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March 1988

BY ALL PARTIES TO THE CONFLICT **Violations of the Laws of War in Afghanistan**

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**Violations of the Laws of War in
Afghanistan**

MARCH 1988

A HELSINKI WATCH/ ASIA WATCH REPORT

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Bound copies of this report are available for \$8.00.

To the memory of Professor Sayd Bahauddin Majrooh, Director of the Afghan Information Centre, Peshawar, who was assassinated in his home on February 11, 1988. He documented the violence and fell victim to it.

ACKNOWLEDGMENTS

Much of the information in this report was gathered during a fact-finding mission to Pakistan conducted by Jemera Rone in September-October 1987. Ms. Rone, an attorney, has had extensive experience covering human rights aspects of guerrilla warfare in Central America. The report was written by Ms. Rone, Counsel to Americas Watch, and edited by Jeri Laber, Executive Director of Helsinki Watch and Member of the Board of Asia Watch.

We wish to thank all the people in the United States, in Paris and in Pakistan who were willing and eager to help us and to share with us their knowledge and information. We also give special thanks to Barnett R. Rubin for his expert assistance and advice.

Other Helsinki Watch/Asia Watch Reports on Afghanistan:

Tears, Blood and Cries: Human Rights in Afghanistan Since the Invasion 1979-1984, December 1984, 210 pages. \$10.00

To Die in Afghanistan, December 1985, 105 pages. \$8.00

To Win the Children: Afghanistan's Other War, December 1986, 21 pages. \$10.00

Pogibayet Tselii Narod (Russian language version of *Tears, Blood and Cries: Human Rights in Afghanistan Since the Invasion 1979-1984*)

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INTRODUCTION

Many of the human rights violations referred to in these pages have been extensively documented in three previous Helsinki Watch/Asia Watch reports, published in 1984, 1985 and 1986: *Tears, Blood and Cries: Human Rights in Afghanistan Since the Invasion 1979-1984*; *To Die in Afghanistan*; and *To Win the Children: Afghanistan's Other War*. Those reports, together with this one, reflect the results of several years of study and inquiry, including a number of fact-finding missions to Europe and Asia.

The Watch Committees have sponsored four missions to the borders of Afghanistan in the past three years -- to Islamabad, Peshawar, and Quetta and to the tribal agencies of Kurram, North Waziristan and Bajaur. Testimonies have been taken from hundreds of Afghan refugees from all walks of life and just about every province in Afghanistan. In addition, we have collected information from Western journalists and doctors who have worked inside Afghanistan and from individuals associated with the various relief organizations in Pakistan.

* * *

Afghanistan has been the scene of some of the most serious human rights violations on record. About one half of the country's prewar population of 15,000 is either in emigration, or internally displaced, or dead. Most of the violations that we documented in the past continued in 1987, despite the fact that prospects for peace in 1988 seem brighter than ever before.

Most of the abuses are attributable to the Afghan government and the Soviet troops and advisors who sustain it. Indiscriminate warfare in the countryside combined with totalitarian controls in the cities have brought incalculable suffering to the Afghan people. The brutality of the war in areas that the Soviet/Afghan forces have sought to control and the severity of the repression in the areas that they do control has left no respite for Afghan civilians and has caused them to flee in staggering numbers.

In this report, as in previous reports, we also point to violations on the part of the resistance forces. We continue to deplore the execution of prisoners of war by the resistance, often after a trial that is lacking in most aspects of what we consider due process. This report devotes special attention to violations attributable to a specific resistance group -- the Hezb-e Islami led by Gulbuddin Hekmatyar. Abuses by this group seem to have become even more extreme in the past year and reportedly include politically motivated assassinations, the taking of hostages, and disappearances (such as that of a French medical worker in possession of a large sum of money who was last seen under the escort of members of Hezb-e Islami in September 1986). The violations by this resistance group are of particular concern as the prospects for a negotiated peace in Afghanistan become greater. The Hezb-e Islami (Hekmatyar) has allegedly been favored by the government of Pakistan and is reported to have received a disproportionate share of arms and equipment over the years, although recent reports indicate that the U.S. and Pakistan have reduced their aid to this group.* If a negotiated settlement is reached, care must be taken to see that the Hezb-e Islami (Hekmatyar), or any other group guilty of gross human rights violations, does not have undue influence in the formation of a new government or receive control over the distribution of aid for the resettlement of the refugees.

Helsinki Watch/Asia Watch also express concern in this report about the thwarting of attempts by the International Committee of the Red Cross (ICRC) to visit political prisoners and prisoners of war. To date the Afghan government has allowed the ICRC only partial prison visits on three occasions, most recently in March 1987. Early attempts by the ICRC to facilitate exchanges of prisoners initially met with some cooperation from the Afghan resistance, but broke down completely when it became apparent that the Afghan/Soviet forces would not reciprocate. Since then the resistance forces have been suspi-

* Edward Girardet, "Afghan guerrilla group reported stealing aid, kidnapping workers," *The Christian Science Monitor*, January 4, 1988, p. 1.

cious of ICRC efforts, and ICRC access to prisoners held by the resistance has been limited to a few occasions in Pakistan. The Soviet/Afghan forces have also made it dangerous for foreigners to travel to resistance bases within Afghanistan. (Indeed, 1987 saw the deaths of two American journalists who entered Afghanistan illegally from Pakistan, and a French photographer, Alain Guillo, who was captured by the government, was sentenced to ten years in prison by a Special Revolutionary Tribunal.) Now that the possibility of peace may be in the offing, both sides should take steps toward humanizing the war by ending the mistreatment of prisoners. The ICRC should be given access to prisoners. This would help ameliorate the harsh lot of the prisoners until such time as they receive their freedom.

This report is in three sections, the first two of which provide updated information on two topics covered in previous reports -- violations of the rules of war and the treatment of prisoners and prisoners of war. The third section deals with a subject not addressed in previous reports -- the spread of the warfare to the territory of Pakistan and the effects of this on the refugees there.

* * *

In previous Helsinki Watch/Asia Watch reports, we dealt as extensively as possible with the suppression of freedoms in Kabul and other cities that are under Soviet/Afghan government control. In publishing such material we had to rely exclusively on the testimony of refugees from those areas, because our requests to make first-hand inspections in Afghanistan went unanswered. In 1987, as part of its policy of "national reconciliation," the Afghan government announced some potentially positive policies affecting the areas under the government's control. Unfortunately, we were unable to visit Afghanistan to ascertain the effects of these new policies. All Helsinki Watch/Asia Watch requests to visit Kabul and other cities under the Afghan government's control remain unanswered by the Afghan government. We have been unable to make any first-hand investigations into the situation in Kabul or in other government-controlled regions of the country.

It should be noted, however, that the Afghan government made an important concession this year when it permitted the U.N. Human Rights

Commission's Special Rapporteur for Afghanistan to visit Kabul, Herat and Mazar-e Sharif in July-August 1987. This was a striking departure from previous policy; Professor Ermacora's earlier requests to visit Kabul, which began with his appointment as Special Rapporteur in 1984, had all been refused.

Professor Ermacora was able to meet with many important Afghan officials during his visit. He also visited Pol-e Charkhi Prison and several detention centers in Kabul, including the main secret police interrogation center in the Prime Ministry (Sedarat). It is to be hoped that Helsinki Watch/Asia Watch will be provided similar access in 1988. The fact that several Helsinki Watch members will visit Moscow in 1988 as part of an international delegation invited by the Soviet government to discuss human rights concerns should serve as an important precedent.

The Afghan government's new policy of "national reconciliation" has led to several seemingly positive developments in 1987, among them a call for the refugees to return to Afghanistan and the issuing of decrees exempting them from certain taxes and providing for their reinstatement in the workplace, for the return of expropriated property and for the distribution of land to landless peasants. Yet relatively few of the refugees have returned home (82,000, according to official government statistics at the time of Professor Ermacora's visit).

Another positive result of the national reconciliation campaign was the January 25, 1987, announcement of an amnesty for thousands of prisoners, which was apparently followed by further releases later in the year. Most of the prisoners who were amnestied, however, were not released unconditionally: many were conscripted directly into the army, and others are being kept under strict surveillance.

One of the prisoners released in March 1987 is Hasan Kakar, a human rights advocate and former professor at Kabul University who was arrested in 1982. Professor Kakar and his family are now in Pakistan where he has given interviews about the tortures he witnessed in the prison. According to Kakar, the government is now less repressive than when he was arrested, as it arrests only actual opponents rather than potential or suspected ones. Professor Ermacora in his report notes that "no new reports of torture within the meaning of international instruments have been received in the last six months."

* * *

It has been more than eight years since Soviet troops invaded Afghanistan and installed a new government. A bitter and unequal conflict has continued since that time between Soviet and Afghan government forces on the one hand and the resistance forces, or mujahedin, on the other. The Soviet Union and the Afghan regime that it supports have had at their disposal all the advanced weaponry and sophisticated propaganda techniques of one of the world's great superpowers. The resistance, initially armed with little more than their fierce determination to drive the invaders from their land, is hardly a united movement, either within Afghanistan or in Pakistan where seven political parties that claim to be representing the mujahedin forces have an uneasy alliance. Many observers, convinced that the Afghans would indeed fight to the last man, were concerned that an entire nation was being destroyed.

Now, in early 1988, a negotiated settlement may be in sight. The Soviet Union has indicated its intention to begin withdrawing forces from Afghanistan in May. The Afghans, who have over the centuries successfully resisted every attempt by foreigners to subjugate them, may see yet another group of foreign invaders repelled. And the more than 5 million refugees displaced by the war may fulfill their dream of returning to rebuild their homeland.

We hope that the human rights violations discussed in this report -- all of which arise from the warfare which still continues in Afghanistan at the time of this writing -- will soon be past history. It is also our hope that any peace agreement that is achieved will take due account of the rights and needs of the returning refugees, of the need to release all political prisoners, of the right of all Afghans to be represented in the choice of a new government, and of the duty of that government to provide for the protection of the human rights of its citizens in the future. Finally, we hope that the next Helsinki Watch/Asia Watch report on human rights in Afghanistan will discuss issues like these -- issues relating to the peace, rather than to the war.

Jeri Laber
Jemera Rone

March 1988

PART ONE

The Laws of War and the Afghan Conflict

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The Laws of War and the Afghan Conflict

Both the Democratic Republic of Afghanistan (DRA)* and the Union of Soviet Socialist Republics (USSR) have signed the Geneva Conventions of 1949. These conventions govern the conduct of the armed conflict in Afghanistan. One can argue as to whether the situation in Afghanistan should be considered an international or another type of armed conflict. At the very least, however, common article 3 of the Geneva Conventions applies.

Common article 3 of the Geneva Conventions sets forth rules of war that apply to all parties in the Afghan conflict:

Art. 3. In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, [Afghanistan] each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

- (1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

* In December 1987 the Afghan government formally changed its name back to the Republic of Afghanistan, dropping the word "Democratic" which was added at the time of the 1978 coup. This report uses the abbreviation DRA throughout, as this was the government's formal name at the time that the information was gathered.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
 - (b) taking of hostages;
 - (c) outrages upon personal dignity, in particular humiliating and degrading treatment;
 - (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.
- (2) The wounded and sick shall be collected and cared for. An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict. The Parties to the conflict should further endeavor to bring into force, by means of special agreements, all or part of the other provisions of the present Convention. The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Violations of the Laws of War by the USSR and the Democratic Republic of Afghanistan

The Conduct of the War by the USSR and the DRA and Its Effect Upon Civilians

On January 1, 1987, the DRA announced what it called a unilateral cease-fire starting January 15, 1987, as a step toward national reconciliation. This was not accepted by the opposition forces, which continued to fight; within a month the Soviet/DRA forces launched a major offensive in Paktia Province.

Nevertheless, the government continued to maintain that there was progress in its programs of reconciliation. In July 1987, it claimed that 1,335 villages and some provinces had been "liberated" peacefully, that 15,000 armed opponents of the government had switched sides, and that more than 60,000 former refugees had returned home.*

Despite the claims of cease-fire and national reconciliation, however, civilians continued to be the victims of bombing and shelling of villages and trails, nighttime attacks, indiscriminate use of land mines, and bombing of refugee camps and bazaars by the DRA/Soviet forces. For example, according to the Afghan Information Centre Monthly Bulletin, "between October 21 and November 2, 1987, the Russian forces carried out daily operations of mass killings and destruction in many areas in Logar, resulting in the killing of 206 children, women and old men and the destruction of 1,043 houses."**

Many of the bombings were DRA/Soviet attempts to target opposition combatants who were thought to be passing through villages. In these cases, the DRA forces did not respect the rule of proportionality, which requires them to hold their fire, even if there are combatants present in the villages, to avoid the predictable injury of civilians. This indiscriminate use of firepower is a violation of the Geneva Conventions.

The cases below indicate a very high rate of mixing with the civilian population by the opposition forces, called mujahedin, (literally, those who are fighting a *jihad* or holy war). Under these circumstances, the need to observe the proportionality rule is greater in Afghanistan than in many other conflicts. No testimony we received suggests that the mujahedin were attempting to shield themselves behind the civilians, in large part because they know that the Soviets and the DRA do not regard civilians in mujahedin areas as a shield.

Some of these aerial attacks were on Pakistani border regions, which has affected the hundreds of thousands of Afghan refugees housed there, as well as Pakistanis. Because of the increased mujahedin use of antiaircraft guns

* Press conference of P.D.P.A. General Secretary Najibullah, TASS, July 21, 1987.

** Afghan Information Centre Monthly Bulletin, October-November 1987, pp. 3-4.

such as the Stinger, aerial bombardment has decreased in some areas, replaced by high altitude bombing and artillery, with correspondingly decreased ability to aim accurately.

In addition to indiscriminate fire, there is the discriminate targeting of civilian villages, for instance in retaliation for mujahedin attacks on DRA posts, and bombings in Pakistan cities and bazaars, with the object of striking at the mujahedin in their rear guard and weakening Pakistan's commitment to serve as a base for the mujahedin.

Heavy civilian casualties and damage to civilian homes since 1980 have provoked a mass exodus of Afghans to Pakistan and Iran that boggles the imagination: approximately five million Afghan refugees are in those two countries, one third of the prewar Afghan population. This exodus has not been as steep in 1987 as in prior years, however -- it ranged from a high of 5-6,000 a month to a low of 400-500 a month in the North West Frontier Province of Pakistan; in the last year there was a total of 70,000 new refugees in that province, where in the early years of the war as many as 80,000 refugees arrived per month.

Many refugees have wandered about in a state of internal displacement before arriving in Pakistan; many hold off going to Pakistan until the fall, if it then becomes evident that due to the war they will not have enough food to last the winter. An unknown number (estimates are as high as one million or more) of internally displaced persons are still in Afghanistan, crowded into the cities.

Large areas of Afghanistan, according to travelers' reports, have been depopulated and in other areas the population has been severely reduced. This is especially true of the region bordering Iran and also those near Pakistan, where the war has been waged to create a no-man's land between Pakistan, where the mujahedin have bases, and Afghanistan. The passes from Pakistan into the eastern zone of Afghanistan have become increasingly dangerous because of bombardment and mining, according to the medical organizations that frequently send doctors and supplies in and evacuate wounded out of the zone.

Emphasis of the Soviets and the DRA on infiltration and intelligence work has meant that there are now more pointed attacks on mujahedin convoys and supply trails to Pakistan, based on improved intelligence. Many supply trails are traditionally used by civilians, or are used now by refugees, and it appears

that anyone on those trails becomes a military target, again indiscriminately. These attacks are almost always by *Spetsnaz*, Soviet Special Forces similar to U.S. Green Berets which specialize in night time reconnaissance and ambushes and place mines in areas where civilians as well as mujahedin move. *

There are large areas, however, that are not under government control and are safe enough so that foreign or Afghan refugee development teams (irrigation, agriculture, education) can come and go to assist the civilians still living there and open up medical clinics. Fighting is not heavy enough in these zones to deter or make unsafe such assistance. A few travelers even report that, since last year and probably because of increased mujahedin use of antiaircraft weapons, some civilians have returned from Pakistan to plant and reconstruct houses in areas previously abandoned.

Bombing and Artillery

The accounts that follow give a partial picture of how the air war affects civilians in different parts of Afghanistan. They do not purport to be an overview of the war conditions in the different provinces, but rather to indicate the enormous scope of the war and its impact on the civilian population.

Kunduz, northern Afghanistan

Nauabad village (populated with Pashto speakers from the Mohmand tribe) had been a mujahed stronghold since the beginning of the current conflict with the Soviets and Afghan communists, according to the elders of a group of 60 refugees who left the village in early 1987. (Testimony of Jalad Khan, 52, of Naabad village, Chardara district; interviewed by Helsinki Watch/Asia Watch October 1, 1987, in Munda refugee camp in Pakistan.)

Of the original 2,000 families living in this village, only 1,000 reportedly remained. The rest left in groups of 100 or so over the years, as the Soviet/DRA troops attempted to enter the

* James Adams, "Afghanistan Becomes War Laboratory for the Soviets," The Los Angeles Times, January 4, 1987.

town in tanks and retake it from the mujahedin and on other occasions bombed houses. There were six or seven bombings of the village. These refugees estimated that about 60 or 70 civilians in all had died in and around the village during the years of the war, because of Soviet/DRA bombing.

The group of refugees interviewed in Pakistan left the village in early 1987, about February. The reason they gave was that they had practically given up hope of winning and were worn down by the continuing battles, bombing, and shelling and the heavy toll that civilians were paying. The mujahedin told them they could take women, children and old men, but the young men should be left to fight. The village is not empty of civilians, however: many women and children and old men have stayed, in part to help the mujahedin, in part to continue farming and raising sheep.

