

Human Rights Watch Briefing Paper
Afghanistan: Return of the Warlords
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I. Introduction

As Afghan and United Nations officials prepare for the forthcoming loya jirga (grand national assembly), as called for in the 2001 Bonn Agreement to choose Afghanistan's next government, ordinary Afghans are increasingly terrorized by the rule of local and regional military commanders – warlords – who are reasserting their control over large areas of Afghanistan. A mission by Human Rights Watch to southern Afghanistan in late May 2002 uncovered credible evidence of the reemergence of figures associated with the Taliban as well as the extremist Islamist movement led by former Afghan Prime Minister Gulbuddin Hekmatyar in several southern provinces.¹ These warlords have been able to consolidate power because of the vacuum created when the U.S.-led military coalition and the U.N. Security Council refused to expand the International Security Assistance Force (ISAF) beyond Kabul. Although U.S. forces are operating in these areas, they seem to be doing little if anything to address the insecurity experienced by ordinary Afghans. Indeed, according to persistent though unconfirmed reports received by Human Rights Watch, U.S. cooperation with certain of the local warlords seems to be aggravating the problem. Unconfirmed reports were also received of involvement in the region by Iran and Pakistan.

Regardless of their ideology and the source of their support, these warlords are creating a climate of repression that once again threatens the security and well-being of the Afghan people. This return of the warlords is especially painful to Afghans committed to rebuilding civil society who now face the possible end of the hopeful respite that followed the fall of the Taliban at the hands of the U.S.-led military coalition. Unless immediate steps are taken to counteract the growing power of the regional warlords, Afghanistan will be at the mercy of essentially the same figures whose rule and warring devastated Afghanistan over the last decade. In this environment, the loya jirga process, which was designed to sideline and minimize the rule of warlords, may instead entrench and legitimate their hold on power.

Our interviews generally occurred in a climate of great anxiety. Many people we interviewed told us that they were fearful of discussing their own security and livelihood – itself ample testimony to the high level of repression experienced by local Afghans.² Nevertheless, in every province of southern Afghanistan, we received at least some reports of local commanders corrupting the election process through the use of threats, beatings, imprisonment, and other tactics of intimidation. At the same time, generalized violence and criminality continued to

¹ The Hizb-i Islami of Gulbuddin Hekmatyar espouses an extremist religious and anti-Western ideology. At various times, it has fought and allied itself with almost every other group in Afghanistan. Hizb-i Islami received some of the strongest support from Pakistan and Saudi Arabia, and attracted thousands of religious radicals to Afghanistan, among them Osama bin Laden. On the role of Gulbuddin Hekmatyar and the emergence of the Taliban, see Human Rights Watch, *Backgrounder on Afghanistan: History of the War*, October 2001, <http://www.hrw.org/backgrounder/asia/afghan-bck1023.htm>

² Because of the level of insecurity, Human Rights Watch has withheld the names of people interviewed and in some cases the location of those interviews.

threaten the livelihoods and well-being of the local population, many of whom are already struggling to cope with a fourth year of drought.

II. Subversion of the loya jirga process

The strongest evidence of the growing power of the warlords is their ability in many parts of Afghanistan to subvert the loya jirga process.³ Despite the best efforts of the Special Independent Commission for the Convening of the Emergency Loya Jirga (“Special Commission”) and the United Nations, warlords have infiltrated and manipulated the process for selecting the meeting’s delegates, and will attend the meeting in large numbers or act through proxies. Between May 23 and May 30, Human Rights Watch researchers visited the southern provinces of Kandahar, Oruzgan, and Helmand, and conducted extensive interviews with locals, journalists, and independent observers of the loya jirga process⁴ in those provinces as well as in the provinces of Zabul and Nimroz. In every province, Human Rights Watch recorded instances of violence, intimidation, and general insecurity looming over the loya jirga selection process.

