

Afghan Human Rights Abuses: A Chance For Change

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By Ahmed Rashid

An extraordinary series of reports by Afghan and international experts on the 27 long years of bloody human rights abuses in Afghanistan are for the first time placing enormous pressure on the Afghan government, the US administration in Afghanistan and the United Nations to take steps against the perpetrators, many of whom remain in positions of influence and power.

Until now, the US and Afghan governments have begged off starting any process of accountability of war criminals for a variety of reasons, including the lack of a judicial system in Afghanistan. However, a verdict in an extraordinary trial at the Old Bailey in London may show a way out.

On July 18, Faryadi Zardad, 42, a former Afghan warlord whose militia brutalized travelers at a checkpoint east of Kabul in the 1990s, was found guilty of conspiracy to torture people and take hostages. Zardad commanded troops, including one called "the human dog," who bit travelers and ate their testicles. Zardad had moved to England in 1998 and was running a pizza parlor in south London when he was arrested in 2002. He has been sentenced to two concurrent 20- year jail terms.

It is the first time that a Western court has tried a foreigner for torture carried out in a foreign country. Witnesses gave evidence anonymously via a satellite link from the British Embassy in Kabul.

The precedent and courage of this verdict could provide a model for the Afghan government on how to use international courts - "given the absence of a reliable Afghan court system -- to prosecute those accused of human rights abuses and war crimes. Recently released reports on human rights abuses in Afghanistan provide the government with all it would need to launch these proceedings

In mid-July, Patricia Gossman, director of the Afghanistan Justice Project, a research and advocacy group, released a 180-page report covering human rights abuses and the worst atrocities and massacres committed by participants in Afghanistan's wars from 1978 to the present day. The Justice report lists the entire range of Afghan commanders, from communists to Mujaheddin to Taliban, who were responsible for killing and torturing tens of thousands of Afghans.

Many of the warlords named are still being feted by President Hamid Karzai and hold high positions in the government. These include Chief of Army Staff General Rashid Dostum, Vice-President Karim Khalili, former Defense Minister General Mohammed Fahim and Abdul Rasul Sayyaf, a jihadist party leader who wields influence over the judiciary.

The compilation of eyewitness accounts and other material makes the report sufficient to file criminal charges against many warlords in the International Criminal Court in The Hague.

The report also documents how, after September 11, US forces allied themselves with the same warlords, while the lack of accountability at US detention centers in Afghanistan makes the US a part of the problem, rather than a part of the solution.

The timing of the report coincides with the country's parliamentary elections in September in which dozens of warlords, drug barons and military commanders who abused human rights for decades are being allowed to take part. Communists from the 1970s and Taliban from the 1990s are both standing in the elections.

Although Afghan law prohibits war criminals from standing for office, the Afghan Election Commission, which has vetted 208 candidates from a disqualification list, has barred only 11 from taking part in the elections.

Other reports have also put pressure on Karzai. In July, the New York-based Human Rights Watch released a report called "Blood-Stained Hands: Past Atrocities in Kabul and Afghanistan's Legacy of Impunity" which documents war crimes during a single year (1992-1993) in the country's bloody civil war. Many of the warlords presently commanding senior positions in the government have carried out massacres, rape, torture and other abuses, according to the report.

In January, the Afghan Independent Human Rights Commission published "A Call for Justice," in which an extensive survey conducted amongst Afghan citizens concluded that the majority wanted accountability for war crimes. People expressed support for excluding war criminals from standing for political office, establishing mechanisms for investigating past abuses and recognizing the suffering of war victims.

That same month, the United Nations High Commissioner for Human Rights presented a report to Karzai, which mapped out human rights abuses in Afghanistan from 1978 to 2001, based on UN reports and other documentation. The report was never released to the public and it is far milder than the July 17 Justice report. Nonetheless, it created panic among the warlords and drug barons, who urged Karzai to shelve it.

All the influential players in Afghanistan -- the Karzai government, the US embassy and armed forces command and the United Nations political office in Kabul -- have so far strongly rejected any form of accountability. According to them, such measures would "hinder national reconciliation" or "destabilize the political process." The UN and the US have argued that establishing security is more important than establishing justice.

Unfortunately, until recently, Karzai has been at the forefront of ridiculing these reports and refusing to take them seriously. In contrast, many Afghans have argued that security, stability and the political process are all being held hostage by the warlords, who still lord it over the population and consider themselves immune to any form of accountability for past or present deeds. Many of them are openly involved in the drug trade or other corrupt practices.

A change of attitude, however, may already be in the offing. The Afghan Human Rights Commission says the government is considering setting up a truth commission to document atrocities and a special war crimes court, although trials would be unlikely to start for another five years. A justifiable argument of those against any accountability process has been that the country has no proper judicial system that can deal with war crimes. The judicial system is only very slowly being rebuilt with help from the UN, UK and Italy.

The London court verdict against Zardad shows the way forward. The Afghan government could create a special court comprised of both Afghan and international judges with an international prosecutor that could sit in a foreign country or at The Hague. The court could hear witnesses by satellite link. Such a proposal has long been advocated by human rights groups, but now it could become a reality.

In the mid-term, the government should adopt a transitional justice program already recommended by the Afghan Human Rights Commission, which would document war crimes, firmly vet official appointments and create mechanisms for truth-telling and victim compensation.

In the immediate future, it is essential that the Election Commission has the courage to bar all warlords from standing in the elections. Only then will Afghanistan's future parliament and the political process have credibility and the war against the Taliban insurgency draw public support.

Editor's Note: Ahmed Rashid is a journalist and the author of two books, "Jihad: The Rise of Militant Islam in Central Asia" and "Taliban: Militant Islam, Oil and Fundamentalism in Central Asia."