About a month before they left for Pakistan, in January 1987 or December 1986, there was a pitched battle close to the village. It lasted from sunrise to sunset. It was the biggest battle they had witnessed. The mujahedin, who they said belonged to the Hezb-e Islami (Khales) party, had their center in the outskirts of the town, in deserted houses. They lived and ate there. When they were alerted that the Soviet/DRA troops were moving in with tanks to attempt to establish a post in the town, the mujahedin blocked the road and fought off the troops that were trying to secure the post outside town. According to the refugees, a mujahed commander from the village died and three or four mujahedin were wounded. There was no bombing and the mujahedin captured weapons but no soldiers, who abandoned their donkeys and weapons and got away in the tanks. No civilian casualties were reported.

They reported that the last bombing incident before their departure took place a month before the battle, or in November or December of 1986. The villagers, experienced in bombing raids, had made primitive bomb shelters in the form of underground tunnels in the village. When they heard the planes coming, they all ran for the shelters. On the day of the last bombing, however, they did not hear any planes coming. They were just arising when two houses in an outlying part of the village were bombed and 12 people were killed in the

houses, among them four children and five women. The men killed were not mujahedin. There were three wounded, a man (who came to Pakistan for treatment), a woman and a child.

They believe that the reason that these houses were bombed was that someone informed the government that the mujahedin were staying in the village in those houses during the night. That information was not correct, as it turned out. The bombing was precisely on those houses, however.

In addition, they told of several hundred fellow villagers who in 1985 decided to take refuge in Badakhshan province, to the east, to escape the pounding of the war. They were bombed on the road to Badakhshan and many were injured.

In addition to the bombing, the villagers suffered from artillery fire, which could burst out at any time of the day or night. This was directed at them from the airbase one hour's drive away. One refugee had a wound on his left shoulder from shrapnel; in late 1986, he was walking along a stream, saw the shells falling, and jumped into the stream as he was struck by the shrapnel.

After the early 1987 battle described above, shelling of the vicinity increased, up to twice a day.

The refugees also reported that in mid-1986 troops entered the town, searched the houses, and took off 12 or 13 young men for the draft. They were taken to Herat, in the far western part of Afghanistan; two or three boys succeeded in escaping and are with their families now.

An incident of forced evacuation of the population from Kunduz province, and perhaps bombing of civilian villages, was noted in the Soviet press. According to TASS, on March 8, 1987, the Hezb-e Islami opposition group fired across the border at a Soviet village, killing one and wounding some civilians. In retaliation, the Soviets and DRA pursued the mujahedin into Kunduz and were able to destroy several rebel bases.

Soviet troops also declared a security zone and ordered all "peaceful" Afghan residents out of the area, the report said. "The Soviet and Afghan troops suggested that the local civilians leave the zone to avoid casualties. Thousands of peasants and their spouses left the zone through filtering checkpoints."*

Badakhshan, northeast Afghanistan

Medical personnel working with Medecins Sans Frontieres, a French group, confirmed that bombing of villages in the lower Tashgan valley in Badakhshan province in the far northeast of Afghanistan was taking place in early September 1987. One medic arriving from this area to Peshawar, Pakistan, in October was interviewed by Helsinki Watch/Asia Watch on October 6, 1987. At the time of his departure, the bombing of various villages had occurred on four consecutive days, usually at 11 pm at night. In one village, he said, a woman picking melons at night with a lantern and her three children were killed by rockets from a helicopter; a bomb dropped during the day on Gandam Qol village killed four men (only one of whom was a mujahed), two women, and four children; a bomb on Marzar village, where the family of the mujahed commander lived, killed two men and two women. Correspondence from the French medical team confirmed that their hospital was filling up with wounded.

Medecins Sans Frontieres documented on videotape the immediate aftermath of a bombing of the village of Pishtik in Yaf-tal valley, Badakhshan, in September 1986. A messenger sent to the French clinic said that the night before at 9 pm the village had been shelled, and three persons were killed (all civilians, two women and one man), and many injured. The medical team, arriving at the village the next morning, found and recorded that in one house six civilians had been wounded (a boy 13, a girl 16- 18, a baby 3 or 4 years old, a girl 5 years old, a woman and a grandfather) by shelling. The baby died.

* Chicago Tribune Service, "Afghans Shell Village in USSR," The Miami Herald, April 4, 1987.

In another house, three girls ages 8 to 15 were wounded by shrapnel, one with serious abdominal wounds. In the third house, a 12-year-old girl was paralyzed by shrapnel.

There were no mujahedin there at the time of the bombing, and no mujahedin center or base near by. The scenes of the injured civilians and bombed houses were preserved on video.

On another occasion, the medical team treated and filmed an 11-year-old child who suffered a double fracture in the forearm as a result of a bullet fired by Soviet/DRA troops invading another village in that same valley in the same month. The troops were dropped in by helicopter. In the village of Safedsharan, not far away, several people were killed during this same attack, and most of the houses were damaged or destroyed. The face of a 16-year-old, partially blown off by artillery, was shown on the film. The 16-year-old later received medical care outside of Afghanistan.

Baghlan, northern Afghanistan

A young Tajik medic who had recently returned to Pakistan from eight months of working in a clinic in a mujahedin-controlled zone in the province of Baghlan told Helsinki Watch/Asia Watch that he had observed no combat during this time, but there was frequent bombing, sometimes once a week, sometimes once a day for as much as ten days running.

He witnessed a bombing in a village in Khost-o-Fering district, where he was operating a clinic. Two women and two children were killed in this bombing, which was in approximately January 1987.

In February or March 1987, another village in Khost-o-Fering district of Baghlan was bombed. There were no casualties, aside from animals; the villagers were hiding in caves nearby. The bombs fell in and near the village.

When he arrived in the village of the clinic, the medic was told by the villagers that in October 1986 about 17 people (two mujahedin, two village men, four women and about nine children) had been killed by a bombing that lasted 15 or 20 minutes. There was no mujahedin center in the village; the two

dead mujahedin were visiting their families. Seven houses, apparently targeted, were hit.

Two months later, the village was bombed again but no one was killed. The civilians were in hiding.

Another medic from the same group affirmed what his companion had said, and added that he had treated six injured civilians as a result of a bombing on February 10, 1987, on another village in Khost-o-Fering district of Baghlan province. The bombing was at 6 am, he was told by the injured when they reached him at 11 pm. They reported that three people had died. The six civilians he treated were all men and all injured by shrapnel. They were on a mountain trail carrying food from one village to another as part of civilian commerce. The mujahedin also use the trail, but they were nowhere around when the civilians were bombed.

(The two medics were interviewed in Peshawar, Pakistan, on October 1, 1987. These medics, like other medics Helsinki Watch/Asia Watch interviewed, were former mujahedin combatants who received training as paramedics and went back into Afghanistan to serve civilian and mujahedin health needs.)

Jauzjan, northern Afghanistan

Refugees from near Shibarghan, Jauzjan province, members of the Pashtun Ishaqzai tribe who fled to Pishin in Baluchistan, Pakistan, said that in 1987 their villages were often attacked by the DRA/Soviet forces. (Interviews by Helsinki Watch/Asia Watch in Pishin, October 9, 1987) They attributed these attacks to the fact that most of their men are mujahedin and often stay in the villages with their people. One group of refugees (120 families) that left in February or March 1987 said that immediately before their departure their village, Khwajaganda, it had been shelled daily from Shibarghan. This and other villages had been targets of attacks and even big battles before. The largest was in 1985, when seven villages were surrounded. The Soviets had information that mujahedin were in the villages; they had come in for supplies. (There was a mujahedin base in one of the villages.) Both civilians and

mujahedin were in the villages when there were attacks, and the fighting reportedly lasted three days, with many casualties.

The Soviets and DRA entered and occupied the village for three days and left. The mujahedin went into hiding; only women and children were left in the village. According to refugee reports, when the troops withdrew, the returning mujahedin found bodies (they estimated 70) of people killed by the Soviets (some in battle), some thrown in a well. They were taken out and buried.

Herat, western Afghanistan

The historic city of Herat, known for its artistic and architectural treasures, has seen very heavy fighting during much of the war. *The New York Times*, however, recently reported that Herat, a city of 150,000, has not been the scene of fighting for a year or two, although fighting continues in the countryside and the government hospital was receiving 10 cases a week of battle injuries from the countryside in May 1987.* Some of those injured are civilians, according to paramedics treating them in nongovernment-controlled zones.

A medic who had traveled with a mobile mujahedin unit in and around Herat city and in the Ghurian district for five months in 1987 said that he treated six civilians wounded in July 1987 in an artillery attack on the village of Khojakalat, a new town close to Herat city. The artillery damaged shops and destroyed 50 or 60 houses as well, he was told. The injured he treated had shrapnel in their hands and legs; he heard that other civilians were killed and wounded and taken to other locations for treatment. Now, he said, all the civilians have moved out of Khojakalat, leaving only mujahedin there. (Interviewed by Helsinki Watch/Asia Watch on October 1, 1987, in Peshawar, Pakistan)

* Steven R. Weisman, "A New Soviet Strategy Calms an Afghan City Torn by War," *The New York Times*, May 6, 1987.

Helmand, southern Afghanistan

A young Pashtun medic showed Helsinki Watch/Asia Watch numerous photographs of the patients that he had treated in a clinic in a village in Helmand province not far from Lashkargah, a government-held town frequently attacked by the mujahedin. Many had been injured by bombing and artillery fire.

He said that many of the wounded were civilians who were injured in the course of a battle between the mujahedin and the Soviet/DRA forces that took place in and around 10-12 villages near the Helmand River in about July 1987 and lasted six days. The medic was in one of the villages. They were located in a valley with the wide Helmand River on one side and the Soviet/DRA troops on the other side. This location made it impossible for the villagers to move out when the fighting started so they hid in underground shelters, coming out only for food and water. It was when they left their shelters that many were wounded, by artillery aimed by the Soviet/DRA troops four kilometers away at the mujahedin outside the villages. According to this medic, the mujahedin have centers in the villages but when they learned the Soviet/DRA troops were advancing, they left the villages to take up positions away from the villages to fight them. The terrain is flat, with trees.

The Soviet/DRA troops, he reported, bombed day and night, at night looking for lights and when they saw one, targetting it.

This medic treated about 40 civilians injured in this battle, from 10-12 villages. They were treated in an underground clinic; their above-ground clinic had been destroyed by artillery at the beginning of 1987; one attendant and two women died and one mujahed was injured in the blast. The new clinic was built underground for protection.

No one knows how many civilians died in this attack; they were buried in one new gravesite, with families digging separate graves where possible.

According to records kept in this clinic, 130 injured civilians and mujahedin were treated during a six-month period in 1987. Fifty of the injured were sent on to Pakistan for further

medical care. The primary cause of the injuries was bombing and artillery. (Interviewed on October 1, 1987, in Peshawar, Pakistan)

Kandahar, southern Afghanistan

Kandahar has been rubbed raw by constant battles inside the city and in the suburbs in 1987, with neither side seeming to dislodge the other. The ICRC emergency surgical hospital across the border in Quetta was expanded in mid-1987, in part to receive the increasing numbers of war wounded from this area, a grim testimony to the human cost of the war. The 60-bed hospital was expanded to hold 106 patients (some in tents) by October 1987, and a second surgical team was rushed to the scene in mid-1987 to deal with the flood of wounded.

Although only 15 percent of the admissions are civilians, the fighting in Kandahar city itself has caused many civilian casualties.

An elderly woman, interviewed in a medical facility in Quetta on October 8, 1987, told how she was injured in mid-August 1987 while asleep in her house in Kandahar. She and her family were asleep in the courtyard of the house, because of the heat, when at 3 am a government missile answering a mujahedin attack landed near their house and she was struck in the lower back with shrapnel. She was the only one injured of her family. (She said that the mujahedin were daily attacking and firing artillery at the government military posts in the city. At times the mujahedin warn the people of their planned attacks so they can hide, but they had no warning of this attack.)

A middle-aged woman was similarly injured in April 1987 in Kandahar city. She said that she was in the courtyard of her house, washing her hands and feet in preparation for 9 pm prayers, when shelling between the two sides knocked down the wall of the courtyard, which fell on her leg. At the time, she could hear a lot of shooting going on.

In a tragic wedding party incident on October 2, 1987, a bus carrying a wedding party traveling from Farah province was reportedly stopped in Kandahar near the bus station, waiting for more people, when it was struck by artillery. At the time,

according to a 22-year-old woman wounded in that attack and interviewed in a medical facility in Quetta, Baluchistan, Pakistan, on October 8, 1987, there was fighting going on between the two sides. She did not know who fired the artillery but another patient said that she heard that the mujahedin fired on a government post and the post lobbed the artillery shells back.

The artillery took the lives of the bride-to-be and her future husband, along with one other person in the wedding party. Six were wounded.

In May 1987, a 12-year-old boy was injured when a bomb fell on a house where a wedding was being held in the Dand district of Kandahar province. Two others in the wedding, a one-year-old boy and a six-month-old girl, were also injured, the girl seriously.

At about 4 pm, they reported, they heard a distant sound of helicopters and then two bombs falling a distance away. The family members jumped up and before they knew it, the house was struck by a rocket. The boy was hit by shrapnel in his right hand and lost consciousness.

The uncle, a mujahed accompanying the boy, said that the village, near Kandahar, was practically deserted; only about 10 families lived in it at the time of the bombing. It had 500 or so families living in it before the fighting started. According to what women family members told him, there had been a fight the day before in another village between the mujahedin and the Soviet/DRA troops. The mujahedin withdrew to this village, then withdrew to another village. Three hours after the mujahedin left the village, the Soviet/DRA forces attacked it with tanks and helicopter bombing. (Interviewed in Peshawar, Pakistan, on October 7, 1987)

A knowledgeable recent foreign visitor to Kandahar, who asked that his name be withheld, was interviewed privately on October 7, 1987. He described a pattern of nighttime bombing in another area to the northwest of Kandahar, where mujahedin convoys pass. When the jets see lights, they think it is a mujahedin convoy and bomb the lights. They use ordinary and incendiary bombs, which he described as exploding

above ground to release 25 smaller bombs, in a process that lasts 10 to 15 minutes.

Often these bombs fall on the tents and villages of nomads. In mid-September 1987, one such bomb struck a nomad family, killing a woman and injuring eight children.

The area around Kandahar suffered heavy fighting with many casualties earlier in 1987. The foreign visitor to Kandahar described the military situation in an area just to the north of Kandahar [Arghandab valley] in September 1987 as having settled down to a situation where the combatants on both sides seem to have a tacit agreement to try and avoid civilian casualties. They lob artillery shells at each other's bases and positions; the government troops are on the mountain, the mujahedin bases in an area of vineyards, and the civilians are in between, occasionally suffering injuries from stray missiles.

These civilian (as well as mujahedin) casualties have had a better chance of receiving desperately needed medical care in Pakistan than they used to. A refugee woman told Helsinki Watch/Asia Watch that a tribal leader, who fought with the mujahedin for several years, switched sides in 1985 and joined the government militia, for which he and his forces received a salary. He permitted the wounded, both civilians and mujahedin, safe passage to Pakistan through the territory he controlled for medical care, in large part out of concern for his fellow tribesmen.

Kunar, eastern Afghanistan

Fauzia, a six-year-old girl, and her mujahed uncle, Mohammad Aref, were injured when their house was hit by a bomb in late 1986 in a small village in Shewa district, in Kunar province, in eastern Afghanistan.

According to the uncle, most of the family was at home when the bomb hit at 8 am. Three of her siblings (one younger, two older) were killed at once and the house was destroyed. She suffered extensive burn injuries in her left arm and right upper thigh; her uncle's left leg was amputated and his left arm burned. The uncle estimated that 25 or 26 people (including mujahedin, one of whom was the girl's father) were killed in

this bombing. The mujahedin center or base was about five or 10 kilometers away from the village, but about 120 resistance fighters had come to eat in the village and were there when the bombing occurred. (Interview by Helsinki Watch/Asia Watch on October 6, 1987, in Peshawar, Pakistan)

Nangarhar, eastern Afghanistan

Sher Maran, a 14-year-old boy was injured when he, his father and a cousin of his mother's were seeking refuge in Pakistan. The three were alone, he reported, leading two donkeys, on a trail from Nangarhar (bordering Pakistan) near Mangal village about 1 or 2 pm in the afternoon in late 1986 when two helicopters sighted them and bombed the area. His left leg was severely burned from the knee on down. He was sent abroad for medical treatment after he reached Pakistan. There were no mujahedin nearby when the bombing occurred. (Interviewed by Helsinki Watch/Asia Watch October 6, 1987, in Peshawar, Pakistan)

Ghazi Khan, a five-year-old boy, was playing alone outside his village in Nangarhar province in early 1986 when there was a bombing from a helicopter. His family reported that there was no battle at the time of the bombing and no one but the boy was injured. He was thrown to the ground by the force of the blast and suffered a concussion.

Frightened, the family of 13, including nine children, left immediately for refuge in Pakistan.

As a result of the concussion, a doctor testified, the boy now suffers from sleeplessness, epileptic seizures, and conduct disorders, engaging in disruptive behavior that puts the family, which lives squeezed into two tents, on edge. The father suffers from paranoia, acute depressive reaction, and anxiety, according to his doctor. (Interviewed by Helsinki Watch/Asia Watch with his father and doctor in Peshawar, Pakistan, on October 6, 1987)

According to her father, Shahin, a seven-year-old girl, was injured when her village in Nangarhar province was attacked in mid-1987. The bombing occurred in the early morning. Mother, grandmother, and five children were asleep in the

courtyard. Panicked by the bombing, they dashed inside the house; the girl, overlooked in the confusion, remained in the yard and was injured by shrapnel, some of which is still lodged in the back of her head. She went into shock.

