islamic State of Afghanistan, from 1992 to 1996:

Ittihad-e Islami, led by Abdul Rabb al-Rasul Sayyaf, was "allied with Jamiat-e Islami through most of the 1990s to [2003]" (Human Rights Watch 2003, 6).

Junbish-i Milli-i Islami (Junbish, also referred to as the Jauzjan militia) was led by Abdul Rashid Dostum (AJP 2005, 49). According to the HSRP, "Dostum and his Uzbek militia defected from President Najibullah's Soviet-backed regime" in 1992 (n.d.a.). At the outset of the civil war, Junbish was allied with Massoud's Shura-i Nazar (AJP 2005, 61) but in early 1994, Dostum allied with Hizb-i Islami and attacked Massoud's forces (PHW 2012, 3). However, Dostum's forces later realigned with those of Massoud as part of the Northern Alliance (HSRP n.d.a.; PHW 2012, 4).

When fighting broke out in 1992, it was principally between Hizb-i Islami, led by Gulbuddin Hikmatyar (AJP 2005, 56), and Shura-i Nazar (ibid., 61). In June 1996, Hikmatyar "joined forces with the government of President Borhanuddin Rabbani, taking the office of prime minister" (AI 1997). However, the AJP reports that Hizb-i Islami "remained in conflict with Shura-i Nazar throughout, and thus continued to target military positions and prominent government buildings controlled by Jamiat/Shura-i Nazar until the end" (2005, 70).

Hizb-i Wahdat was a primarily Shi'a and Hazara group (Human Rights Watch 2003, 6). Hizb-i Wahdat was initially allied with Islamic State of Afghanistan government forces, but later changed sides (ibid. 2005, 6).

Human Rights Watch writes in its 2003 report focusing on violence in southeastern Afghanistan in the post-Taliban era (10) that, during the initial portion of 1992-1993, state security forces (including military, police, and intelligence) of the Islamic State of Afghanistan were primarily composed of Jamiat and Junbish troops, with alliances with troops from Ittihad-i Islami, Hizb-i Wahdat, and Harakat (Human Rights Watch 2005, 6).

For the period from January to June of 2003, Human Rights Watch writes that

[m]any of the abuses ... were committed by soldiers belonging to militias and other forces under the command of high-level officials or political leaders. Several former mujahidin political leaders and military commanders who are not officially part of the Afghan government but who maintain military or quasi-military forces and exercise de facto governmental control of certain areas have also been implicated in violations. (Human Rights Watch 2003, 10)

### **3. Republic of Afghanistan, 1988-1992**

#### **3.1 Afghan Military and Security Forces**

The 1990 report of the UN Special Rapporteur on the situation of human rights in Afghanistan notes the use of mines by Afghan government forces and missile and other artillery attacks, which occasionally hit civilian targets (UN 31 Jan. 1990, 12-13). An earlier report also notes that, during attempts by both the government and opposition forces to gain control over areas vacated by Soviet forces, "the majority of victims [of military force] were civilians" (ibid. 16 Feb. 1989, para. 48). Human Rights Watch also reports the use of mines by Afghan government forces and civilian casualties resulting from aerial bombardment (1 Feb. 1991).

Human Rights Watch's *World Report 1989* for Afghanistan notes that anti-government mujahideen resistance forces attacked Kabul, Jalalabad, and other urban areas with rockets and that the Afghan government forces used SCUD missiles against the resistance, both of which caused civilian casualties (Jan. 1990).

The AJP reports instances of torture under the Najibullah government, during which high-level members of the security forces were present (2005, 37-38). Amnesty International (AI) alleges that, under the Najibullah government, those "suspected of involvement in armed opposition or non-violent anti-government activity [were] held in isolation cells during an interrogation period which may last several months. Detainees [were] reportedly subject to routine torture" (Mar. 1991).

The UN Special Rapporteur on the situation of human rights in Afghanistan reports an incident in which nine members of opposition movements and seven children were killed in Paktia in January 1988 by Afghan and Soviet troops (26 Feb. 1988, 8). The AJP reports that Afghan armed forces executed captured mujahideen fighters in 1989 (2005, 53). Human Rights Watch reports allegations that Afghan government forces executed "suspected guerrillas and civilians supporting them" in 1989 (1 Feb. 1991).

