

Flygtningenævnets baggrundsmateriale

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Titel:	Legal Aid Board. Information on role of Hizb e Islami in the insurgency. Any reports of killings of civilians by Hizb e Islami in last few years. How do Afghan authorities treat Hizb e Islami insurgents that are arrested or captured? Any reports on what has happened any high profile insurgents when they get captured or if they surrender to govt forces – any executions by government forces?
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Information on role of Hizb e Islami in the insurgency. Any reports of killings of civilians by Hizb e Islami in last few years. How do Afghan authorities treat Hizb e Islami insurgents that are arrested or captured? Any reports on what has happened any high profile insurgents when they get captured or if they surrender to govt forces – any executions by government forces?

A report from the *Congressional Research Service* states:

“Another “high value target” identified by U.S. commanders is the faction of former mujahedin party leader Gulbuddin Hikmatyar (Hizb-e-Islami Gulbuddin, HIG) allied with Al Qaeda and Taliban insurgents. As noted above, Hikmatyar was one of the main U.S.-backed mujahedin leaders during the Soviet occupation era. Hikmatyar’s faction received extensive U.S. support against the Soviet Union, but is now active against U.S. and Afghan forces in Kunar, Nuristan, Kapisa, and Nangarhar provinces, north and east of Kabul. On February 19, 2003, the U.S. government formally designated Hikmatyar as a “Specially Designated Global Terrorist,” under the authority of Executive Order 13224, subjecting it to financial and other U.S. sanctions. It is not designated as a “Foreign Terrorist Organization” (FTO). Hikmatyar has expressed a willingness to discuss a cease-fire with the Karzai government since 2007, and several of Karzai’s key allies in the National Assembly are members of a moderate wing of Hikmatyar’s party. While U.S. commanders continue to battle Hikmatyar’s militia, on March 22, 2010, both the Afghan government and Hikmatyar representatives confirmed talks in Kabul, including meetings with Karzai. The speaker of the lower house, Abdul Raouf Ibrahim, is said to be a member of this group. In January 2010, Hikmatyar outlined specific conditions for a possible reconciliation with Karzai, including elections under a neutral caretaker government following a U.S. withdrawal. Some close to Hikmatyar apparently attended the consultative peace loya jirga on June 2-4, 2010, which discussed the reconciliation issue, as analyzed further below.” (Congressional Research Service (07 September 2011) *Afghanistan: “Politics, Elections, and Government Performance”*)

A report from the *Afghanistan Analysts Network* states:

“Hezb-e Islami Hezb-e Islami (Hezb) was founded during the Soviet occupation of Afghanistan in the 1980s and played a key role in the civil war but lost its position as a key political or military factor during the Taleban regime. After 2001 and the fall of the Taleban regime, one part of Hezb formed a legal arm which was officially registered as a party and has MPs and several governors as members, while another arm led by its charismatic and ruthless founder Gulbuddin Hekmatyar continues to attack official, Mazar-e Sharif, 21 April 2010. Personal communication with British journalist, Kabul, September 2010. 93 Interview with Afghan informer connected to the Taleban, June 2010. foreign forces as well as ANP and ANA. At the same time, the Hekmatyar faction is negotiating with representatives of President Hamed Karzai, who during last year’s election campaign, praised Hezb-e Islami in even warmer words than the Taleban.94

According to anecdotal evidence and numerous references in interviews with highranking US military personnel, Afghan intelligence officers, local observers and journalists, Hekmatyar's group seems to be considered both by the Afghan government as well as by the leadership of the US military as a means of winning over disgruntled or opposition Pashtuns and breaking the Taliban hegemony over them.⁹⁵ As one US officer claimed already in early 2009: 'Hekmatyar is a son of a bitch. But we can make him our son of a bitch.'" (Afghanistan Analysts Network (5 May 2011) *Afghanistan: "The Insurgents of the Afghan North - The rise of the Taliban, the self-abandonment of the Afghan government and the effects of ISAF's 'capture-and-kill campaign'"*)

A report from the *US Department of State* on Terrorism in Afghanistan states:

"Separate but intertwined and affiliated extremist organizations led by Mullah Omar (Taliban), Sirajuddin Haqqani (Haqqani Network), and Gulbuddin Hekmatyar (Hezb-e-Islami Gulbuddin) increased their use of improvised explosive devices (IEDs) and coordinated attacks using multiple suicide bombers, particularly in the eastern and southern portions of the country. As they did prior to the August 2009 presidential and provincial elections, Taliban militants and other insurgents made a concentrated effort to depress voter turnout during the September 2010 parliamentary elections. A variety of threats, attacks, and intimidation tactics were used to prevent Afghan citizens from voting. Pashtun parliamentary losses in several provinces increased electoral dissatisfaction and ethnic tension." (US Department of State (18 August 2011) *Afghanistan: "Country Report on Terrorism 2010 - Chapter 2 - Afghanistan"*)