Two rooms of the house were destroyed when the house caught fire in the bombing. There was no mujahedin center in the village; the nearest center was 15-20 kilometers away in the mountains, although mobile units of mujahedin sometimes pass through the village. This bombing was part of a larger battle that lasted one day and one night. (Interviewed with her father by Helsinki Watch/Asia Watch in Peshawar, Pakistan, on October 7, 1987)

According to refugees, there is a government post about three to four kilometers from the village of Hisarak in the Jalalabad region of Nangarhar. From the post, artillery is lobbed daily, as the mujahedin snipe at the DRA position. The post has been damaged by mujahedin and reinforced by the government repeatedly, since the start of the conflict, according to refugees recently arrived from the area.

The mujahedin do not have a fixed base nearby because of this shelling and bombing. The villagers have built underground bunkers where they hide with their children when the shelling or bombing starts.

According to refugees from this village, who rented horses to take them and their belongings to refuge in Pakistan in the last week of September 1987, they travelled three nights to cover the 70 to 80 kilometers to the border. They could not move freely during the day because of the danger of shelling.

The last bombing on the village before they left was in the third week of September 1987. A nine-year-old boy was reportedly struck in the neck by shrapnel and died; some animals also were killed. Many houses have been totally or partially destroyed by air attacks; it is usually the people whose houses are destroyed who pull up stakes and go to Pakistan. The refugees reported that many of the villages they passed through on the way to Pakistan had been partially destroyed and there were few civilians living outside the villages, only

mujahedin. (Interview by Helsinki Watch/Asia Watch near Satta, Kurram Agency, NWFP, Pakistan on October 3, 1987)

Wardak, eastern Afghanistan

A medic reported having left Wardak-Maydan province in September 1987 to bring 12 injured women and children to Pakistan for urgent medical care. They had all been injured by a bombing in September 1987 of three villages in Wardak and Ghazni on one day.

The medic was present in one of the villages in Wardak during the bombing; he reported that the village was bombed three times, starting at 9 am. A helicopter apparently on reconnaissance preceded the jets that did the bombing.

He estimated that seven persons were killed on that day and 45 injured, of whom 12 of the most urgent cases were sent to Pakistan. (One of the injured women he brought to Pakistan died shortly after her arrival.) He left after the first day of bombing with the injured, and did not know if the bombing continued. Of the seven who died in the three villages, two were women and four were children.

There was no mujahedin center or base in the villages, although a few mujahedin were in the village at the time of the attack. A nearby mujahedin base was not bombed. No troops entered the villages. They concluded that the bombing was an act of retaliation against the civilians for the daily mujahedin raids on the government airfield at Ghazni in Ghazni province to the south of Wardak. (Interview by Helsinki Watch/Asia Watch on October 6, 1987, in Peshawar, Pakistan)

A medic from another training program told of the wounded civilians he attended in a separate incident in Wardak province in September 1986. One victim was a young girl from the village of Siyahsang, who died despite medical efforts to save her: she had received shrapnel in her stomach, which became infected. Her mother was wounded in the hand during the same incident.

In another house in the same village, six civilians were reportedly killed when the wall of their house was hit by a bomb and

fell on them, burying them in the rubble. Many other houses were destroyed.

The village affected by this bombing was four or five kilometers from the closest mujahedin center, which lay on the other side of a mountain. The bombing was apparently a sudden strike by one low-flying bomber; at the time of the bombing, there were only a few mujahedin in the village. Three villages were hit on that one day. (Interview by Helsinki Watch/Asia Watch in Peshawar, Pakistan, on October 7, 1987)

Ghazni, eastern Afghanistan

An 18-year-old girl said that she was injured in mid-July 1987 when her village near Moqor in Ghazni was bombed, perhaps as a retaliatory measure.

The day before the bombing, the mujahedin captured 27 Soviet soldiers in a battle and passed through the village with them, according to the girl. An informer reported to the government that the mujahedin were in the village with the captives. Although the mujahedin had left, the following day 10 aircraft bombed the village.

At the time of the bombing, she said, she was alone in the courtyard of the house, washing clothes. She was severely wounded in her left arm; seven of her neighbors were killed in the bombing. (Interviewed by Helsinki Watch/Asia Watch on October 8, 1987, in a medical facility in Quetta)

Land Mines

The indiscriminate use of land mines by the USSR and DRA has caused the death and mutilation of perhaps thousands of Afghan civilians.

The principal source of international law governing the use of land mines and comparable explosive devices is the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby Traps and Other Devices (Protocol II) (referred to here as the Land Mines Protocol), annexed to the 1981 UN Convention on Prohibition or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious and to Have Indiscriminate Effects (UN Convention). While the Land Mines Protocol is not binding on the DRA or the USSR, it provides guidelines for the humane use of these dangerous weapons that should be adhered to.*

The land mines used in Afghanistan by the DRA and Soviet forces are of a sophisticated variety. Most are antipersonnel mines, hence the large number of civilian amputees from land mines. They are both planted and delivered by air (from airplanes or artillery), and are either contact or, less often, remote controlled devices. They are factory-manufactured, not hand-made.

It is not prohibited to use mines in warfare. However, it is prohibited to use them in a number of ways in which the DRA and Soviet forces are using the mines in Afghanistan. The large number of civilian casualties is an immediate sign that the mines have been used in prohibited ways. The greatest peril to civilians from the mining practices has come, in past years, from the liberal salting of air-delivered contact mines over vast regions not controlled by the government -- where the mujahedin are, have been, or are thought likely to pass.

Butterfly mines are the most frequently used air-delivered mine. They are dropped from planes and float to the ground on plastic wings colored to match the landscape. They are contact mines, that is, they go off when touched or disturbed. They are frequently mistaken by children for toys; scores, even

* For further discussion of the legal effect of this convention, see Americas Watch, Land Mines in El Salvador and Nicaragua: The Civilian Victims, December 1986.

hundreds, of children have been mutilated when they picked up these cute-looking explosives.

Much has been written about these mines and their use and effects, in addition to what has already been described at length in past Helsinki Watch/Asia Watch reports.* According to John Fullerton:

"Butterfly" mines, made of plastic and shaped like butterflies or sycamore seeds, with a "wing" to allow them to spin to earth slowly, have been deployed by literally hundreds of thousands to hinder guerrilla passage from Pakistan and Iran and from one safe haven or stronghold in Afghanistan to another. The weapons appear to have been designed specifically for use in Afghanistan. They are green or brown and blend in very well with the stony and sandy terrain. These weapons, which will blow off a foot and hand, maim rather than kill – although the lack of medical facilities and long distances which have to be traversed on foot to reach a hospital ensure that the victims die of blood loss, gangrene or simply shock.**

The inherent danger to civilians of such remotely delivered mines was deemed so serious that special regulations were devised for their use in Article 5 of the Land Mines Protocol. The Article covers any mine "delivered by artillery, rocket, mortar or similar means or dropped from an aircraft." (Article 2(1), Land Mines Protocol)

Article 5(1) prohibits the use of these mines except "within an area which is itself a military objective or which contains military objectives," and then not unless "their location can be accurately recorded" in accordance with the Protocol, or unless each mine has a "self-actuating" or a "remotely-controlled" mechanism which will render the mine harmless or cause its (self) destruction when the mine no longer serves its intended military purpose. Paragraph 2 of Article 5 imposes the additional requirement of effective advance warning

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- * See Helsinki Watch/Asia Watch, *Tears, Blood and Cries*, December 1984, pp. 55-63; *To Die in Afghanistan*, December 1985, pp. 33-39; *To Win the Children*, December 1986, pp. 5-6.
 - ** John Fullerton, *The Soviet Occupation of Afghanistan*. Hong Kong: Far Eastern Economic Review Ltd., 1983, pp. 88-89.

of any delivery or dropping of these mines which may "affect the civilian population, unless circumstances do not permit."

These requirements simply have not been complied with. Areas of civilian population and trails where refugees pass have frequently been salted with mines from the air. There have been no attempts to warn the civilian population, and these mines do not have a remote control nor are they self-actuating so that they become harmless when the mine no longer serves its intended military purpose.

In addition to dropping mines from planes or with artillery, the Soviet/DRA forces also plant them in villages and in mujahedin posts and on trails as they withdraw from an area they do not plan to visit again soon. Frequently the placement of these mines is indiscriminate.

Article 3(3) of the Land Mines Protocol prohibits the "indiscriminate" use of land mines, which is defined as any placement of such weapons:

- (a) which is not on, or directed at, a military objective; or
- (b) which employs a method or means of delivery which cannot be directed at a specific military objective; or
- (c) which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.

The placement of mines near civilian concentrations without proper warning or notice being given is also forbidden. Article 4(2) of the Land Mines Protocol prohibits the use of mines which are "not remotely delivered" in:

any city, town, village or other area containing a similar concentration of civilians in which combat between ground forces is not taking place or does not appear to be imminent, unless either:

- (a) they are placed on or in the close vicinity of a military objective belonging to or under the control of an adverse party, or
- (b) measures are taken to protect civilians from their effects, for example, the posting of warning signs, the posting of sentries, the issue of warnings or the provision of fences.

Refugees describe mining practices that directly contradict these rules.

Refugees from Nangarhar province near Jalalabad said that when DRA troops came through they left behind mines on roads and paths travelled by the villagers. These are buried or hidden contact mines. Hayat Khan showed his left foot, which he said he injured stepping on such a mine near the side of the road in 1984. He was not a mujahed. (He was taken to Pakistan for treatment.)

Many civilians have been killed and injured by such mines, he said. The Soviet/DRA forces have never left any warnings about the mines.

There are other types of mines reported by the refugees that are dropped from the air. Some were dropped as recently as September 1987. Usually these mines are dropped in a plastic bag that breaks open and scatters them around. Visible in the daylight, some look like the beetles that fly at night, others like pens, others like watches or currency. (Interviews by Helsinki Watch/Asia Watch on October 3, 1987, in unregistered refugee camp near Sadda, Kurram Agency, NWFP, Pakistan)

Some mines appear to have been deliberately or carelessly placed in or near civilian houses. A doctor treated a woman in the Panjsher Valley in late 1986 who was injured by a mine inside a flour bin in her kitchen; she lost her hand when she reached inside the bin for flour to bake bread.

Another woman told how her sister was killed and she was left with a distended left hand after being injured in a mining incident in 1985, which took place very near their house in Khughiani district of Nangarhar province in eastern Afghanistan. The woman said that she and her sister were collecting earth to put on the roof of the house to protect it from the rain. Digging into the sand, close to her house, they accidentally detonated a buried explosive device that she believes was a mine. Her sister was killed by the force of the blast, and she was left unconscious with a broken leg and hand; she did not receive immediate medical treatment and her hand and arm never mended properly. The Soviet/DRA troops had passed through the village and in front of her house (the family was in hiding) three days before the mine blast, and apparently left

this mine at that time. (Interview by Helsinki Watch/Asia Watch on October 6, 1987, in Peshawar, Pakistan)

The ubiquity of the mines inevitably leads to accidents even when those finding them know that they are mines. This is particularly true in the case of children, for whom the mine is an attractive toy.

A young medic in Baghlan told how he treated several children injured by mines in about April or May 1987. Coincidentally, on the same day in another village, a similar incident injured and killed another group of children playing with a mine.

In the first village [Shaikhan of Khost-o-Fering district, Baghlan], six boys were brought to his clinic for treatment. They said that one had found a mine (they knew it was a mine) and wanted to open it to show it off to his friends. A group of boys gathered around to see. Two were killed by the explosion and six were injured. Two were sent to a mujahedin clinic that had a doctor and suffered amputations there; the rest were sent on to a hospital in the city of Pol-e Khumri and some were amputated there.

In the second village, the survivor of seven boys playing with mines was treated in another clinic. They had found several mines and when one exploded, the others were set off as well. (Interview by Helsinki Watch/Asia Watch in Peshawar, Pakistan, on October 1, 1987)

An old, white-haired shepherd in the ICRC hospital in Quetta is a tragic example of the inevitable consequence of littering the countryside with mines, without warning to illiterate peasants who have no real idea of the lethal effects of these objects.

In July 1987 this elderly shepherd picked up a device in the Arghandab valley north of Kandahar. He did not know what it was. He wanted to make it into a bottle, he later told the nurse. He hit it with a stone and then hit it against the trunk of a tree, and it exploded.

He was blinded in both eyes. His right arm and his left leg were amputated. He has no family. (Interview by Helsinki Watch/Asia Watch with patient and doctor on October 8, 1987)

Booby Traps

Article 6(1)(a) of the Land Mines Protocol proscribes in all circumstances the use of "any booby-trap in the form of an apparently harmless portable object which is specifically designed and constructed to contain explosive material and to detonate when it is disturbed or approached."

Nevertheless, booby traps continue to be used by the Soviet/DRA forces.

Sher Mohammad, mujahedin commander from Laghman province, was the victim of an Afghan government letter bomb on August 1, 1987. He lost most of his left hand (except for the little finger) and all of his right hand.

This commander told Helsinki Watch/Asia Watch (on September 29, 1987, in Peshawar, Pakistan) that he had received letters from the Afghan (DRA) Army before. Earlier that year, his forces had been attacking the provincial capital nearby, and putting pressure on the Soviet and DRA troops. When the Soviet troops pulled out for Jalalabad, the local commander of the DRA wrote to this mujahedin commander and asked that the mujahedin refrain from attacking the DRA, since the Russians had left and the DRA, being Afghans, were brother Muslims.

Commander Sher Mohammad said that he replied, also by letter, that as long as the Communists were in Afghanistan, he would carry on the *jihad* against them.

The DRA commander sent a letter in reply. It was handed to the mujahedin commander by an unsuspecting villager at a location outside the mujahedin base. Commander Sher Mohammad said that it was an ordinary envelope, not heavy, and he was not suspicious.

When he opened it, it exploded, maiming him and inflicting eye and chest wounds on the villager who had sat down next to him.

Article 6(1)(a) of the Land Mines Protocol proscribing in all circumstances the use of "any booby-trap in the form of an apparently harmless portable object which is specifically designed and constructed to contain ex-

plosive material and to detonate when it is disturbed or approached" also applies to the butterfly mines, which to most children, at least, are apparently harmless portable objects.

The "toy bombs" would be included as well in this prohibition of booby traps.

Refugees from Kunduz told Helsinki Watch/Asia Watch on October 1, 1987, that during some bombing near their village, the Soviet/DRA troops used to drop from planes what the refugees called "toy bombs," which they described as objects that looked like pens or matchboxes or wristwatches or whistles. The last of these were dropped two years ago, in the outskirts of town. Many of the mines were dropped around the mujahedin base and where the animals grazed; they were not found in the village. The Russians used the big bombs for the village, the refugees explained.

They said that the victims of the small mines dropped from planes were mostly young boys herding sheep or the sheep themselves. The boys would pick them up or step on them, not knowing their lethal effects. There were no Soviet/DRA mines planted (by hand) around the village.

For a discussion of the treatment of prisoners of war by the Soviet/DRA forces, see Part Two.

Violations of the Laws of War by the Afghan Resistance

Indiscriminate Fire: Shooting Down Planes With Civilians Aboard

The provisions of the Geneva Conventions that forbid indiscriminate use of artillery against civilians apply equally to the mujahedin.

In late 1986 the Afghan resistance received the first shipments of Stingers, high-technology antiaircraft weapons sent to the opposition forces by the United States as part of its substantial aid package. Since then they have been shooting down enemy aircraft with regularity. The use of Stingers has deterred the use of low-flying DRA and Soviet aircraft and thus made it more difficult for the Afghan government to continue a high-intensity air war.

According to Radio Kabul, the mujahedin used a Stinger to shoot down a transport plane in mid-June 1987, killing at least 53 people, including 16 children, 10 women, and the crew. Two passengers survived. The plane, a Soviet-made Antonov-26 of Bakhtar Alwatana, Afghanistan's domestic carrier, was on a domestic flight to Kabul. The Antonov-26 is a short-range transport frequently used in Afghanistan for ferrying troops.

Helsinki Watch/Asia Watch was not able to verify whether or not this plane had military markings. Where civilians have been killed, however, the burden is upon those causing the deaths to demonstrate they they observed restraint and took all precautions necessary to avoid civilian casualties.

On February 9, 1987, another Afghan transport plane was hit, killing 43 people. The DRA said they were civilians but the mujahedin who admitted shooting down the plane said it was full of soldiers. The plane, later displayed to journalists, had military camouflage markings. According to *The New York Times*, May 8, 1987:

Western diplomats contend that the planes were carrying military personnel and cargo, although some concede that the planes may well have been carrying civilians who had no other means of getting through the area because of the fighting.

Political Assassinations and Targeting of Civilians

Like most guerrilla armies, the mujahedin have a practice of targeting government officials or persons supporting the government for assassination. The targeting of nonmilitary government officials or others is a violation of common article 3 of the Geneva Conventions.

In its 1984 report on Afghanistan, Helsinki Watch listed instances of attacks on civilians by the opposition forces.*

Edward Girardet, in *Afghanistan: the Soviet War* (p. 73), also notes:

At the same time [by the end of the summer of 1982], special hit squads regularly assassinated government officials or well-known personalities collaborating with the Russians. The killers would then disappear into the bazaars or side streets on the backs of motorcycles or in stolen yellow taxis. In March 1982, for example, guerrillas ambushed and killed Abdur Rahman, president of Kabul University. Fake accidents were staged in the streets of Kabul; when the police arrived on the scene, hidden mujahideen raked them with bullets. Afghan communists found themselves living in constant fear of being killed or kidnapped. ...

Although vehicles can travel out of convoy, partisans normally stop them once they are out of the cities to check for communist collaborators. Armed resistance supporters also conduct similar operations in the towns, normally in the suburbs. If a communist is found, he is taken off the bus, killed, kidnapped, or, if he is lucky, forced to pay a fine.