The Special Commission and the United Nations have tried to prevent warlords from dominating the election process, but reports from the north and west of Afghanistan indicate that these efforts are often failing. In northern Afghanistan, regional warlords, including General Abdul Rashid Dostum and Commander Atta Mohammed, have selected themselves to the loya jirga,⁵ while in the west of the country, Ismail Khan reportedly controls the selection process.⁶ The loya jirga’s selection criteria explicitly call for the exclusion of delegates who had engaged in human rights abuses, criminal activity, or the drug trade. However, in cases in which it is apparent that particular delegates’ selection is problematic – for instance, the selection of General Dostum and Atta Mohammad – the Special Commission seems unable to enforce these standards.⁷ Furthermore, the monitoring efforts of the United Nations and the Special

³ The elected representatives to the loya jirga are chosen in a two-stage process: during the first stage, local authorities choose a set of candidates at the local level, using a traditional manner for selecting representatives; during the second stage, these candidates travel to regional centers to vote in a regular ballot to choose from among themselves a smaller group of final representatives that will attend the loya jirga in the capital, Kabul. According to the Special Procedures adopted for the convening of the loya jirga, the first and second stage elections must be seen as “free and fair” by regional loya jirga commission observers. For more information on this process, see Human Rights Watch, “Loya Jirga Process is Launched in Afghanistan,” A Human Rights Watch Question and Answer on Afghanistan’s Loya Jirga Process, April 17, 2002, <http://HumanRightsWatch.org/press/2002/04/qna-loyajirga.htm>.

⁴ The Special Independent Commission for the Emergency Loya Jirga used small teams to monitor the election process. There were five observation teams for the loya jirga in southern Afghanistan, each with three Afghan members and one international member. The United Nations also used political affairs officers to monitor the conduct of the loya jirga.

⁵ Reuters, “Afghan Warlord Dostum Elected to Key Tribal Council,” May 26, 2002.

⁶ Ted Anthony, “Afghan Meeting Marred by Detentions,” Associated Press, May 28, 2002. During research in southern Afghanistan, Human Rights Watch was able to document some instances of manipulation of the loya jirga process in the west of the country as well. Human Rights Watch interviewed in Kandahar one resident from Christen district in Herat, whose father had been imprisoned and beaten by forces under Ismail Khan, along with over a hundred other residents of his village. Human Rights Watch interview, May 29, 2002. The residents, all Pashtun, were warned not to take part in the loya jirga election process.

⁷ Under rules announced by the loya jirga commission, all delegates to the loya jirga must sign an affidavit attesting that they have not taken part in criminal activities or human rights abuses in the past. The document binds the delegates to “give an account” of themselves if the affidavit is falsely signed. In addition, all local leaders who want

Commission focus on preventing violence and other overt interference on election day, and do not adequately cover intimidation tactics before the election or confirm that all delegates meet selection criteria. Thus, in the absence of an independent security force and an adequate supervisory capacity, the warlords and their guns have been able to monopolize power in many areas of Afghanistan.

Notwithstanding the widespread breakdown in the loya jirga process witnessed by Human Rights Watch, we also came across many areas where the Afghan people managed to assert their will and select their delegates – an important first step on the road to reconstruction. One particular, if simple, episode exemplified the promise of the loya jirga process. Oruzgan province, in south central Afghanistan, is widely viewed as one of the least stable areas in Afghanistan. (It is believed by many Afghans and international staff in the south that the Taliban leader Mullah Omar at times hid somewhere in the region.) In the Dirawood area of Oruzgan, locals used the support provided by outside observers to prevent a local armed commander from taking over the loya jirga elections. According to one of the members of a loya jirga commission observers team, “A commander tried to take part in the process, I do not remember his name, but the people said: ‘His hand is up to the elbows in blood,’ and so he was not allowed.”⁸

There were many instances of successful selections like Dirawood. But overall, Human Rights Watch saw that warlords in southern Afghanistan had successfully inserted themselves in the process. One of the worst areas was Zabul province, where authorities associated with Hizb-i Islami (the radical fundamentalist party of former Prime Minister Gulbuddin Hekmatyar) have tried to control and manipulate the loya jirga process. Direct interference with the process by the provincial governor, Hamidullah Tokhi – a senior Hizb-i Islami figure – has twice forced the U.N. and the loya jirga commission to abort attempts to hold the first stage of the loya jirga in the provincial capital Qalat. Through interviews with residents of Qalat and neighboring districts, as well as with independent observers, Human Rights Watch found evidence of extensive rigging of the process and intimidation of candidates, monitors, and local proponents of the loya jirga.