The UN Special Rapporteur on the situation of human rights in Afghanistan also notes cases of alleged "ill-treatment" by state elements of prisoners suspected of having been involved in the March 1990 coup against then President Najibullah (17 Feb. 1992, 18-19).

### 3.2 Opposition Militias and Other Armed Groups

The UN Special Rapporteur noted that "he ha[d] received corroborating allegations from a variety of sources concerning the killing of Afghan soldiers, Mujaheddin and civilians by members of opposition movements [including mujahideen groups]" (31 Jan. 1990, 9). The AJP reports that the Shura-i Nazar militia engaged in torture and the "cruel and degrading treatment" of prisoners, which was "practiced within a proto-governmental structure ... that was subsequently absorbed within the Islamic State of Afghanistan, after the Najibullah government fell in 1992" (2005, 57).

## 4. Islamic State of Afghanistan and Civil War, 1992-1996

### 4.1 The Islamic State of Afghanistan Forces and Allied Militias

The AJP reports that "witnesses from within Shura-i Nazar testify to a particularly strong chain of command, in terms of deciding where to attack and giving direct orders" (2005, 65). Human Rights Watch also states that members of the government of the Islamic State of Afghanistan "were involved in military decision-making processes" (2005, 121).

During the period 1992-1993, there were reports of summary executions by mujahideen of individuals associated with the former government (AI May 1992) and mujahideen and militia forces (Human Rights Watch Jan. 1993).

Human Rights Watch reports that

[t]here is evidence that some Jamiat forces engaged in killing and abduction of Hazara civilians in 1992. There is also evidence that Jamiat forces targeted civilian areas for attack at the beginning of the February 1993 Afshar campaign. (2005, 120)

According to the AJP, during a military offensive by the Islamic State of Afghanistan in the Afshar neighbourhood in Kabul in February 1993, de facto state and allied forces engaged in "war crimes," including "indiscriminate attacks, rapes, abductions, and summary executions" (2005, 85).

While it has not been possible to identify individual commanders responsible for specific instances of execution or rape, the Afghanistan Justice Project has been able to identify a number of the commanders who led troops in the operation. Testimony indicates that both Jamiat and Ittihad troops committed abuses. (AJP 2005, 82)

The AJP reports witness testimony that members of armed militias, including Ittihad-i Islami and Hizb-i Wahdat, beat, robbed, and committed sexual violence against civilians during 1992 and 1993 (ibid., 112-113). AI's 1994 *Annual Report* describes, for the year 1993, the use of torture in both official and opposition prisons, sexual violence against civilians, and deliberate and arbitrary killings by both government forces and mujahideen, "but often in circumstances which made it impossible to determine who was responsible." The AJP also reports allegations of abuse of civilians by the Junbish militia in Kabul in 1993, including sexual violence against women (AJP 2005, 105). They allege that the "high authorities of Junbish in Kabul were ... placed very close to where their soldiers were carrying out rape, murder and looting" (ibid.). The UN Special Rapporteur for Afghanistan also noted cases of sexual violence against women that took place during the period from 1992 to 1994 (20 Jan. 1995, 9). AI reports that, in Kabul in 1996, prior to the Taliban takeover, there were reports of "women being raped by armed guards of the government of then President Rabbani" (1997).

### 4.2 Opposition Forces

AI reports allegations of mutilation and killing of prisoners by the Taliban from 1994 to 1995, including one incident in which "22 corpses were discovered in a mass grave" (Apr. 1995, 1). *Country Reports 1995* also reported the discovery of this mass grave (US 30 Jan. 1996, Sec. 1a). Further information on opposition forces during the period from 1992 to 1996 could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

## 5. Taliban Control and the Islamic Emirate of Afghanistan, 1996-2001

### 5.1 Taliban Forces

Human Rights Watch reports that

[o]n August 8, 1998, Taliban forces captured the city of Mazar-i Sharif in northwest Afghanistan. ... Within the first few hours of seizing control of the city, Taliban troops killed scores of civilians in indiscriminate attacks, shooting noncombatants and suspected combatants alike in residential areas, city streets and markets. ... In the days that followed, Taliban forces carried out a systematic search for male members of the ethnic Hazara, Tajik, and Uzbek communities in the city. ... During the house-to-house searches, scores and perhaps hundreds of Hazara men and boys were summarily executed .... Human Rights Watch is also concerned by persistent reports that women and girls, particularly in certain Hazara neighbourhoods ... were raped and abducted during the Taliban takeover of the city. (1 Nov. 1998)

The *Amnesty International Report 1999* reports that "Taliban guards systematically and deliberately killed thousands of ethnic Hazara civilians in the days following their military takeover of Mazar-e Sharif in August."