The shelling by the resistance forces of Microrayon in Kabul is another violation of common article 3 to the Geneva Conventions. Microrayon is the

* See *Tears, Blood and Cries*, pp. 207-210.

Russian section of Kabul, limited to Russian advisers and their families and to Afghan Communist party officials, according to Jan Goodwin.* She quotes her conversation with a mujahed fighter on their deliberate targeting of this residential complex:

"And as the city becomes more crowded with refugees, we are faced with a moral dilemma of bombing civilians. We try to hit military areas, but without the firing tubes, the rockets aren't always accurate. But I don't hesitate to bomb Microrayon. The Russians have to understand if our children can be killed, theirs can be, too."**

This targeting of persons not taking part in the hostilities, such as the family members of government officials, is, of course, a violation of common article 3 to the Geneva Conventions.

Violations By The Hezb-e Islami (Hekmatyar) Party

The Hezb-e Islami party is part of the seven-party coalition and is led by Gulbuddin Hekmatyar. It is referred to as Hezb-e Islami (Hekmatyar) to distinguish it from Hezb-e Islami (Khales), a rival party that split off in 1976-77.

The Hezb-e Islami (Hekmatyar) party has been accused of serious violations of the rules of war, far more serious than violations by other parties in the Afghan resistance.

The Hezb-e Islami party structure was described by Olivier Roy:

... its approach to politics was that of a true party in the modern sense of the word: the development of a party machine and an overall strategy directed towards the conquest of power within the resistance movement. It regarded the Islamic revolution as being more important than the war and thought that the struggle against the Soviets could only be successfully carried

* Jan Goodwin, Caught in the Crossfire, New York: E.P. Dutton, 1987, p. 123.

** Ibid., p. 112.

out when the party had gained control over the resistance movement.*

Roy pointed out that:

Hekmatyar adopted a theory of the avant-garde party, homogeneous and disciplined, which was not far removed from that of Lenin.**

The Hezb-e Islami has earned enemies within the resistance, which may account for the many people who are willing to criticize it. Roy describes some of this factional fighting:

Thus, conflicts between the Hizb and the other parties date from the first year of the war. It was not a struggle between Islamists and moderates but between the Hizb and all other parties. At the beginning, the Hizb had a policy of great militancy, and its commandos were the first to leave their own territory to impose party authority on neighboring territories. The Hizb disarmed the other parties and would not tolerate their presence in its own territory. Its first goal was to control the civilian population, and being well organised it succeeded in setting up a solid and diversified administration. ... The elite members were visionaries, dogmatic, and living their whole life for the party and devoted to Hekmatyar. ...***

This intra-party fighting has been described by other authors as well, such as John Fullerton in 1983:

A decade and more of guerrilla warfare has hardened Hezb-e Islami in terms of military and ideological discipline. ... But during the past 18 months the party's guerillas have clashed in several provinces with rival partisans. Initially the target was Harakat. Occasional battles in Helmand Province reportedly resulted in more than 700 casualties.

* Oliver Roy, *Islam and Resistance in Afghanistan*, Cambridge University Press, 1986, p. 133.

** *Ibid.*, p. 78.

*** *Ibid.*, p. 133.

During the course of 1982 Hezb-e Islami turned its weapons on Jamiat-i-Islami groups. Takhar, Baghlan and Badakhshan were among northern provinces affected by internecine conflict. During the winter of 1982/83 the Jamiat-i-Islami [resistance party] stronghold of Panjsher Valley was all but isolated, primarily by Hezb men blocking the Andarab route of access.*

Although in general the mujahedin are considered to have respectful relations with the civilian population, which accounts in part for the support they enjoy, the Hezb-e Islami party has been accused of using harsh methods with the civilian population. According to Fullerton:

Hekmatyar had no real base inside Afghanistan, save for his home town of Kunduz. These organisations would try to build up a following by promising lavish supplies of money and weapons. Their guerrillas were roving bands with little grass roots support among the civilians. Their tactics were often counterproductive; they would in some instances extort *zakat* or *ushr*, the Islamic taxes, at gunpoint. This aroused considerable hostility, much in the same way as the Khalq's [Communist Party faction] radical and brutal reforms provoked a storm of opposition.**

Party spokesmen dismiss all accusations against them as "fabrications" or lies told by their enemies, including those in other political parties.

Detentions, Summary Executions and Disappearances

According to John Fullerton:

Hezb-e Islami maintains its own detention centres in and near Peshawar. So do other resistance groups, such as Jamiat-i-Islami and Harakat Inquilab-i-Islami. Hezb-e Islami concentrates on what it calls "leftists" and "Western imperialists." Small, independent Afghan resistance groups or political parties are particularly nervous of SAKHAR, acronym for the Organisation for the Service of Islam, in effect Gulbaddin's

* Fullerton, *op. cit.*, p. 69.

** *Ibid.*, p. 53.

private security and intelligence body which his critics say has its own surveillance and "hit" squads.

It is certainly true that Afghans have simply disappeared into thin air from Peshawar. One, married to an American citizen, was allegedly last seen alive when entering the Hezb-e Islami headquarters in Fakirabad. Well-informed political opponents of Gulbaddin Hekmatyar say several Afghans have been shot, sometimes after a mock trial. Others are simply locked up. To their credit, Pakistani police have raided two of these unofficial jails and released the inmates. Gulbaddin has spoken out publicly about "leftists" in NWFP and as far as many Pakistanis are concerned -- especially those who support the rightist Jamaat Islami Pakistan -- he and his bully-boys are a useful asset.

In the four months ending March 1983, some nine guerrilla commanders had been assassinated in Peshawar in mysterious circumstances. . . . One senior Jamiat-i-Islami guerrilla managed to escape his kidnapers by calling for help as he was repeatedly struck over the head. He crawled away from his assailants, blood streaming down his face, but he took their vehicle registration. It allegedly belonged to Hezb-e Islami.*

A knowledgeable source agreed with Fullerton, saying that in 1979-1983 Hezb-e Islami had terror squads roaming Peshawar, picking up suspected Afghan "leftists," bringing them in to their detention centers, torturing them, and killing them off. In 1983, the Pakistan government asserted control over the situation, and the use of detention centers for Afghans captured out of combat seemed to decline.

Another journalist made similar observations.

Now in his mid-30's, Hekmatyar has been accused of murdering in 1972 a certain Saidal Sokhandan, a supporter of the Maoist Sho'layi Jaweid (Eternal Flame) party, while a student and Young Muslim militant in Kabul. He spent more than a year in prison before fleeing to Pakistan where he joined the other anti-leftwing dissidents. Expressing both anti-American

* Ibid., p. 147.

and anti-Soviet views, Hekmatyar has constantly espoused pro-Muslim and anti-Israeli causes such as the Pan-Islamism of Colonel Qadaffi of Libya (from whom he has received both money and arms) or the Palestinian struggle. When the Israelis forced the PLO to quit Lebanon in the late summer of 1982, Hekmatyar proposed to send fighters to the Middle East to combat the 'Zionist menace.'

A man of few scruples, Hekmatyar has aroused violent antagonism among his fellow compatriots. He is regarded as ruthless, uncompromising and devious, or as one foreign observer noted 'dictatorship material at its worst', and is often accused of trying to establish his own hegemony at the expense of the Afghan resistance. The Hezb has been associated with the assassination of scores of political adversaries in Pakistan and Afghanistan and is known to operate its own jails, where kidnapped mujahed opponents have been tortured and killed. While the other parties operate detention centres, they are normally reserved for Afghan communist or Soviet prisoners and not guerrilla antagonists.*

Two independent and reliable sources told Helsinki Watch/Asia Watch that in mid-1987 the Hezb-e Islami party had tricked between 24 and 50 suspected "leftists" or dissidents into a bus and then kidnapped them. Some were killed, some were released and others were held as prisoners in a refugee camp near Peshawar.

Apparently alerted by some of the families of the detained, the Pakistani police arrived to free those held captive. The Hezb-e Islami party members forcibly resisted the police, reportedly killing and wounding several police in the incident. About seven of the prisoners were eventually freed as a result of the police intervention, although it is believed that a few were killed in the shootout. No report of this was carried in the press, and the Pakistani authorities deny that they have detected any jails run by mujahedin in Pakistan this year.

* Edward Girardet, *Afghanistan: the Soviet War*, New York: St. Martins Press, 1985, p. 170.

In September 1986, a French citizen, Thierry Niquet, 27, representing two French assistance organizations, left Pakistan under escort of Hezb-e Islami (Hekmatyar) mujahedin, according to representatives of the French group interviewed on October 7, 1987, in Peshawar, Pakistan. He was carrying a large sum of money, intended to be spent on development projects in the Mazar-e Sharif area of north Afghanistan.

Weeks went by and his French compatriots in Peshawar received no word from him. Inquiries made to Hezb-e Islami resulted in the information that he was returning soon; every two weeks this was predicted. In the meantime, none of the foreigners traveling with mujahedin in the north and east had seen him or heard of him, which was considered unusual.

Finally, in June 1987, Hezb-e Islami informed the French group that he had been killed in a Soviet ambush in November 1986. No independent source, however, reported a Soviet ambush in the area or near the dates that Hezb claimed it occurred.

Torture and Prison Conditions

The BBC film on the mujahedin that aired in Europe in late 1986 and early 1987 contained a scene in which mujahedin belonging to the Hezb-e Islami (Hekmatyar) party displayed a prisoner with chains on his neck. They said that he could not be executed until he confessed, according to the Koran, and that he had refused to speak since his capture. In the film, about six mujahedin roughly bounced him around, slapping him with a sandal on the head, sitting him down, and trying to force him to open his eyes, to demonstrate that he refused to talk.

They said that they broke his knees, but he still would not confess. They had cut the soles of his feet to prevent his escape.

Spokesmen for Hezb, questioned on this film, said that it was a total fabrication, that the persons featured in it were agents of the Kabul regime and that the incidents pictured never took place.

This incident was the subject of a newspaper article quoted in Helsinki Watch/Asia Watch, *To Die in Afghanistan*, p. 94.

Others have received reports of cruel treatment, including executions, by this group. Jan Goodwin reported:

Occasional accounts still surface of POWs being treated less than humanely, particularly by Gulbuddin Hekmatyar's group Hezb-e Islami, whose prisoners have been reportedly chained up in caves, tortured, and then executed.*

Taking Hostages

Common article 3 (1) (b) to the Geneva Conventions specifically prohibits, at any time and in any place whatsoever, "taking of hostages" of persons taking no active part in the hostilities.

In late September 1987, the Hezb-e Islami (Hekmatyar) party mujahedin ambushed and captured a French medical team, including two French doctors, that was en route to the north of Afghanistan escorted by the Jamiat party. (Foreign medical and assistance groups serving the mujahedin-dominated areas of Afghanistan almost always enter the country under escort by one of the armed groups.)

The convoy was carrying three and a half tons of medicine and a considerable sum of money, intended to serve as a year's supply for two hospitals the French team was operating for the benefit of mujahedin and civilians in the Badakhshan province of northeastern Afghanistan. The doctors were going to relieve the team that had been in the location for a year.

Negotiations took place with the Hezb-e Islami and the French were successful in obtaining the release of the medical personnel about two weeks after their capture. According to the *Los Angeles Times*, February 10, 1988, \$70,000 worth of medicines was confiscated. The newspaper also reported the interception of two other French aid missions in October and December 1987, and the confiscation of more than \$100,000 worth of Afghan currency in one of the incidents.

* Goodwin, *op. cit.*, p. 193.

This is not the first reported incident of ambush and kidnapping of medical personnel by the Hezb-e Islami. The French medical organization had suffered a kidnapping of two doctors a few years before.*

Violation of Duty to Care for Wounded

Common article 3(2) also requires that the "wounded and sick shall be collected and cared for."

Edward Girardet, writes:

In one incident that I witnessed, Hezb fighters apprehended four Jamiat guerrillas carrying a severely wounded comrade to the French-run hospital in Panjshir and, after taking their arms, held them for two days.

Because of the delay, the wounded man died.**

For a discussion of the treatment of prisoners of war by resistance groups, see Part Two.

* Girardet, *op. cit.*, p. 170.

** *Ibid.*, p. 170.

PART TWO

Prisoners of War and Prisoners

PART TWO

Prisoners of War and Prisoners

One of the most serious human rights problems in the Afghan conflict is the treatment of prisoners of war and political prisoners by both sides to the conflict.

Both the DRA/Soviet forces and the mujahedin have displayed a sometimes callous disregard for the lives and well-being of their prisoners. Reports of torture, harsh treatment, and inhuman conditions of confinement are common, especially with regard to those imprisoned by the DRA. The opposition forces have conducted summary executions of "Communists" and "infidels."

The International Committee of the Red Cross (ICRC) has been severely thwarted from playing its traditional role of protecting prisoners of war and those detained for security reasons. Because of the widespread nature of the abuses, ICRC intervention is greatly needed. The DRA government has refused to permit the ICRC free access to Afghan territory in order to visit prisoners of war. The resistance forces, on the whole, have also been reluctant to permit such visits. We urge the DRA to permit access by the ICRC to all prisoners and the resistance to facilitate such visits. We urge both the DRA and the opposition forces to recognize their obligation to treat prisoners humanely.

The Role of the ICRC

The ICRC visits detainees in many on-going conflicts around the world, with the consent of the government or opposition forces holding the detainees. It seeks to protect prisoners by interviewing them in private in their place of detention, and following up with other visits and with a private report to the detaining power detailing abuses (while preserving the prisoners' request for confidentiality) and making suggestions for improvements. Those visited are prisoners of war and political or security prisoners.

Most Afghan prisoners, however, both those held by the government and those held by the opposition, have not had the benefit of this program.

Early Approaches

At first it appeared that the government of Afghanistan would recognize the mission of the ICRC. After the USSR invasion of Afghanistan in December 1979, the accession of President Babrak Karmal and intensified fighting by the opposition forces, the ICRC offer of assistance to the government was accepted by President Karmal.* He assured the ICRC in January 1980 that it could periodically visit political prisoners and prisoners of war without witnesses.

At that time as well, the DRA gave its formal assurance that it would respect the principles of the Geneva Conventions of 1949 and abide by its

* ICRC Annual Report 1979, p. 49.

provisions in common article 3 regarding the conduct of noninternational armed conflicts. The government said that it held 57 political prisoners and no prisoners of war.* The first ICRC prison visits were on February 6 and 7, 1980, at Pol-e Charkhi prison, where delegates interviewed 42 political detainees. ** On April 12 and 13, 1980, in visits to the same prison by a delegate and a doctor, 385 political and security detainees were seen. The government agreed in principle that the ICRC could visit other prisons.***

Repeated attempts to go beyond these first visits were frustrated, however, and on June 15, 1980, the ICRC delegates were refused permission to stay in Kabul. The government refused to receive a high level delegation to iron out the problems.**** In early 1980, the ICRC also sought agreement from resistance forces to visit their prisoners of war, or organize their internment in neutral countries, with no concrete results. The USSR was also approached because of the presence of Soviet troops in Afghanistan. The Soviet authorities replied that their troops did not participate in combat. +

By the end of 1980, the ICRC was forced to admit that all approaches to all parties engaged in the Afghan conflict were in vain, which it termed a serious setback for the humanitarian cause. + +

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- * ICRC press release, February 6, 1980.
 - ** ICRC Bulletin no. 50, March 5, 1980.
 - *** ICRC Bulletin no. 52, May 7, 1980.
 - **** ICRC Bulletin No. 57, October 1, 1980.
 - + ICRC 1980 Annual Report.
 - + + ICRC Bulletin no. 60, January 7, 1981.

The ICRC and the Afghan Resistance

The Afghan resistance groups became more cooperative in 1981. On February 14, 1981, with Pakistan's permission, the ICRC visited a Soviet prisoner of the mujahedin on Pakistan territory.* In August 1981, the ICRC visited 100 prisoners of war held by one of the resistance groups in Pakistan. The ICRC was permitted to list names of those visited in this one-time, informal visit.** The Soviet prisoner held on Pakistan territory was later handed over to the Soviet consul in Pakistan, in a transaction described by Edward Girardet in *Afghanistan: the Soviet War*.

The issue [of POWs] finally came to the fore in the summer of 1981, almost eighteen months after the Soviet invasion, with the capture of Mikhail Semyonovich Gorchniski, a 34-year-old Ukrainian fighter pilot from Kiev whose MIG was shot down over Nangrahar province by Hezb-e-Islami (Khaless faction) forces. The incident represented the first documented case of a Soviet prisoner to be taken, and kept alive, by the mujahideen.

Until then, as far as could be determined, all captured non-Muslim Soviet personnel had been executed on the traditional 'eye for an eye, tooth for a tooth' basis. Apart from having to deal with irate villagers eager for revenge, most Afghan resistance commanders simply did not have the means or the food to intern captives. Not surprisingly, many were ignorant of the Geneva Conventions and few could see the point in keeping the 'Shouravi' alive. After all, this was war and there was no point in being kind to one's enemy. Furthermore, for the mujahed, killing a 'Kafir' means becoming a 'Ghazi, a hero.

... Gorchniski's capture finally prompted the Russians to make a formal request to the ICRC for assistance in recovering captured personnel.

* ICRC 1981 Annual Report.

** ICRC 1981 Annual Report.

Gorchniski remained only a short time on Afghan territory. The mujahideen smuggled him into Pakistan where he was kept in a clandestine resistance 'safe' house in Peshawar. Aware of the political capital that could be made, Khales had decided to display his man to the international press. Not only would this publicly disprove Moscow's claims that Soviet troops were not actively involved in the fighting, but media exposure would draw attention to the Afghan cause.