And

"On August 7, Taliban and Hezb-e-Islami claimed responsibility for killing 10 members of a medical mission team in Badakhshan Province." (Ibid)

A report from *International Crisis Group* states:

"Nonetheless, what Hekmatyar's faction has lost militarily it has regained politically with Hizb-e Islami Afghanistan, its political wing, which is strongly represented within the Afghan government. At least 49 members of the party have leadership positions as members of parliament, provincial governors or members of the cabinet. Party representatives, such as Minister of Economy Abdul Hadi Arghandiwal publicly maintain that they have no contact with Hizb-e Islami's armed wing. These claims seem dubious, however, in light of attempts by party representatives to broker a reconciliation deal between Hizb-e Islami and the presidential palace.¹²⁰ Hekmatyar's closest lieutenants, including his chief deputy, Engineer Qutbuddin Hilal, former deputy prime minister during the Rabbani regime, and Ghairat Bahir, Hekmatyar's son-in-law and one time spokesman, met Karzai in March 2010.¹²¹ They laid out Hizb-e Islami's fifteen-point peace plan, which in addition to demanding NATO troop withdrawals to begin in 2011, called for parliament to undertake a constitutional review process.¹²² Though a number of defections to the government have occurred as deals have been cut with Hizb-e Islami commanders, these agreements have been piecemeal and it remains unclear who speaks for the majority of Hizb-e Islami faction or indeed for Hekmatyar himself. This lack of clarity appears to have shaken some elements of the leadership in the party's fighting wing, making them more vulnerable to attacks from rival insurgent groups. As yet, there is no wholesale reconciliation deal nor is there any sign of broad intra-party agreement on the fate of its longtime leader should a deal be brokered at the national

level. Many Hizb-e Islami commanders, in the meantime, remain firmly in the fight.” (International Crisis Group (ICG) (27 June 2011) *The Insurgency in Afghanistan's Heartland*)

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

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

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

“There was never a legal bar on regime members taking public roles. For example, a former Taliban deputy minister and a former envoy of Gulbuddin Hekmatyar (a former Taliban rival whose faction of Hizb-i-Islami has joined the insurgency in a loose alliance) were appointed to the Senate. In the 2005 National Assembly elections, at least two former regime members were elected to the lower house. Soon afterward, a group of Hizb-i-Islami claiming to have split with Hekmatyar registered as a political party (Hizb-i-Islami Afghanistan), boasting more than 30 supporters in the lower house (of 249 seats). Many other ‘former’ members of Hizb-i-Islami, a grouping always dominated by professionals and technocrats, took powerful positions in the administration. These examples highlight the complex web of overlapping identities and shifting allegiances that has characterized the post-2001 government.” (Combating Terrorism Center (15 August 2009) *A Review of Reconciliation Efforts in Afghanistan*)

A report from *Human Rights Watch* states:

“In Baghlan province, security has deteriorated in recent years as a result of increased insurgent presence, criminal activity, and abusive government-backed militias. Former Hezb-i-Islami fighters, including local strongman Nur-ul Haq, were among the first recruits of the ALP. Haq and his men were working with US troops prior to being officially approved as ALP members. Haq and his forces were quickly implicated in numerous abuses. In August 2010, on a joint patrol with US forces in the Shahabudeen area, Haq and his men raided a house and unjustifiably killed the owner’s nine-year-old son. In April 2011, four armed ALP members in Baghlan abducted a 13-year-old boy on his way home from the bazaar and took him to the house of an ALP sub-commander where he was gang raped. He escaped the next day. Although the assailants’ identities were well-known, no arrests have taken place. The ALP in Baghlan has also been implicated in another murder and disappearance, but the police have told Human Rights Watch that they have been unable to question suspected ALP members due to their relationship

with special operations forces.” (Human Rights Watch (12 September 2011) *Afghanistan: "Just Don't Call It a Militia; Impunity, Militias, and the Afghan Local Police"*)

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

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

An article from *The Guardian* states:

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

A Reuters report states:

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

An article from *The Telegraph* states:

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

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

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

This report also states:

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

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

"Militants in Herat province of eastern Afghanistan who laid down their weapons in response to government offers of aid and amnesty are rejoining the insurgency after officials failed to deliver on their promises. A senior security official told IWPR that about half the 1,000 militants who had surrendered in the last year were now back fighting against the government. Both the Afghan government and the international community have made it a priority to persuade members of the Taliban and allied armed groups to defect, and this was the focus of a 'peace jirga' or assembly hosted by President Hamid Karzai in the capital Kabul in June. Efforts have focused on winning over small groups in return for protection from legal investigations, the provision of jobs and reconstruction projects for their home areas. However, in a telephone interview with IWPR, Nur Gul, a Taliban commander who surrendered with his 20 armed men last October, said none of the promises he received beforehand had been translated into action." (Institute for War & Peace Reporting (8 August 2010) *Afghan Former Militants Rejoin Insurgency*)

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

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

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

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