

Flygtningenævnets baggrundsmateriale

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Afghanistan - Researched and compiled by the Refugee Documentation Centre of Ireland on 2 June 2010

Information on the treatment of family of former Taliban members by the authorities

No specific information on the above query could be found among sources consulted by the Refugee Documentation Centre. The following information may be of interest.

A report by the *Home Office United Kingdom Border Agency* under the heading 'Current or former Taliban members or sympathisers' states:

"Treatment. The level of Taliban insurgency has increased significantly in the last 3 years, especially in southern Afghanistan, but also in areas that were previously relatively calm. The Taliban has engaged in attacks against the Government and its institutions, NATO forces, foreign interests and nationals, international organisations, and non-governmental organisation workers.

Some former Taliban figures and supporters, however, have distanced themselves from the militants and have instead joined the reconciliation programme initiated by President Karzai. In March 2007, Karzai signed a Bill providing sweeping amnesty for war crime committed over more than two decades of conflict in Afghanistan allowing that "all parties involved in the pre-2002 conflicts are granted legal and judicial immunity." And furthermore, "the Taliban as well as warlords who have been accused of grave human rights violations are exempt from prosecution for crimes committed before the establishment of the December 2001 Interim Administration in Afghanistan." (Home Office United Kingdom Border Agency (8 April 2009) *Operational Guidance Note Afghanistan* pg.10-par.3.8.2-3)

The report continues stating:

"The Danish fact-finding mission of March/April 2004 noted that, according to the UNHCR, former members of the Taliban who were guilty of human rights abuses were likely to encounter problems with the local community. However, the UNHCR also reported that low profile, or ordinary members did not generally face problems when integrating into local communities and had no problems solely because of their association with the Taliban." (Ibid) (par.3.8.4)

The same report adds:

"Sufficiency of protection. A judicial and legal system with limited function exists in Afghanistan. In Kabul, the police authorities are generally willing to enforce the law, although their ability to do so is limited by inadequate resources and dependent to some extent on the loyalties of individual officers. ISAF works alongside the Afghan Security Forces to maintain security in and

around Kabul and as result the general security environment there is much better than in other areas" (Ibid) (par. 3.8.5)

A report by the *Danish Immigration Service* under the heading 'Persons connected with Taliban' states:

"The UNHCR found that former members of the Taliban who are guilty of human rights abuses are likely to get into troubles with the local community. The source mentioned that low profiled, or ordinary Taliban members generally do not face problems when integrating in the local community.

The UNHCR explained that it is most likely, that some of the people who earlier supported the Taliban are now living in Kabul and other areas without having difficulties with the existing people in power. However the UNHCR pointed out that people who are known for having supported the Taliban run the risk of receiving serious threats if they return to the areas of Faryab, Badghis, Bamian and Ghazni in northern, north western and central Afghanistan. The source explained that a number of the acts of revenge related to the conflicts that aroused during the Taliban period is being carried out. The source new of episodes where the local population had imposed certain conditions towards a refugee wishing to return, whom they believed had committed human rights violations. The source said in this context, that the battle of the coalition forces in southern and southeastern Afghanistan is directed against high profile Taliban members and Al-Qaeda members. In relation to this, the source did not know of highly profiled Taliban members who had returned to Afghanistan." (Danish Immigration Service (2 April 2004) *The political conditions, the security and human rights situation in Afghanistan* pg. 56)

The report continues:

"The UNAMA found that the situation for former members of the Taliban is complex. The questions, as to whether a former member will have problems in Afghanistan today depends on whether the person concerned has a solid network, and is in a position to persuade that he has changed side to the people in power.

An international NGO mentioned that people who formerly worked for the Taliban can have problems in Afghanistan today, but that the extent of the problems depends on how highly placed the person was." (Ibid) (pg. 57)

The same report adds:

"The Norwegian Chargé d'Affaires pointed out that not all Taliban supporters committed crimes. The source was of the opinion that many ordinary people choose to join the Taliban just in order to get a job and are therefore not necessarily guilty of human rights abuses. The source found that at the present time there is very little persecution going on of the Taliban supporters. They have adapted to the society and have no problems solely because they are former members of the Taliban" (Ibid) (pg. 57)

A report by Emily Winterbotham for the *Afghanistan Research and Evaluation Unit (AREU)* under the heading 'National reintegration' states:

"The Amnesty Law potentially provides the legal basis for the government's recent emphasis on reintegration and reconciliation of Taliban followers. President Karzai unveiled a new "effective, inclusive, transparent and sustainable national Peace and Reintegration Programme" at the January 2010 London Conference offering work, education, pensions and land to Taliban insurgents who defect. Government representatives present at the London Conference stated they would back the plan. A Grand Peace Jirga is also planned for the 2-4 May, followed by the Kabul Conference shortly thereafter. What repercussions could this programme have for transitional justice? At present, it appears to ignore justice and, as such, fails to acknowledge the dangerous legacy of impunity in Afghanistan." (Afghanistan Research and Evaluation Unit (AREU) (April 2010) *The State of Transitional Justice in Afghanistan: Actors, Approaches and Challenges* Emily Winterbotham pg. 10)

A report by Graciana del Castillo for *The Daily Star* under the heading 'Afghanistan's reintegration will require both carrots and sticks' states:

"The prime focus of Karzai's reconciliation process is to find some means to reintegrate at least parts of the Taliban into society and into productive activities. In order to qualify for reintegration, members of the Taliban will need to lay down their weapons, renounce their connection with Al-Qaeda, and agree to respect the laws of Afghanistan" (The Daily Star (26 February 2010) *Afghanistan's reintegration will require both carrots and sticks*-Graciana del Castillo)

The same report adds:

"Eight years ago, Afghanistan embarked on four distinct transitions: a security transition away from violence and insecurity; a political transition toward a society based on participatory government and the rule of law; a social transition from tribal and ethnic confrontations toward national reconciliation; and an economic transition to transform a war-torn and unstable economy into a viable one in which people could make a decent and legal living." (Ibid)

The same report continues stating:

"So success in Afghanistan demands reintegration of the Taliban. This requires careful planning, bold and innovative solutions for inducing the Taliban to give up their arms, and a commitment to "stay the course" with the right policies, possibly lasting for many years.

But reintegration will require a carrot-and-stick approach. Incentives probably can be found to induce a large number of the rank and file Taliban to abandon the insurgency and join the Afghan armed forces or police, play a role in local politics, join the national civil service, or find agricultural or other private-sector employment. Cash payments should be minimized to immediate short-term needs, but an active policy of job creation urgently needs to be implemented." (Ibid)

References

Afghanistan Research and Evaluation Unit (AREU) (April 2010) *The State of Transitional Justice in Afghanistan: Actors, Approaches and Challenges* Emily Winterbotham

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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.

Sources consulted

Amnesty International

Danish Immigration Service

Electronic Immigration Network

European Country of Origin Information Network

Freedom House

Human Rights Watch

Lexis Nexis

United Kingdom Home Office

UNHCR Refworld

United States Department of State