For the sensitive Islamabad regime, a Soviet prisoner on Pakistani soil was the last thing it wanted and it pressured the Afghans into handing him over. Discreetly, the Pakistanis in turn passed him over to the Soviet embassy, which promptly bundled him back to the USSR. The mujahideen were furious. The move offered them little incentive to keep their prisoners alive, if they were simply going to be returned to the Russians.*

Agreement was reached in 1982 for transfer to the ICRC of Soviet prisoners held by the mujahedin for internment in Switzerland under the responsibility of the Swiss authorities.** Under this procedure, the ICRC would inform Soviet prisoners to which it had access of the possibility of transport to Switzerland for two years internment prior to their repatriation to the USSR. Interviews with the prisoners were held in private and no transfer was made unless the prisoners consented.***

The first transfer of three Soviet prisoners was made on May 28, 1982; by April 1984, eight others had arrived, bringing the total to eleven. No Soviet prisoners were turned over after 1984.****

* Girardet, *op. cit.*, pp. 227-228.

** ICRC 1982 Annual Report, p. 40.

*** See ICRC Press Release no. 1488, May 20, 1984.

**** See Helsinki Watch/Asia Watch, *To Die in Afghanistan*, p. 174-180.

In 1983, the ICRC conducted interviews without witnesses with several Soviet prisoners held by the resistance.

In 1984, the end of the two year period came due for several internees in Switzerland: five sought repatriation to the USSR, and two wished to stay in Switzerland.*

In 1985, another Soviet internee became eligible for release from internment, and chose to return to the USSR.** The two remaining Soviet internees in Switzerland returned to the USSR in February and March 1986.*** Critics of the program claim that the Soviet consul was permitted access to the internees in Switzerland, and that they were pressured to return home and threatened with reprisals against their families still in the USSR.

This ICRC transfer program failed because the mujahedin stopped turning over Soviet prisoners to the ICRC. This was not because of the eventual repatriation of the prisoners to the USSR (the program died long before the first one was repatriated), but because there was no reciprocity. The mujahedin had expected that, in exchange for handing over Soviet prisoners to the ICRC, the Kabul government would permit the ICRC to have access to captured mujahedin.**** The refusal of the Kabul government to participate in the transfer program made the resistance suspicious of the ICRC and virtually ended any access by the ICRC to resistance-held prisoners.

In May 1986, ICRC delegates visited 106 Afghan army prisoners detained at the border under commander Jallaluddin Haqqani of the Hezb-e Islami (Khaless) party. In August and September 1986, some of these prisoners were visited for the second time and new prisoners were interviewed without witnesses and registered. The prisoners sent 14 messages to their families. +

* ICRC 1984 Annual Report, p. 46.

** ICRC 1985 Annual Report, p. 50.

*** ICRC 1986 Annual Report, p. 50.

**** Helsinki Watch/Asia Watch, To Die in Afghanistan, pp. 89-92.

+ See ICRC 1986 Annual Report, p. 50.

This mujahedin base is one of the most accessible, being right at the border. The DRA protested sharply about the ICRC visit.

In April 1987, the ICRC was present when many of the prisoners held by commander Haqqani were released, and recorded the names of the 93 released. At the same time, it was able to interview and register 38 new prisoners held by the same commander. Further such visits are anticipated.

The ICRC and the DRA

The ICRC continued to press the Soviets and the DRA government for access to prisoners. On June 14, 1982, agreement with the Afghan government and the ICRC was reached in principal for the ICRC to resume its protection activities for prisoners of war and detainees. Between August 25 and September 9, ICRC delegates visited Block 1 of Pol-e Charkhi prison and had access to 338 convicts, speaking alone to 66 of them.* Prisoners then in Pol-e Charkhi later told Helsinki Watch/Asia Watch that prisoners had been moved around and the prison "prepared" for this visit to Block 1.**

In September 1982, the DRA asked the delegates to interrupt this prison visit and leave the country for the time being.***

Talks were finally renewed in April 1986. Finally, in February 1987, negotiations with the DRA yielded some success: the ICRC announced that it would be permitted to resume its activities in Afghanistan.

ICRC prison visits began on March 4, 1987, at Pol-e Charkhi prison near Kabul. The announcement of the visits coincided with the opening of a new round of indirect talks between Afghanistan and Pakistan.

At the same time, the DRA announced that it would permit, for the first time, a visit to Afghanistan by the United Nations Special Rapporteur on Afghanistan, Dr. Felix Ermacora. All prior requests for entry by Dr. Ermacora

* ICRC 1982 Annual Report, p. 40.

** Helsinki Watch/Asia Watch, Tears, Blood and Cries, pp. 174-175.

*** ICRC Press Release no. 1452, October 9, 1982.

had been refused. However, shortly after these tentative steps forward, the Afghan government once more withdrew from its commitments to the ICRC, and would not permit the ICRC to complete the March 1987 visit according to its modalities, which include having a list of prisoners to make followup possible, and being permitted to speak in private with the prisoners. The ICRC then withdrew from the prison and discontinued its visit.

Although the ICRC was allowed no further protection activities in Afghanistan, it was permitted to provide some types of medical assistance to victims of the conflict.

UN Special Rapporteur Professor Felix Ermacora, visiting Afghanistan for 10 days ending August 8, 1987, was permitted to visit places of detention and interrogation centers, including the Pol-e Charkhi prison and Sedarat interrogation center. Although we welcome the decision of the DRA to permit the United Nations Special Rapporteur to visit detention and interrogation locations, we note that the on-going and repeated requests of Helsinki Watch/Asia Watch to visit Afghanistan have been ignored. Moreover, one-time visits by human rights representatives cannot replace periodic visits under the ICRC's internationally-recognized prisoner protection program.

The summary execution and physical abuse of prisoners by both sides to the conflict (see below) makes it imperative that the Afghan governments and the mujahedin reverse their policies and respect the lives and well being of their prisoners. The ICRC must be permitted full access to all prisoners at once.

Violations by the DRA/Soviet Forces

Summary Executions and Death Sentences

Summary execution of captured mujahedin or any other prisoner is forbidden by common article 3 to the Geneva Conventions.

the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons [persons . . . members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause]

(a) violence to life and person, in particular murder of all kinds, . . .

....
(d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

In its 1984 report, *Tears, Blood and Cries*, Helsinki Watch detailed many accounts of DRA/Soviet killing of prisoners, based in part on testimony of some defecting soldiers*:

Former Soviet Army Pvt. Nikolai Ryzhkov, when asked how Soviet forces treated Afghan prisoners, replied "They destroy [*unichtozhayut*] them." [Public meeting in New Haven, Connecticut, February 27, 1984.]

Former Soviet Army Pvt. Garik Muradovich Dzhambekov witnessed the following incident in February 1982, while he was stationed with a company of the 121st brigade, headquartered in Mazar-e Sharif, at a post on the road between

* *Tears, Blood and Cries*, pp. 171-174.

Rabatak and Samangan in Samangan province in northern Afghanistan: "Three Afghan trucks were coming with dried fruit toward Mazar-e Sharif. Our commander, Captain Rudenko, from Zhdanov in Donbas, Ukraine, and some soldiers stopped those trucks and asked for a report. The truck driver, who was a spy, said, 'There are 12 Afghans standing by the road, 2 of them with weapons, 10 of them without arms. They stopped the trucks, and they asked to go to Samangan.' Capt. Rudenko took some APC's, went toward Rabatak, and captured those 12 Afghans. He brought them back close to the garrison. Capt. Rudenko was drunk. It was about 4 or 5 o'clock in the afternoon. They took their weapons and ammunition, searched them and took some knives, everything they had. Then they tied them up, laid them down in the road, and Capt. Rudenko gave the order to drive the APC's over them. I saw the vehicles coming back all covered with blood. Once they kill them, they are just meat, and they left them for the jackals to come at night. They just cleared them off of the road and dropped the bodies beside the road. At 9 o'clock the commander was even more drunk, and he went back again. He cut off the head of one body, a mullah with a long beard. He brought the head back and said, 'Look, I've brought some fish.' He gave it to one of the soldiers with some gasoline. The whole night they were pouring gasoline on the head and burning it, and in the morning it was just ash." [Interview in Peshawar, September 21, 1984.]

Former Soviet Army Private Vladislav Naumov had just finished repairing two combat vehicles in a post on the Kabul-Jalalabad road in May 1983, when he heard some cursing: "Two soldiers were chasing a man whose hands were tied. The man's face was swollen, there were fresh scratches, his mouth was bleeding. They brought the Afghan prisoner to the tanks and forced him to his knees. 'Well, what shall we do with him?' Two noncommissioned officers had arrived. They were drunk. One of them looked at the Afghan and said with a wicked smile, 'This beast is unworthy of prison. He must be shot.' 'No,' mumbled the second one, 'He should be hung upside down in the sun. Then he'll realize who he attacked.' But then a lieutenant arrived. The soldiers reported they had ar-

rested a *'dushman.'* 'Good,' said the officer. 'We'll settle accounts. Shoot him. Bring an automatic rifle.' The Afghan understood what was about to happen, and he started to say something in his language, but no one listened to him. We were all around, waiting to see what would happen. One of the soldiers came back and said that all the rifles were locked up. 'Too bad,' said the officer. 'We'll have to manage without bullets. Bring him over to the cannon.' The officer climbed up on the turret. The soldiers stuck the tied hands of the Afghan into the barrel of the gun. 'Move aside,' hollered the officer. 'Fire.' When the smoke dissipated, there was no trace of the Afghan. Everyone left. I was waiting in line for tea to eat with my porridge, when suddenly a sergeant next to me started yelling, 'Go away, you filthy beast!' I didn't understand right away. Then I saw a dog with a piece of meat in his mouth. It was the arm of the man we had just killed." (*Le Monde*, June 3-4, 1984)

Former Army Sgt. Igor Rykov testified: "We did not take any prisoners of war. None. Generally we killed them on the spot. As soon as we caught them, the officers ordered us to slaughter them. I'll tell you one story. Lt. Gevorkian was the commander of my unit. When I arrived, he had already been in Afghanistan for a year. He told us that he had seen a lot, and that now he had become like ice, he had learned to kill absolutely anyone, and he had to teach the same to the soldiers. One day he brought in a boy, an Afghan kid about 14 years old. He told us that the boy was certainly a *dushman*; he had tried to run away when he saw the soldiers. There was one soldier in our unit, Oleg Sotnik, who could not stand the sight of blood. Then Gevorkian took out a sort of bayonet — it had been mounted on a carbine; it looked like a dagger, and Gevorkian always carried it. He gave this knife to Sotnik and told him to kill the boy. Sotnik's face was unbelievable. He was planted to the ground, shaking all over his body. The boy was sitting peacefully on the ground. Finally Sotnik got control of himself, went up to the boy, and stuck the knife in his chest. The boy started to shriek, and he grabbed onto Sotnik's hands. Then Gevorkian started yelling, 'You idiot! What do you think you're doing? Watch how it should be done!' He

pulled out the knife, kicked the boy in the face, and when the boy fell backwards from the kick, he stuck the knife in his throat, once, twice. We were all around watching, but no one said anything." (*Le Monde*, June 3-4, 1984)

Kefayatullah, a farmer from the Kohistan region of Kapisa province, described what happened after a Soviet-Afghan offensive in his region two and a half years ago: "The Russians came with a few Parchamis. They took authority and captured people. Those who escaped attacked them again. The Russians took more prisoners. The people who didn't surrender to them they took to the bank of the river and shot." [Interview with Helsinki Watch in Peshawar, September 23, 1984.]

Tur Abbas, a 22-year-old farmer from Keraman in the Panjsher Valley, had spoken to a boy who had just come from Panjsher with this story: "Last spring [1984, during the seventh offensive in Panjsher] the Russians landed paratroops in Keraman. The mujahedin fought as long as they could, but they ran out of ammunition. Most of them were killed. About 10 were caught by the Russians. They put them in a line and tied some kind of electric bombs to their bodies and blew them up." [Interview with Helsinki Watch in Peshawar, September 27, 1984.]

There is reason to believe that such behavior continues. Amnesty International in its 1986 Annual Report* stated:

Amnesty International received reports of extrajudicial executions in a number of provinces during 1985 by Soviet troops supported by Afghan military personnel. Some of the reported victims were armed opponents of the government who had been detained, but many others were apparently suspected only of sympathizing with armed opposition groups, or allegedly killed in reprisal for attacks on government forces or to intimidate the local population. ...

Amnesty International was unable to determine how many people were executed in Afghanistan. The official Afghan news media reported 40 death sentences imposed by Special

* Amnesty International 1986 Annual Report, pp. 205, 207-208.

Revolutionary Tribunals. Almost all the accused were said to be members of particular armed opposition groups and to have made confessions. ...

Amnesty International remained concerned that the officially reported death sentences were all handed down by Special Revolutionary Tribunals against whose decisions there was no right of appeal to a higher tribunal, in violation of Article 14(5) of the International Covenant on Civil and Political Rights.

Torture and Harsh Prison Conditions

Common article 3 to the Geneva Conventions, signed and ratified by Afghanistan, forbids torture, cruel treatment, and outrages upon personal dignity. These provisions are not respected in many cases by the DRA. Reports of torture and mistreatment are widespread, directed against prisoners of war as well as civilians arrested by the government.

Included in the forms of physical torture and cruel treatment are electric shock, near strangulation, beatings, kickings, biting, hair pulling, food and water and sleep deprivation, prolonged standing, and exposure to the elements.

There are also reports of psychological torture and humiliating and degrading treatment, such as being forced to watch executions and torture of other prisoners, being forced to disrobe in front of others, verbal abuse and threats, as well as confinement in dark, small cells, overcrowding and unsanitary conditions.

In 1987, Helsinki Watch/Asia Watch interviewed a wounded mujahed who described how he had been tortured:

The young Uzbek mujahed said that he was tortured while recovering from a serious wound in jail. He was later released and drafted into the army, where he was again tortured for trying to escape.

This mujahed, age 22, was severely wounded in combat in 1984 and evacuated to a government hospital in Andkhui, Faryab province. A bullet had lodged near his heart.

He reported that after 18 days in the hospital, before he had fully recovered from surgery, he was removed to a KHAD in-

terrogation center in the same town, where he was held for three months and tortured. He was systematically beaten with a wooden stick, punched, and kicked. His hands were tied together with a wire, and he was deprived of sleep for four days and food for two days. He was forced to witness others being tortured. He was held in a small room, muddy and wet, with four other persons. The electric light was turned on during meals, but the rest of the time the prisoners were left in the dark.

He was then transferred to the main Faryab prison where his torture and interrogation continued. He was in a small cell with seven other people, with electric light at night, a small window, and little natural light.

In this prison he was interrogated for about an hour twice a week. He was slapped, punched and beaten with a wooden stick during interrogation. After the sessions, he was periodically forced to stand in the rain and snow outdoors for long periods of time.

He was not permitted to take sun outside the cell until he was sentenced, 17 months after his capture.

He said that while in this jail, he and about 300 other prisoners were forced to witness the execution of 32 other prisoners, mostly former mujahedin. Fourteen were from his district and he knew them; he recalled the names of three: Ismael Ishad, Abdul Jalil, and Sarwar, all from Andkhui, Faryab province.

In February 1987 he was released, conscripted and trained for two months. He was beaten as a form of military discipline during training.

He was then sent to Kandahar, where he spent three months, during a period of heavy fighting. He described the military base as a jail. In his unit of 25 persons, six had been jailed before being drafted. He was not trusted and never fought, but was given guard duty for two hours a day, during which time he was given a gun and patrolled under an officer's supervision.

The military authorities received a report that he was going to escape and interrogated and beat him with a wooden stick. He was kept in a small isolation cell for two days with very little

food, and then put back in uniform. Ten days later, he saw his chance and escaped during the day, by himself. (Interviewed in Peshawar, Pakistan, on October 6, 1987)

Another mujahed described torture by Soviets:

A Hazara mujahed, 32, said that while on leave at home, was captured when Soviet soldiers entered his house in Bamyan province at 4 am in January 1987. They found a mujahedin party identification card when his house was searched and took him away for interrogation. He described how he was beaten with fists and belts, kicked (doctors in Pakistan observed the sign of a boot mark months later), punched, and given electric shock three times. His chief torturers were Soviets. After 15 days, this torture and interrogation was finished. Later, he and other prisoners were forced to assist military operations (they were held at a base) by digging trenches, carrying ammunition boxes, and loading ground-to-ground missiles to be aimed at the prisoners' villages and anyone seen moving in the hills. They were given insufficient food. In July, the prisoner escaped. (Interview by Psychiatry Center for Afghans, October 3, 1987, made available to Helsinki Watch/Asia Watch)

Amnesty, Forced Recruitment and Recruitment of Prisoners

In January 1987, the government announced an amnesty for many political prisoners. Professor Ermacora, the U.N. Special Rapporteur who visited Afghanistan in July-August 1987, was told that there were 7,000 prisoner releases as a result of the January amnesty.

Although Helsinki Watch/Asia Watch was unable to verify any numbers, it was possible to talk with a refugee in Pakistan who said he was one of 100 mujahedin released from Herat jail in January 1987 as part of that amnesty. He was not drafted, as many amnestied prisoners were, and sought refuge in Pakistan.

Feroz Ardini, a young Tajik from Badghis, now 26, said that he was captured in 1982 in Herat province. A high school graduate, he was working in the cultural section of the Jamiat party distributing underground newspapers. He was intercepted on his way to pick up printed material. He and others

captured with him were taken to KHAD offices in Herat, where he spent six months in solitary in a small cell with no light and no bed. He says he was deprived of sleep and food, kicked, severely beaten, exposed to the elements, and subjected to electric shock.

At his trial, at which he had defense counsel who was permitted briefly to see his file, he was charged with burning mosques, killing people, burning theology schools, hospitals, and bridges. He denied the charges, but he was sentenced to seven years.