The AJP reports that, "from January to March 2000, Taliban carried out five massacres of civilians in Gosfandi [in Sar-i Pul Province in northwestern Afghanistan], killing 96 people" (2005, 123). The 2003 report of the UN Special Rapporteur on extrajudicial, summary, or arbitrary executions states that "[s]eventeen elders were summarily executed in the village Khassar in Gosfandi province" between January and April 2000 (3 Feb. 2003, 14).

In May 2000, Taliban forces reportedly executed at least 26 "Ismaili Shia Hazara civilians" at Robatak Pass in north-central Afghanistan, "some [of whom] were tortured before they were killed" (Human Rights Watch 1 Feb. 2001). The 2003 report of the UN Special Rapporteur on extrajudicial, summary, or arbitrary executions states that, in "May 2000, the Taliban tortured and killed 31 ethnic Hazara prisoners in an area known as Hazara Mazari, on the border between Baghlan and Samangan Province" (3 Feb. 2003, 14).

In January 2001, Taliban forces are reported to have executed at least 170 men in Yakaolang province (AI Mar. 2001, 3; *Chicago Tribune* 12 Oct. 2001; Human Rights Watch 1 Feb. 2001). Human Rights Watch reports that they were publicly executed by firing squad (ibid.). AI says that all the victims were "summarily executed or deliberately killed" (Mar. 2001, 1).

## 5.2 Militias

Prior to the Taliban's arrival in Mazar-i Sharif in 1998, the area was controlled by Jamiat-i Islami, Hizb-i Wahdat, and Harakat-i Islami, with the Junbish militia and Hizb-i Islami also present (AJP 2005, 108). The AJP reports that "[r]obberies, kidnapping and sexual assaults by commanders and troops of all parties were commonplace" (ibid.). Corroborating information on violence carried out by militias during Taliban rule could not be found among the sources consulted by the Research Directorate.

## 6. Islamic Republic of Afghanistan, 2001-2009

### 6.1 Afghan and International Forces

In a collaborative report based on research conducted between September and December 2009 by the Open Society Institute (OSI), an NGO working in the area of democracy and governmental accountability, and The Liaison Office (TLO), an Afghan NGO working on peace, governance, and security (OSI and TLO 23 Feb. 2010, 2-3), the authors describe the practice of "night raids" as "dramatically increas[ing] the chances of indiscriminate use of force against innocent women, children, and men in the house" (ibid., 4). Furthermore,

Afghans describe recent incidents in which international forces and/or Afghan forces engaged in abusive treatment, unnecessarily destroying property and disrespecting cultural norms during house searches. In some cases, people said they witnessed detainees being gun butted or kicked, sometimes while handcuffed. (ibid., 6)

The Afghanistan Independent Human Rights Commission (AIHRC) describes raids by international and national forces, noting that "[i]n some incidents such actions can rise to the level of 'cruel treatment and torture' ... as prohibited per Common Article 3 of the Geneva Conventions" (2007, 5).

In a 2008 report, the AIHRC writes that, in a July 2008 military operation, US Special Forces and ANA [Afghanistan National Army] ground troops, with air support from armed helicopters, killed 49 individuals .... AIHRC interviews suggest 15-20 civilians were injured due to air strikes and ground fire. (Dec. 2008, 14)

As a result of another operation that killed at least 33 Afghan civilians, "two ANA commanders involved in the operation were reportedly dismissed and under investigation for their involvement" (ibid., 17, 18). In other cases of civilian deaths at which Afghanistan National Army personnel were present, the UN Special Rapporteur on extrajudicial, summary, or arbitrary executions notes that no military leaders are willing to accept responsibility for the deaths (UN 6 May 2009, 10).