He was jailed in Herat, in extremely overcrowded conditions. He did not receive any visitors for the first six months, and after that received visitors only every three or four months.

He urged other prisoners not to watch the communist propaganda shown on TV nightly (6-12 pm) to the prisoners, and was put in a lockup for 10 days as punishment, in even more overcrowded conditions, with five prisoners piled on top of each other "like melons." He was also beaten severely as punishment. He was punished eight times in all during the time he was in jail.

He and 100 others were released from the Herat jail in January 1987 as part of the government's amnesty plan; they were not then conscripted. He says that 90 percent of those released were well-known mujahedin from all parties, some of whom were captured in combat. (Interview by Helsinki Watch/Asia Watch in Peshawar, Pakistan, on October 6, 1987)

Although governments in general retain the right to conscript soldiers from the civilian population, even against their will, complaints continue to arise not only about the involuntary nature of the conscription carried out by the government of Afghanistan, but about the harsh and arbitrary manner in which it is conducted and the difficult and degrading conditions in which draftees serve.

Villagers complain that DRA soldiers will arrive without notice in a village and capture all the young men who have not fled. Some are routed to jail after interrogation and torture; others are conscripted.

The most startling phenomenon of this year's forced recruitment efforts is that men are forcibly recruited from jail. Some who were serving prison sentences for opposition activities were apparently released prior to the completion of their prison terms — and drafted into the army of the government that jailed them. Such troops are not trusted, of course, and are often used to "shield" Soviet troops from gunfire.

This procedure is not the whim of a local official but part of a publicized national law, a desperate move intended to fill the ranks of the army. On April 26, 1987, the DRA announced a program of pardon for a number of prisoners who had served a certain portion of their sentences and who were eligible for service in the armed forces. The decree provided that the prisoners were to be mobilized into the armed forces on release.*

Helsinki Watch/Asia Watch also received accounts from former DRA conscripts who had been arrested, tortured and then immediately inducted into the army with no opportunity to notify their families. Not surprisingly, such conscripts escape from the army as soon as possible.

One testimony came from a pharmacy student who was jailed, tortured and then drafted:

A pharmacy student at Kabul University described how he was captured on his way to the campus by six KHAD agents in 1983, and not released from jail until early 1987. At a KHAD investigation center, where he spent the first three months, he was subjected to electric shock; blows to the knees (similar to the kind given to test reflexes); near strangulation with a rope around his neck tightened on either side by a guard, causing him to lose consciousness 10 or 12 times; biting and hair pulling. He was kept in solitary in a one-and-a-half by two-and-a-half-foot cell between these torture/interrogation sessions, fed irregularly, and slept on a plastic mat on the floor.

He said he was transferred to the Sedarat interrogation center, where he was held for two months, the first in solitary and the second in a small cell with eight other persons. There he

* Kabul Domestic Service in Dari, April 26, 1987, reprinted in FBIS (Foreign Broadcast Information Service) on April 27, 1987.

was subjected to sleep interruption. He received electric shock and was beaten and kicked during interrogation sessions.

The pharmacy student was then moved to Pol-e Charkhi Prison, where his interrogation continued for seven months, after which he was tried and sentenced to six years for distributing underground leaflets (night letters). After sentencing, he was taken to a cell meant for one person where six were kept. He was there for two years, sleeping on a foam mattress.

After his trial a year after his capture, he was allowed to receive his first visitor; visits were permitted every five or six months, but not on a regular schedule. Other prisoners were sometimes permitted more frequent visits.

During each 24-hour period, those in his cell received one hour in the sun. Otherwise, they were locked in the tiny cell, which lacked a toilet.

After two years there, he was switched to a large gallery intended for 100 persons, where 300 were housed. There were only two toilets there; even during an outbreak of diarrhea (from bad or perhaps deliberately contaminated food), the prisoners were only able to get to the toilet every three hours, causing a disaster. In general the food was very little, consisting usually of weak vegetable soup or boiled potato water.

Those teaching religion to fellow inmates were considered to be engaged in political activity and punished by beatings and being deprived of visits.

He was switched to other galleries about eight times, as a psychological punishment and to keep prisoners from forming alliances and friendships.

He was released pursuant to a program for releasing those eligible for the draft who had served a minimum time. He was immediately conscripted and was not allowed to go home before having to report for duty. He received military training, but was under guard during this period, even when he went to the toilet.

When he was sent to a province for duty, and permitted to go to the bazaar, he located the mujahedin and deserted to them,

spending six months with them before reaching Pakistan. (Interview in Peshawar, Pakistan, on October 6, 1987)

A doctor described how he was arrested, beaten, jailed and then drafted:

A medical doctor from Jalalabad who was completing his residency in Kabul described how he was arrested in his home by KHAD in 1982, after his house was searched and a 20-year-old book on the Koran and letters from his brother in the United States were found. He was not interrogated for the first 12 days of his captivity; not even his name was asked.

He was sent to Pol-e Charkhi and placed for the first month in the first block, which he describes as being in relatively good condition and which is the block that the prison authorities are prepared to show foreign visitors. He was interrogated while in prison for six months, in the prison office.

He said that during his interrogation, he was beaten three times, with fists, all over his body. He was threatened with death and forced to watch other prisoners undergoing electric shock, which was administered from battery cells and from an outlet in the walls, with the wires attached to the tongue, penis, or fingers. They threatened to arrest his father, but did not.

In the second month of his detention, while he was still undergoing interrogation, he was removed to a locked cell designed for one person in which eight were housed. He was there for four and a half months and then tried and convicted and sentenced to five years.

After his conviction, he was moved to a cell in the third block, where he spent one and a half years. Eight prisoners were in a room designed for one person. The steel door was unlocked and opened on a corridor where many other cells opened; about 150 prisoners in all were in this gallery. Although they could talk to each other, confidences were rare because of the fear of KHAD agents.

He described conditions in the jail as very bad. One prisoner, in severe pain, could not get up one day in 1984. The other prisoners alerted the guards but no attention was paid to the sick prisoner until two days later. Three or four days after that,

he was moved to another location where the official prison doctors diagnosed him as having bone cancer and asked that he be hospitalized, predicting that he would only live another 20 days. Instead, he was brought back to the cell, where he died.

There were prisoners suffering from epilepsy who received no treatment. Two or three severely mentally disturbed prisoners, serving sentences of 10, 12 or 20 years, were in cells with other prisoners. He observed about 80 or 85 boys (ages at most 14 or 15) in 1986 in a children's block, and three women in the first block.

After serving several years of his sentence, he was released in 1987 for conscription and after 15 days of military training was sent to a military hospital. He escaped to Pakistan. (Interview in Peshawar, Pakistan, on October 6, 1987)

A former prisoner described how he was tortured and then drafted:

Sufi Abdul Karim, a man in his late 30s from a village in the Panjsher valley, said that he was captured in a taxi in Kabul in 1981, tortured to force him to confess to working with the mujahedin, and sentenced to 10 years in jail, according to the testimony he gave Helsinki Watch/Asia Watch. Among the tortures inflicted on him were the psychological punishment and humiliation of being forced to strip in front of many people, and being hung by his wrists from the ceiling with his toes barely touching the ground for two hours, sleep deprivation combined with prolonged standing for 48 hours straight, weights tied to his testicles for days on end, electric shocks administered under the tongue, and beating, slapping and kicking repeatedly. These forms of torture were conducted in the Khad office and in the Sedarat interrogation center. After he was sent to Pol-e Charkhi Prison, he was "punished" by prison authorities by being beaten on the occasions, he believes, of mujahedin military victories in the Panjsher Valley.

This prisoner was freed in 1987 under an April 1987 decree remitting the sentences of certain classes of prisoners (see above) and drafted into the service, where he was given some military training but was not required to bear arms; because of his status as a mawlawi (one who has received training in a

religious school), he was given quasi-religious duties in the army. He learned that the KHAD or the army was coming to arrest him again, and he escaped to Pakistan. (Interview on September 30, 1987, in Peshawar, Pakistan)

Violations by the Resistance

The same provisions of common article 3 to the Geneva Conventions which prohibit the government of Afghanistan from conducting summary executions and using torture and cruel treatment against prisoners also apply to the mujahedin.

Summary Executions of Prisoners of War

Helsinki Watch/Asia Watch interviewed many mujahedin commanders and observers in Pakistan about the treatment of captured or surrendered Soviet and DRA combatants by the mujahedin. They said that many prisoners are released, but some are jailed. All agreed that certain prisoners -- the Communists, considered "infidels" and "apostates" -- are executed after being tried by a mujahedin judge. Because we had no access to victims of abuses by the resistance forces, our information, on the whole, comes from the resistance commanders themselves or from outside observers.

These executions violate the rules of war, set forth in common article 3 to the Geneva Conventions, which states:

the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to [persons ... including members of the armed forces who have laid down their arms and those [detained]:

- (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

In particular, the procedure by which the prisoners of war are executed violates the requirement that the sentence be passed by "regularly constituted courts." The courts which judge the prisoners are in the vast number of cases courts appointed by mujahedin commanders. Most observers say that they are often partisan and that their judgments are harsh.

It is very hard to generalize about mujahedin practices with regard to prisoners of war -- or any other subject, for that matter. There is no High Military Command that issues orders to commanders in the field. With the possible exception of the Hezb-e Islami (Hekmatyar) party, none of the political parties in Pakistan seem to have the ability to direct the military operations of their commanders in the field.

The mujahedin do not now seem to have a widespread practice of executing prisoners on the spot, in the heat of battle, as was the case in the early years of the war. Most of the combatants understand the necessity for taking prisoners alive and bringing them in to higher authorities for purposes of investigation and trial. This in itself is an advance over the earlier practices of some guerrilla groups.

Once the prisoners are brought in, certain procedures are said to be followed. They are by no means uniform among all the commanders or parties, or even among commanders in one party, but in general it appears that the mujahedin investigate the prisoners before they are sent to the judge. The investigation includes interrogation of other captured soldiers and officers, interrogation of the prisoner, and sometimes inquiring of the commander in the place of origin of the prisoner about his reputation. There are allegations of torture to make prisoners confess that they are Communists or guilty of crimes.

Those released are mostly foot soldiers forcibly recruited into the DRA army or those who have some connection with the mujahedin (family or tribal connections, or are mujahedin collaborators). Other prisoners, not believed to be Communists, are held for short periods of time, sometimes for exchange, sometimes for reeducation, and sometimes as labor. Soviets are now usually held for exchange, a change from the earlier practice of executing them.

A Jamiat spokesperson said that he knew of two occasions in 1986 when his group exchanged Soviet prisoners for mujahedin prisoners, once north of

Kabul and once in Herat. The Kabul government has never publicized these exchanges. Other exchanges, where Afghans are exchanged for Afghans have taken place as well on a very local basis.

For others, there is a judicial proceeding, in which a religiously-trained judge applies the Islamic code to the charges against the prisoner. The prisoner has an opportunity to speak for himself, although he does not have the right to a defense attorney. Rarely is there any provision for appeal.

To the mujahedin combatants and commanders, it is a proper court, justly applying the laws of Islam to criminals. They are not ashamed of the procedures or the resultant death sentences, and talk freely with visitors about them when asked.

Mass Executions in 1986

The Soviet/DRA troops attacked a mujahedin base in Jawar, Paktia Province, in March 1986. They held the base for a day and a half and withdrew after mujahedin shelling. Leaving, they planted land mines in the underground headquarters and around the facilities.

In the battle, 115 mujahedin died and 300 were injured. The mujahedin captured several hundred of the attacking troops, all Afghans.

The prisoners were investigated for a four-week period by the mujahedin. The commander who captured them was Jallaluddin Haqqani of the Hezb-e Islami (Khales) party. He is the same mujahedin commander who has made arrangements for his other prisoners to be visited on several occasions by the ICRC at the Pakistani border.

Forty-five officers allegedly confessed to being Communists and committing other crimes, and were executed, after a trial by mujahedin judges.

Apparently 10 mawlawi, reportedly led by chief judge Allah Noor, heard the testimonies and the statements of the defendants, in a process that lasted two weeks. The judges reviewed the videotaped confessions, in which many defendants stated that they were Communists, that some had studied in the Soviet Union, that they had participated in such and such an attack, that some had received DRA medals, and so forth.

The defendants were not represented by anyone other than themselves.

Helsinki Watch/Asia Watch interviewed Mohammad Sultan, a mujahed nurse in Peshawar, Pakistan, on September 29, 1987, who said that he had watched the entire proceedings, including the mass execution. Several different sources refer to a video made of the confessions, the trial, the decree of the death penalty, and the execution.

The brothers of the mujahedin who died in battle executed the death sentence, shooting all 45 officers within an hour. One eyewitness to the execution and one person who later saw the video tape made of the proceedings said that the event was a very emotional one, with the brothers of the fallen combatants being exhorted to take revenge for the deaths of their mothers, brothers, and other relatives.

Journalists visiting the recaptured training center days later saw what they estimated to be 60 or 80 dead bodies lying in the perimeter of the camp in the open, in a state of putrefaction. Some of them still had on uniforms, but most of them were in their underwear, without shoes. The visitors were told that these were the bodies of the officers who had been executed, and that they were not buried because they were infidels.

Although the commander under whose jurisdiction this was carried out may have been applying Islamic law as he understands it, the incident is a grievous violation of international law that should be strongly condemned.

Other Prisoner Executions

A film made for the BBC and aired in Europe in 1986 and early 1987 contains a shocking interview with a Mawlawi Abdul Bari of Kandahar, in which he claims that he has sentenced six to seven thousand prisoners of war to execution. An executioner filmed at the same time claims to have executed 1,500 prisoners over three years. They both belong to the NIFA (Gailani) party. Resistance groups have fiercely denounced the film as a fabrication.

Helsinki Watch/Asia Watch earlier published a report of the mass execution of 50 prisoners in Paktia in 1983, as reported by Agence-France Press, and several other executions.*

**Execution of Prisoners for Reasons of Convenience
or During Attempted Rescues**

There have been various reports of prisoners of war being executed when keeping them alive represented a danger to the mujahedin or when attempts to rescue them were made. This violates common article 3.

John Fullerton describes such an incident**:

Security forces have launched attacks on the area in question and captives have been killed in the shooting. A group of six Soviet POWs being escorted to Pakistan for an ICRC interview had to be killed by the guerrillas when they were attacked by regime troops. The escort, to survive, needed to move quickly up into the hills and they were held back by their charges. To save their own lives the escort killed the Soviet soldiers and escaped the net.

In 1985, commander Ahmad Shah Massoud of the Jamiat party captured a garrison and several hundred soldiers. Many were released, but a number (sources estimate between 50 and 250) of KHAD agents and officers were kept in captivity. Negotiations were undertaken to exchange them for captured mujahedin, with the captives' families pressuring the government to let the exchange go forward.

Apparently the Soviets attempted a rescue to abort the demand for exchange. What happened next is in dispute: some say the mujahedin executed the prisoners when the rescue effort started. Others say that several bombs were dropped on the spot where the prisoners were held, and the ones who survived tried to escape and were caught in the crossfire.***

* See *Tears, Blood and Cries*, December 1984, pp. 201.

** Fullerton, *op.cit.*, p. 145.

*** Helsinki Watch/Asia Watch, *To Die in Afghanistan*, December 1985, p. 92.

Ordering That No Prisoners Be Taken

It is forbidden to order that no prisoners be taken, that is, that anyone falling into the hands of the victorious party shall be executed instead of taken prisoner. Yet this is occasionally the order given by commanders, according to several different sources.

Jan Goodwin quotes orders given by one commander prior to an attack in 1985:

He synchronized watches with those who had them and then added, 'If you capture Babrak Karmal or Soviet troops, bring them to me. But if you capture militia, just bring me his head.' 'The militia are local men,' Fatah Khan explained. 'When they capture Mujahideen, they torture; they are very cruel.'*

Another source interviewed by Helsinki Watch/Asia Watch said that some commanders will on occasion order that prisoners be shot just to be rid of the inconvenience of holding them.

Cruel and Inhuman Punishment

According to one witness, as part of the same trial in Jawar in 1986 in which the 45 officers were sentenced to death, there were about another 200 prisoners who were found guilty of some crimes, but because they were Muslims or converted and promised not to commit any other crimes, they were sentenced to a penalty less than death. This witness said that they were required to clear the mines that the DRA left in the underground headquarters.

This witness, a medic, said that many of this group were killed or maimed removing mines. Forty two or 45 whose injuries did not render them useless were sent to Pakistan for medical treatment and then returned to the camp when cured. This medic said that if their injury was severe, they were shot by the mujahedin.

Other methods of torture, even more gruesome, have been reported, such as the following, by John Fullerton, in 1983:

* Goodwin, *op. cit.*, p. 87.

Early on the fate of captured Soviets was often gruesome. One group was killed, skinned and hung up in a butcher's shop. One captive found himself the centre of attraction in a game of buzkashi, that rough and tumble form of Afghan polo in which a headless goat is usually the ball. The captive was used instead. Alive. He was literally torn to pieces. Russians who display no interest in or knowledge of religion are regarded as infidels, unbelievers. According to the custom of badal or revenge, their deaths may properly be demanded by the locals, many of whom will be involved in feuds with the Soviets through the loss of relatives in the war. When Afghans have reached Soviet corpses before the security forces arrive to intervene, the common practice is mutilation. ... From time to time the Soviets have mutilated Afghan corpses.*

Conditions of Detention

Based on statements by commanders and combatants, there are probably hundreds of prisoners of war held by various mujahedin commanders in Afghanistan and by political parties in Pakistan, although the number is impossible to establish. Their conditions of detention are not subject to outside monitoring, and range from caves to houses to more prison-like structures to holes in the ground. Some are kept in chains, and others are allowed to move around inside the base where they are held. Often they are required to perform manual labor; sometimes they are given religious instruction, or retraining.

According to information gathered by the Afghan Information Centre in Peshawar from various commanders in Afghanistan, of the many prisoners that are taken each month by the mujahedin, some are captured and others have surrendered. For example, in the month of May, the following reports came in Bulletin no. 74, May 1987:

Paktia: 50 soldiers and one officer captured, 10 surrendered to Gailani forces (p. 2)

Faryab: 50 militia surrendered (p. 14)

* Fullerton, *op. cit.*, p. 95. For other accounts of torture of prisoners by the Afghan resistance, see Helsinki Watch, *Tears, Blood and Cries*, pp. 204-205.

Jawzjan: 60 soldiers surrender to Harakat (p. 16)

Kandahar: 80 soldiers surrender and seven KHAD captured (p. 18)

Helmand: 50 surrender to Hezb-e Islami (p. 18); 30 surrender (p.19); 33 militiamen captured (p.19)

In July 1987, the mujahedin interviewed by the Centre reported the following prisoners (Bulletin no. 76, July 1987):

Kandahar: mass defection of 2500 (p. 8); six militia (p. 13)

Kabul: 12 militia and one officer captured by Jamiat (p. 9)

Farah: 10 captured by Mujaddedi (p. 14); Shindand Air Base: many captured

Takhar: 110 prisoners taken by Jamiat (p. 15)

Ghor: 16 militia captured (p. 18)

Maidan (Wardak): 16 soldiers and officers captured by Harakat (p. 20)

Although these reports may be inflated, there seems to be little doubt that many DRA soldiers surrender to the opposition forces and many others are captured, a phenomenon that is a little unusual for a guerrilla movement which ordinarily has few facilities to establish prisons. It appears that most of those who surrender to the guerrillas, as well as many who are captured, are released and allowed to return to their families because they are not considered voluntary recruits.

The execution of 45 captured officers in early 1986 did not dispose of all those captured in that battle. As reported earlier, some 200 other prisoners were assigned to clear mines. According to another source, an additional group of about 100 prisoners received better treatment. They were deemed to be Muslims and they were sentenced by the judges to a year of religious training, according to one mujahed present at the trial. During that year, they were given work to do; each had a guard and received Islamic training every day, according to the same source.

This is the group, held at the border, that the ICRC was able to visit three times in 1986 and once in 1987; others captured became part of the group as well. Ninety-three of these prisoners were released in April 1987 at a

ceremony attended by the ICRC, and others were given money and clothes and were sent home.

According to one source, there are still four officers in jail as a result of the 1986 battle that resulted in the capture and execution of 45 officers. These four officers are supposedly held in the same training center, receiving Islamic training, but they do not have freedom of movement inside the training center. They are kept in a house, do not work, and have chains on their legs. All four are from important families in Kabul and initial negotiations with the government in April 1986 to exchange them for mujahedin in government jails came to nothing. They had been sentenced to death but the commander decided not to execute the sentence because of the possibility of an exchange.

Mohammad Sultan, the mujahedin nurse quoted above, said that another 235 prisoners were captured by the same commander in two separate attacks. Most were Afghan Muslims and are under observation, receiving religious retraining for a year prior to their release. They work, under guard, around the center. Some of the 235 captured prisoners reportedly were executed.

Gulzar Khan, a Jamiat commander interviewed in Peshawar, Pakistan, on September 30, 1987, estimated that there were a total of 10 prisoners held by his forces near the Panjsher valley. They are building fortifications for the mujahedin, under guard.

Prisoners of War Held by Mujahedin in Pakistan

Since the start of the conflict, some prisoners of war captured in Afghanistan have been sent to the political parties in Pakistan. A commander of the Hezb-e Islami from Logar told Helsinki Watch/Asia Watch in Peshawar, Pakistan, on October 2, 1987, that he captured 53 soldiers in 1980 in fighting in Logar province, and sent all of them to his political party in Peshawar. They decide there, he said, if they are Communists. If they are, then they are shot. If they are not, then they are released.

In April 1985, several Soviet soldiers and Afghan officers held prisoner at a mujahedin base in Pakistan temporarily overpowered their captors and took refuge in an ammunition dump. In the shootout that followed, their captors

caused the dump to explode with a rocket-propelled grenade and the prisoners died in the conflagration. This event was widely covered in the press, and as a result the government of Pakistan reportedly told the mujahedin that they would not be allowed to hold Soviet prisoners on Pakistan soil.*

Nevertheless, journalists have reported that they have seen four Afghan officers held by the mujahedin: an engineer, a pilot; and two other officers. They are working, some doing tailoring, at a mujahedin base near Miram Shah, North West Frontier Province, Pakistan. They have been held for over two years.

There are reports of some five or six Soviet prisoners of war held in the area of Quetta, Baluchistan, Pakistan, since about 1981 by the Hezb-e Islami (Hekmatyar) party, on whose behalf Soviet emigre organizations have unsuccessfully intervened.

Another journalist in late 1987 reported that he had seen 25 Afghan prisoners of war held by one of the traditionalist parties in Pakistan, an hour away from Peshawar. They were in one cell, in overcrowded and dirty conditions.

Masud Khalili, a Jamiat spokesperson in Peshawar, Pakistan, interviewed on October 5, 1987, said that it was the policy of the party to send prisoners to Pakistan or to Herat. From there, most of them were released after investigation and taken back to their homes with the next mujahedin convoy going in the right direction.

In addition, at least one political party holds spies or other noncombatants prisoner in Pakistan. (See Violations by the Hezb-e Islami party, above)

Mujahedin Taken Prisoner by Other Mujahedin

Fighting between the various commanders and political parties inside Afghanistan is continually reported. For instance, Mullah Sharafuddin (Harakat), in an interview with Afghan Information Centre, said that Hezb-e

* Helsinki Watch/Asia Watch, *To Die in Afghanistan*, p. 90.

Islami (Hekmatyar) and Jamiat in areas of Sangcharak and Akhkorak (northern Afghanistan) are mostly fighting each other.*

This fighting produces injured and dead, and also prisoners of war held in uncertain conditions of health and safety.** As prisoners held by parties to the conflict, they are also entitled to the protections of common article 3 and should receive periodic visits by the ICRC.

Practices Under Different Commanders in Different Parts of the Country

Logar, eastern Afghanistan

Rafiyal Mangal, a commander from the Mangal tribe in eastern Afghanistan, affiliated with the Jamiat party, told Helsinki Watch/Asia Watch in Parachinar, North West Frontier Province, Pakistan, on October 2, 1987, that his mujahedin had captured 150 militia and soldiers in a battle in September 1987. (Helsinki Watch/Asia Watch believes that the actual number of captures is probably lower than 150.) According to the commander, half of the prisoners were executed and half are now prisoner in Afghanistan.

He said that the government was trying to start a militia in Mangal village in Logar province. The mujahedin have a base not far from the village. Certain villagers had agreed to serve in the militia, however, and on the date when the arms were delivered to them by helicopter, the mujahedin surrounded them and captured the militia and their arms.

At the same time they captured the documents that some of the villagers signed, agreeing to work as militia. These documents and the testimony of other villagers were the proof that they had that these people were Communists and were involved with the government. This half of the captured militia was executed after a trial by the mawlawis.

* Afghan Information Centre Bulletin no. 74, May 1987, at 16-17.

** See Helsinki Watch/Asia Watch, *To Die in Afghanistan*, pp. 95-97.

The other half, against whom there was no similarly strong proof, were being punished by being kept in small dark rooms with no light, but they are given food. How long they will be held has not yet been determined. It will depend on the decision of the mawlawis.

All of the captured were members of the Mangal tribe, as were the mujahedin.

Nangarhar, eastern Afghanistan

Abdul Qader, a commander from the Hezb-e Islami (Khaless) group, operating in Nangarhar province, told Helsinki Watch/Asia Watch in Peshawar on September 27, 1987, that he has ordered his mujahedin to take prisoners when fighting with the Soviet/DRA troops. He then gives the prisoners one chance: he warns them and then makes them promise not to continue in the militia or the DRA. Often the family of the prisoner will come to the commander and agree (in writing) that the prisoner will not help the government any more. The prisoner is then released, sometimes with money to go home, if he does not want to join the resistance.

This commander related one incident in which they caught a man fighting in the militia after they had released him six months before. He did not get a second chance: he was executed.

This commander said that those who are "from their hearts with the government," or volunteers, are executed. They have a trial with a judge who talks to the prisoner, reviews the information the mujahedin gathered on him, and then talks to the commander. The commander said that they had caught many such persons in various battles. He estimated that about two or three persons were executed under his jurisdiction each year. The cases of two persons were sent to the party in Peshawar for decision, because of conflicts in witness statements.

They held two prisoners separately in 1986, one for six months and the other for nine months. They were kept under guard in the mujahedin base.

Herat, western Afghanistan

Haji Mohammad Shah Ghazi, a gray-bearded commander from the western province of Herat, interviewed in Peshawar on September 28, 1987, described his prisoner policy as follows: the prisoner is interrogated by a committee of mujahedin. A judge, who is a scholar of Islam and applies the laws of the Shariat, judges the case.

Sometimes the death penalty is the punishment, pursuant to that code. He said that footsoldiers were never executed. Even Communists are given a chance to change, but some refused to do so. Those who were executed were either criminals or they refused to accept Islam. He cited the arrest, trial and execution of the government official who was the director of the district of Golistan in the province of Farah.

They do not hold prisoners for long periods of time. Those who are prisoners are kept in caves in the mountains under the same conditions and eating the same food as the mujahedin. Before he left for this trip to Pakistan, they released the prisoners they were holding. Shortly after he arrived in Pakistan, he was informed that his mujahedin had captured another 30 DRA soldiers. This commander is allied with the Harakat party but has relationships with all parties.

A former combatant of Jamiat operating in the Herat region interviewed on October 1, 1987, in Peshawar said that he had captured many DRA soldiers. He had never captured a Soviet soldier but each group had captured a few. If the Afghan DRA soldier was believed to have committed a "big crime," then he was sent to a shura (council or consultative assembly) consisting of mullahs and mujahedin commanders. The shura sat once a week or whenever it was needed and administered Islamic law.

He referred to one large shura in Herat that had jurisdiction over problems between mujahedin and over civilians, as well as over prisoners of war.

First the mullahs interrogate the prisoner who is in custody. He said that they used to beat them to get them to tell the truth; now they sometimes frighten them. Most of those captured are from the Herat area and the mujahedin generally know who has volunteered for the military and who has been involuntarily or forcibly conscripted.

This ex-combatant said that he knew of cases where those who were proved to have committed serious crimes or to have killed civilians were shot. If they have committed minor crimes, they are released with a warning that if they are captured again, they will be killed. Sometimes those in this category are held for a month or two and given instruction in Islam before being released.

Laghman, eastern Afghanistan

Sher Mohammad, a wounded commander from Laghman province, affiliated with the Harakat party, interviewed in Peshawar, Pakistan, on September 29, 1987, said that his forces captured many prisoners of war and they were either killed if found guilty after a trial by the mawlawi (religious judge) or sent to the political party in nearby Pakistan. They had only one prisoner at the time who was still in custody in Afghanistan. The prisoner's leg was chained to the leg of a mujahedin guard.

Paktia, eastern Afghanistan

Habib Jan, 26, a mujahed interviewed in Peshawar, Pakistan, on September 29, 1987, described his experiences fighting in Paktia province and said that they had captured many Parchamis (Afghan Communists). The procedure they follow with these prisoners is to make inquiries and investigate the prisoner, and if it is proved that he is a Communist, he is killed. The others are released and go home.

The investigation is done by the commander, who is also a religious judge (mawlawi). The investigation is conducted by asking the other captured prisoners about the prisoner in question. They find that the majority of officers are Communists; the footsoldiers are mostly Muslims, although some are with KHAD.

Zar Gul, a wounded combatant from Paktia interviewed in a hospital in Peshawar, Pakistan, on October 6, 1987, described a battle near Jaji, Paktia, in early 1987 in which the mujahedin were surrounded by Soviet/DRA forces, which then bombed with incendiary bombs. He sustained severe burns when he and others tried to break through the circle, being chased by helicopter fire at the same time.

When the battle was over, however, the mujahedin had captured 70 of their enemy, 14 were Soviet soldiers and the balance DRA. The Soviets were sent to the parties in Pakistan. Apparently the Afghan soldiers surrendered; this combatant described how they laid down their arms and raised up their hands. For that reason, they were not killed and were sent to Pakistan to the parties as well.

He said that it was their policy to kill those who did not surrender but had to be captured.

PART THREE

On the Border and in Pakistan

PART THREE

On the Border and in Pakistan

In the Cities

The Pakistan government has been extremely generous to the estimated three million Afghan refugees who have flooded into Pakistan in the past eight years. Pakistan has also become the chief logistical base for the Afghan resistance. Pakistan itself has an estimated 96 million citizens.

The unparalleled hospitality extended to the Afghans has not been without its cost, however.

The presence of 3.2 million refugees on Pakistani territory is causing considerable friction among local inhabitants. Afghans compete for the same jobs and trade. The rise in the drug traffic from Afghanistan has resulted in a serious increase in young Pakistani addicts, and guns from across the border have been used in local riots. In addition, Islamabad's policies toward Kabul have become a major bone of contention with left-wing political opponents, who are calling for recognition of the Kabul regime.*

In addition to the predictable social stresses caused by playing host to the largest refugee population in the world, there are other hazards. For over a

* Edward Girardet, "Afghan Peace: No Easy Task," *The Christian Science Monitor*, March 17, 1987.

year, urban Pakistanis have been subjected to an increased wave of bombings in the bazaars and other places. Much of the bombing is blamed on agents of the DRA, whose aim, the Pakistan government believes, is to turn the Pakistani public against the Afghan refugees and their cause.

It was no secret that refugee camps in the Northwest Frontier and Baluchistan were not just humanitarian havens for Afghan citizens fleeing from Soviet terror. Many guerrillas used the camps as rest and recreation bases between bouts of fighting. . . . while in Peshawar and Quetta more than a dozen refugee political parties were free to operate, furthering their respective resistance movements through propaganda, lobbying and logistical support for the partisan fronts inside the country.*

In addition to terrorism directed at Pakistanis, there have been attempted assassinations of mujahedin leaders by the DRA. This method of waging war is a violation of the Geneva Conventions because it is indiscriminate and many civilians are injured and die as a result.

Not all the bomb blasts are in the refugee areas nor can they all be laid at the DRA's doorstep. Some bombing is traceable to Shi'a-Sunni tensions.** Some of the explosions may also be due to infighting among mujahedin groups. In September 1987, for instance, a remote-controlled bomb exploded in a bazaar in Peshawar, narrowly missing Gulbuddin Hekmatyar, head of the controversial Hezb-e Islami party, whose enemies are legion.

Whatever the origin, the number of bombings is on the rise. Police say that in the settled areas of the North West Frontier Province they registered more bomb blasts for the first eight months of 1987 than they did in the whole of 1986: 55 compared to 52. About 10 more explosions took place in September 1987. The bombings in 1987 so far were more lethal, killing and injuring 64 and 299 respectively, compared to 42 killed and 276 injured for all of 1986.

* Edward Girardet, *Afghanistan: the Soviet War*, p. 36.

** Steven R. Weisman, "Pakistan Fears Gulf Contagion," *The New York Times*, September 10, 1987.

In the Refugee Camps

Several times in early 1987, Afghan Air Force planes bombed the Pakistani side of the border, killing and wounding hundreds of Afghan refugees, mujahedin, and Pakistanis. These attacks were focused on the North West Frontier Province, the province of Pakistan that borders east Afghanistan and has the most refugees of any area of Pakistan: 2.1 million registered refugees as of September 1987, according to Pakistan authorities.

Several of the attacks were directed at refugee camps, which are distinguishable from the air. They look different from mujahedin headquarters and even from Pakistani villages. The 1987 bombings occurred during the day. The attacks were probably directed at mujahedin thought to be there. Even if mujahedin were present in the camps in force, however, the rule of proportionality requires the DRA to refrain from striking there because of the large number of civilians present.

The most serious attack occurred on February 27, 1987, when a plane bombed a location in Matta Sanga, one kilometer from the border in Kurram Agency, at which refugees had gathered to receive a distribution of kerosene. The kerosene tank exploded and scores were killed, including seven Pakistani refugee workers distributing the kerosene. The UNHCR recorded 47 killed and 57 wounded in this attack.

On February 26, 1987, the day before Matta Sanga was hit, there was another air strike on refugees and others in the village of Saigai and in the Ghulam Khan bazaar in the North Waziristan Agency to the south of Matta Sanga, only a few kilometers from the Afghan border. The Afghan Air Force

bombed a bazaar area near several refugee camps there, and the toll, according to the UNHCR, was 22 dead and 220 wounded.* The Pakistan government said that 150 shops were completely destroyed and 50 others were partially damaged, and that livestock was lost as well.**

As a result of the North Waziristan bombings, the ICRC emergency surgery hospital for the war wounded in Peshawar admitted a record number of new patients on the afternoon of February 26, 1987: 58. By 10 am on February 28, after Matta Sanga was also bombed, 93 casualties had been admitted, many with burns and head, chest, and abdominal injuries.***

Shortly after these two big strikes, on March 3, 1987, another attack near a refugee camp near the city of Drosh in Chitral, in northern Pakistan, claimed five dead and five wounded.****

After the attack on Chitral, few air strikes on refugee areas were reported, although the Pakistan government registered scores of cross-border bombings in 1987, and smaller incidents continued to occur.

Helsinki Watch/Asia Watch interviewed a woman injured in one of the most recent strikes on Matta Sanga.