### 6.2 Treatment of Detainees and Civilians

In a 2003 report based on research conducted between January and June of that year, Human Rights Watch has documented instances of "violent criminal offences - armed robbery, extortion, and kidnappings ... governmental attacks on media and political actors; and violations of the human rights of women and girls" carried out by members of the army and security forces (Human Rights Watch 2003, 10). The organization "found evidence of government involvement or complicity in abuses in virtually every district in the southeast" (ibid.). One specific case cited by Human Rights Watch is the killing of two men by armed men who witnesses thought "were either affiliated with the local commander or were former fighters" (ibid., 37). A 2007 report by AI includes testimony from individuals who had been beaten and tortured by the National Directorate of Security (NDS), the intelligence service (Nov. 2007, 22-23, 29). UNAMA reports an instance in October 2008 in Zabul during which "ANA officials were accused of detaining and torturing several elders in order to obtain information on a previous IED attack in the area" (Jan. 2009, 22).

## 7. Accountability for Abuses Committed Between 1989 and 2009

According to a December 2003 report by Rama Mani, at the time a visiting scholar at the Geneva Centre for Security Policy (Mani Dec. 2003), produced for the Afghanistan Research and Evaluation Unit (AREU), an "independent research institute based in Kabul" (AREU n.d.),

the Bonn Agreement [of 2001] invested the leaders of the factions [including the Northern Alliance] - many of whom had been responsible for much of the suffering and carnage during Afghanistan's long years of war - with responsibility for running the Interim Administration. (Mani December 2003, 9)

In a 2005 report, Human Rights Watch writes that

[m]any of the main commanders and political faction leaders implicated in the crimes detailed in this report [which took place between April 1992 and March 1993] are now officials in the Afghan government - serving in high level positions in the police, military, intelligence services, and even as advisors to President Hamid Karzai. (3)

In its 2005 report, the AJP states that

[n]ot all Afghans involved in armed conflict engaged in war crimes; many should enjoy the right to participate in politics. However, too many with criminal records have secured places in political office or security agencies. (155)

The AJP also writes that "failure to scrutinize the records of those claiming a place at the table has led to the entrenchment of persons who continue to terrorize civilians and otherwise undermine the political process" (2005, 156). The US Department of State *Country Reports on Human Rights Practices for 2011* notes that

widespread official [i]mpunity for those who committed human rights abuses was a serious problem. The government was either unwilling or unable to prosecute abuses by officials consistently and effectively. (US 24 May 2012, 2)

Human Rights Watch's *World Report* from January 2013 states that "[t]he Afghan government continues to allow well-known warlords, human rights abusers, corrupt politicians, and businesspeople to operate with impunity" (3).

### 7.1 The 2007 Bill Granting Immunity for Actions During Conflict

In 2007, the Afghan Parliament passed a bill granting immunity for "serious violations of human rights, including war crimes and crimes against humanity committed in the past 30 years" (AI 9 Feb. 2010). The bill was "not publicly divulged until January 2010" and was not signed by President Karzai, although it was published in the official gazette in 2008 (ibid.). The International Federation for Human Rights (FIDH) writes that "a blanket amnesty will cover all those responsible for the international crimes committed during Afghanistan's civil war, some of whom currently [as of 2007] hold prominent positions in the Parliament and in the Government" (6 Feb. 2007). The terms of the legislation are such that people who committed

serious human rights violations and violations of the laws of war, including massacres, widespread enforced disappearances, and systematic use of torture, rape, public executions and other forms of ill-treatment would be immune to criminal prosecution if they pledge cooperation with the Afghan government. (AI 9 Feb. 2010)

Amnesty International writes that "[Taliban] figures who agree to cooperate with the Afghan government would also be immune to prosecution" (ibid.). EurasiaNet reports that

the law provides for individuals to make claims against alleged assailants for specific crimes. However, human rights groups point out that the lack of security and rule of law in Afghanistan makes it almost impossible for individuals to gather evidence and pursue criminal cases against powerful parties involved in the war. (14 Mar. 2010)

FIDH "stresses that international law prohibits any sort of amnesty for crimes under international law" (6 Feb. 2007).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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