This refugee woman was wounded in the foot and lost her daughter when the refugee area of Matta Sanga, was bombed in early September 1987 by the Afghan Air Force.

The woman said from her hospital bed that she left Afghanistan in the first year of the conflict. She did not live in Matta Sanga but had gone to the refugee-dominated village to visit a relative when the village was hit by helicopter bombing in the early morning.

When the bombing started, she and her relatives panicked and ran for shelter. She was carrying her one-year-old daughter in her arms. Before she reached shelter, she was hit by shrapnel

* "Afghan Planes Said to Kill 35 in Pakistan Raids," *The New York Times*, February 27, 1987.

** Karachi Domestic Service in Urdu, March 2, 1987, reprinted in FBIS March 3, 1987.

*** ICRC Bulletin no. 135, April 1987.

**** Paris AFP in English, March 10, 1987, reprinted in FBIS March 11, 1987.

and lost consciousness. When she came to, she was receiving medical treatment somewhere else, and her daughter was lost. She has not located her since.

Her wounded foot required a skin graft and was still infected, a month after the injury.

This refugee woman said that at the time of the bombing there were many mujahedin in the village, and she heard that many were killed in the bombing, as well as many civilians. (Interview by Helsinki Watch/Asia Watch on October 6, 1987, at a hospital in Peshawar, Pakistan, in the presence of her husband and a male nurse)

A Pakistani witness in Parachinar, Kurram Agency, reported that shelling from a DRA post inside Afghanistan in Jaji in Paktia province in May 1987 struck the border village of Teri Mangal and reached five kilometers inside Pakistan. He saw refugees and Pakistanis alike fleeing the scene, on foot and in vehicles. Since April 1987, Teri Mangal has been bombed three or four times, he estimated; locals have moved out temporarily and sometimes permanently, according to residents in Parachinar.

There were no air strikes recorded in Baluchistan in 1987, the other Pakistan province with a large refugee concentration.

In Kurram Agency

The North West Frontier Province has 15-20 million Pakistanis, about 30 percent of whom live in the tribal areas and 70 percent in the settled areas. The tribal area division was inherited from the British, who permitted the tribes to have considerable authority over their own affairs because they were never able to subjugate them thoroughly.

These tribal areas, or agencies, as they are called, are either protected or unprotected. In the protected areas, there is government presence: some police and military protection, schools, water, lights. The Afghan refugees are

located in the protected areas. The unprotected areas lack basic government services and protection; government vehicles drive through them full speed, without stopping. A wild-west atmosphere prevails in the tribal areas in general, because tribesmen are traditionally armed and engage in frequent vendettas with each other, and because fugitives from justice in other parts of Pakistan take refuge in the tribal areas. Even in the protected areas, government officials travel in the company of armed guards.

The Afghan conflict has leeches into neighboring Pakistan, particularly into Kurram Agency of the North West Frontier Province. Local resentment is growing. One Pakistani official said flatly, "The refugees don't give anything to the locals. The locals help the refugees. The refugees bring saboteurs and arms."

According to the Political Agent (federal government representative) in the Kurram Agency, the toll of Pakistanis in Kurram Agency affected by war-related shelling, bombing, mines and explosives from January to October 1987 is 88 killed and 253 wounded, not including sectarian violence that killed 136 and wounded 263 in one week in July 1987.

Sectarian Conflict Exacerbated by the War in Afghanistan

Kurram Agency, an area of 90-100 square kilometers, has received a large influx of refugees from bordering Afghanistan, unsettling the religious balance. Although the vast majority of Pakistanis (80-85 percent) are Sunni Muslims, the Kurram Agency has a pocket of Shi'a Muslims of the Turi tribe who represent 60 percent of the 280,000 Pakistanis living in that Agency.

The arrival of over 347,000 Afghan Sunni refugees now registered with the Pakistani government, plus probably 40,000 nonregistered refugees, tipped the local balance sharply toward the Sunnis, who are members of the Mangal and Bangash tribes; many Afghan refugees are also Mangals.

The two tribes and sects clashed sporadically, then settled down into a modus vivendi, each in its own geographic area. This pattern might have continued at this level, but for the fact that Kurram Agency is the mujahedin route of choice for sending arms convoys into Afghanistan. Supplies, a government official explained, can be trucked into Afghanistan through Kurram Agency,

whereas in other areas supplies must be unloaded near the border and sent in on animals. It has also traditionally served as a smuggling route.

Upper Kurram Agency, known as the "mouth of the border," is the most strategic point in the North West Frontier Province, jutting out into Afghanistan. It is there that the mujahedin have apparently established military bases or headquarters as well as arms depots. It is also the traditional home of the Turi (Shi'a) tribesman.

In 1987, the Afghan air force bombed and shelled two border towns in the Shi'a-dominated upper Kurram Agency, Matta Sanga (where 47 were killed in just one bombing) and Teri Mangal. There is a refugee camp in Matta Sanga, and the mujahedin headquarters of the NIFA (Gailani) and Hezb-e Islami (Hekmatyar) parties are not far from Teri Mangal. Some 28,000 registered refugees live in three camps in upper Kurram Agency, along with an unknown number of unregistered refugees. Camps in the lower Kurram Agency have also been shelled and bombed from Afghanistan.

According to Abdul Karim Qasuria, the Political Agent of Kurram Agency, there has been an influx of sophisticated weapons that has changed the nature of the warfare between the sects and tribes. The Frontier Scouts (local tribal troops commanded by Pakistan Army officers guarding the border and tribal areas) are now out-gunned. Pakistani authorities believe that some of these arms are being sent to the Shi'a by Afghan KHAD agents, with the intention of enabling them to snipe at the mujahedin's rear guard. Others claim the Shi'a are armed by Khomeini. Some of the arms in the agency undoubtedly originate with the mujahedin.

Afghan KHAD agents coming directly from Afghanistan or posing as refugees are blamed by Pakistani officials for ambushing mujahedin convoys passing through the Agency and planting land mines that have claimed the lives of mujahedin and Pakistani civilians alike. Explosives have also been placed in the urban areas, including outside the courts and telephone office.

KHAD is also blamed by some Sunni Pakistanis for stirring up the Shi'a against their traditional enemies and against the Pakistani government, and converting them in effect into KHAD agents. Shi'a deny that they are responsible for any of the mines or explosives or that they are agents of Kabul, and say that

their troubles are sectarian, nothing more. Others claim that the Shi'a are being stirred up not by the Afghans as much as by agents of Khomeini of Iran.

It is unclear how the sectarian violence of the week of July 24, 1987, originated, but most accounts (from both sides) say that one of the precipitating factors was a Shi'a ambush of a mujahedin convoy passing through the Shi'a region that took the lives of several mujahedin. (One Shi'a said this was a foolish mistake by common bandits who happened to be Shi'a.)

A Pakistani official claimed that the violence originated in an Afghan government attempt to block the main mujahedin supply route that ran over the principal highway in Kurram Agency. Others say that it was no more than the usual sectarian violence, with the Shi'a (Turis) on one side and the Sunnis (Mangals) on the other side at first, before the fighting spread.

Retaliations escalated, with kidnappings back and forth. It was claimed that Pakistani Mangal tribesmen and Afghan refugees were taken hostage by other tribesmen. There were rumors of massacres by both Sunnis and Shi'as that further inflamed passions. Shi'as were claimed to have laid siege for four days to a Sunni village. The Frontier Scouts failed to end the siege, possibly because of sectarian divisions within that military unit. This was followed by a combined Sunni/mujahedin attack on various Shi'a villages with heavy artillery to force the Shi'a to lift the siege.

The results of this were visible even from the road. Helsinki Watch/Asia Watch observed many Shi'a houses with huge holes in the walls that could only have been caused by heavy weapons. The site of a Shi'a leader's home was pointed out: it had been razed and the leader and all his family members killed, according to several sources.

The army did not intervene at the beginning of the violence, but delayed until about a week of warfare had claimed, by official count, 136 dead and 263 wounded, many of them civilians, flooding local hospitals with injured.

By the time of the army intervention, the Shi'a had been decisively routed by the mujahedin and the Pakistani Sunnis. The army disarmed the Pakistanis and occupied the agency for at least two months, until a settlement could be worked out between the sects.

Pakistani officials either said that the mujahedin did not fight on the side of the Sunnis or said that the only mujahedin who participated were those whose convoy had been attacked by the Shi'a. No official interviewed by Helsinki Watch/Asia Watch on the subject voiced any alarm or indignation over an attack on Pakistanis (Shi'a) by foreign nationals (mujahedin).

Both sides to the Afghan conflict are to blame for carrying the war into the Kurram Agency, aiding and abetting sectarian animosities, and causing death, injury and considerable property damage to Pakistanis, all in violation of the rules of war.

Land Mines in Kurram Agency

Kurram Agency, also because of its strategic position, has been just about the only area in Pakistan to be afflicted by land mines. The Pakistan police in Peshawar report only four cases of mines in the settled areas in 1987, all deactivated.

The land mines in Kurram Agency were often planted in the dry washes of the area; these washes are used as roads to reach remote refugee – and mujahedin – camps. Usually placed during the night, they are detonated by the first vehicle to pass.

On September 9, 1987, a Pakistani refugee area administrator, Sakhi Jan, was en route to a refugee camp on the border when his Datsun pickup hit a land mine and he was killed. Seven others died and 25 were wounded on the spot; three more died later of their injuries from this one explosion. Although government officials as a rule do not travel before 10 am on the roads in this agency because of the danger from mines, this pickup was on the road, full of civilians catching a ride, at 7:30 am.

This is only one of a number of mine explosions that have injured and killed civilians in this zone.

Although some of the mining may reflect sectarian violence, it is likely that the primary cause is the desire of the DRA to disrupt mujahedin convoys transiting these roads. The DRA is therefore responsible for the civilians who have died as a result of its failure to observe the proper safeguards necessary to protect the civilian population. (See mines, above)

Refugees and Refugee Policy in Pakistan

The refugees are concentrated in the two provinces that border on Afghanistan: North West Frontier Province to the east of Afghanistan, and Baluchistan, to the south. (On the western border of both Baluchistan and Afghanistan is Iran.) In these areas, many Pakistanis are of the same tribes as the Afghan refugees.

About 2.1 million refugees have been registered with the government in the North West Frontier Province (in 236 camps) and about 811,000 in Baluchistan. (Numbers have been revised downward after lists were checked.) Some of the settlements, composed of various administrative sections, hold as many as 120,000 refugees.

There is a large number of unregistered refugees as well, estimated at 300,000-400,000 in North West Frontier Province, and 70,000 in Baluchistan around Quetta alone. The reasons why so many refugees are unregistered, and thus not receiving assistance, vary, but the predominant one is a policy to encourage the refugees to move away from the overcrowded border, especially in the North West Frontier Province. Registration is possible in Mianwali, Punjab, but the Afghans shun this area because of the extreme summer heat and ethnic and linguistic differences.

Refugee officials estimate that about 70,000 new arrivals were registered in 1987 in the North West Frontier Province, many from the north and north east zones of Afghanistan. This group arrived in poor medical condition because the journey is so long; they can no longer travel directly to the neighboring district of Chitral in north Pakistan, because that route is militarily unsafe. Now they must undertake a much longer journey south to Pakistan, passing around Kabul in the east-center of Afghanistan.

Location of Refugee Camps

Scores of refugees have died and been wounded in cross-border air strikes by the Afghan air force this year. (see above) Officials are particularly anxious that the refugees move out of Upper Kurram Agency, where there have been several air strikes and land mine incidents in 1987 affecting civilians.

Since they began arriving by the tens of thousands per month in the early 1980s, the refugees have become accustomed to living on the border. Many say they want to stay close to Afghanistan so they can easily return for military operations. Government officials do not try to coerce them to move, but instead, refuse to register new arrivals at the border and require them to accept transportation to the Punjab Province of Pakistan (which since January 1986 has received 200,000 refugees) before they will receive more than temporary assistance. Following Pakistani riots against refugees in Peshawar in early 1987, the government also began to relocate refugees from the city, where they had moved to seek work, to outlying camps.

The mujahedin bases are located at the border as well. Refugee camps openly serve as rest areas for the mujahedin. At meetings with refugees, the elders, who are military leaders as well as refugees, describe to visitors their military activities, forays into Afghanistan, and successes in battle, and then ask the visitor for help in getting better and more arms to carry on the resistance struggle against the Russians. This by no means converts refugee camps into legitimate military targets, however, because of the overwhelming presence of women and children in those camps.

Some of the dangers to refugees could be avoided by moving them away from the border, which has by now become a conflict area.

Requirement of Political Party Affiliation

Refugees must belong to an Afghan resistance political party to receive assistance, Pakistan refugee officials said. Those parties are then held responsible if there are any problems with the refugees. Pakistan refugee officials say that they expect the political parties to screen each refugee to establish that he is known to be from some community in Afghanistan, that he is who he says he

is, and that he is not a KHAD agent. The party must write a letter so stating to the Pakistan government.

The refugees are classed "white" (no security problems), "gray" (under surveillance), and "black" (arrested); this classification is done by the political parties, according to one Pakistani official, but others claim the Pakistan government is wary of these designations and conducts its own classifications of the "blacks" and "grays" referred to it by the political parties.

This system gives the political parties a veto over whether a refugee will receive assistance and turns refugee aid into a political patronage plum. Early accounts held that the chief beneficiary of the patronage was the Hezb-e Islami (Hekmatyar) party, which increased its influence in the refugee camps because of close ties to the then-Pakistani refugee administrator.* The current administrator is reportedly even-handed with all the parties.

While the Pakistan government obviously has a bureaucratic problem of immense proportions in trying to administer aid to a refugee population that is the largest in the world, this system seems to be prejudicial to those refugees who might not want to join a political party.

A relief official said that in reality the refugees who are not hooked into political parties do receive aid, but it is much more difficult for them, without this connection, to find their way through the bureaucracy. Nor is it easy for the refugee officials to locate the new arrivals who arrive in small groups and melt into the houses of their families.

* See Fullerton, *op. cit.*, pp. 70-71.

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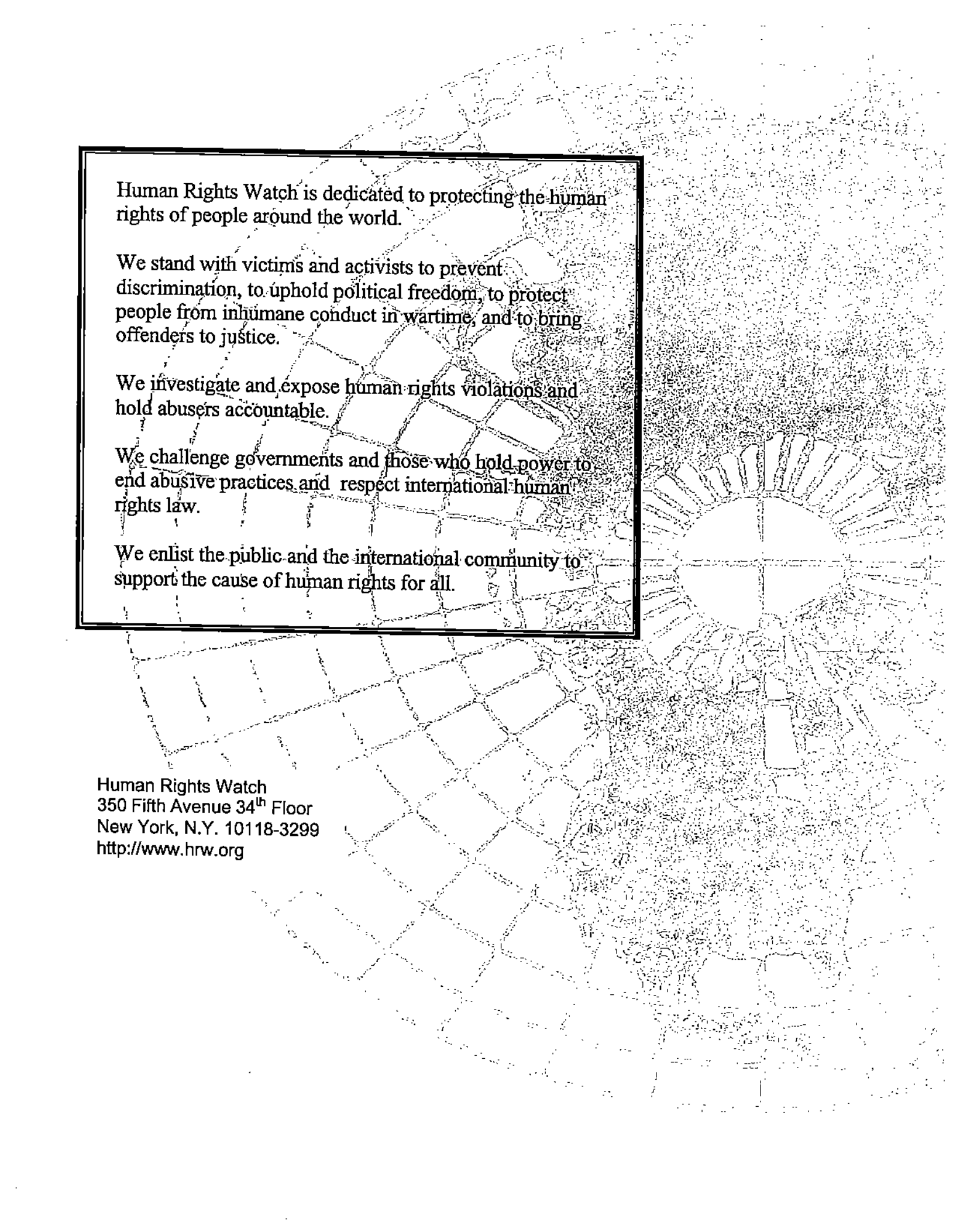
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