A senior member of the loya jirga observation commission for southern Afghanistan described the commission’s powerlessness to ensure acceptable elections in Zabul province as follows:

Our commission representatives went [to Zabul province] and came back without results. We came and we went two times, and still there were no results. We told the brother of Hamid Karzai [chairman of the Afghan Interim Administration], Mohammad Wali Karzai, to invite the Governor of Zabul here to discuss these issues, but the governor has not responded to our request. We have no power. When we are going to these elections we have no arms, no protections, we only have these radios. So we cannot make this man [Governor Tokhi] stop his influence. We are trying to prevent the people with guns [the warlords] from taking part in the election, we are just trying to get out the information about the

to take part in the process must resign their local government posts. In response to the selection of General Dostum, the Special Commission’s spokesman stated that the commission lacked the capacity to exclude him from the meeting.

⁸ Human Rights Watch interview with Observer H.R., Kandahar, May 27, 2002.

loya jirga process, but the warlords make all these problems. The night papers [pamphlets] they publish say that we should fight against the foreigners and Americans, and we are asked many questions by the warlords [about our allegiance, our patriotism]. It is very difficult without any security.⁹

Provincial authorities in Zabul blocked loya jirga commission volunteers from informing people in villages around Qalat about the forthcoming elections shortly before attempting to carry out the first stage of the process in the district, on May 13, 2002.¹⁰ The meeting itself was held in an open area that one local resident said was surrounded by police forces and armed men.¹¹ Once the nomination process was underway, Governor Tokhi presented a list of twenty candidates for each of the district's two seats in the loya jirga. Locals told Human Rights Watch that all forty candidates were preselected by Governor Tokhi and were associated with Hekmatyar's Hizb-i Islami.¹² Independent observers confirmed these assertions.¹³

Governor Tokhi tried to bully the commission representatives into accepting his rubber-stamped candidates by threatening them. He told the representatives, "If you don't accept it [the list he had presented], you had better leave the compound."¹⁴ The commission subsequently invalidated the list and rescheduled a new meeting in the district for May 19.¹⁵

Candidate H, a local businessman, was prevented from presenting himself as a candidate at the loya jirga selection site. "I wrote my name on a piece of paper and gave it to one of my friends to hand to the loya jirga commission," he said. But one of Governor Tokhi's men intercepted the paper and refused to hand it to the commission.¹⁶

On May 19, a larger international monitoring team accompanied the commission's observers to Qalat. This time the governor was not present, a measure that a loya jirga commission official described as an attempt to convey an impression of non-interference in the process.¹⁷ Turnout for the meeting was reportedly significantly lower than expected and the commission official said that none of those whom the commission had informed about the process were present. Local residents told Human Rights Watch of blatant attempts at intimidation, including arrests of potential candidates and supporters of the process, prior to the second meeting.

Candidate H, the businessman who had tried to nominate himself as a candidate a week earlier, received both an anonymous written threat and a verbal warning from a local Hizb-i Islami leader. "On Saturday night [May 18, the day before the second loya jirga meeting], I received an

⁹ Human Rights Watch interview with Observer H.R., a senior member of the U.N. loya jirga observer commission, Kandahar, May 26, 2002.

¹⁰ Ibid.

¹¹ Human Rights Watch interview with Candidate H, Kandahar, May 27, 2002.

¹² Ibid.

¹³ Human Rights Watch interview with Journalist N, Kandahar, May 29, 2002.

¹⁴ Human Rights Watch interview with Journalist N.

¹⁵ Human Rights Watch interview with Observer O, loya jirga commission observation team member, May 26, 2002.

¹⁶ Human Rights Watch interview with Candidate H.

¹⁷ Human Rights Watch interview with Observer O.

anonymous letter,” Candidate H said. “It was handed to one of my children in the early evening, at dusk.” The anonymous letter to Candidate H simply said:

[Candidate H] is informed for the last time that he should sever his and his family’s relationship with the process of the Americans and their allies. So, if you repeat your actions and cooperate with them, we must use the book and the law of Islam, and implement it. It is your choice. Signed, Friends of Sharia.¹⁸

The letter was followed by a face-to-face encounter with a local Hizb-i Islami leader, Mohammad Hashemi. “He started speaking about the election, in a soft voice. He said that he had detected some signs of danger for me if I attended the election, and wanted to inform me beforehand. He said it would be better that I not interfere with the governor and oppose his will, that I should accept whatever he says.”¹⁹

Concerned for his security, Candidate H left for Kandahar before the elections, but was nominated by supporters of his who attended the meeting. As of this writing, it is not clear whether he will be able to stand for election in the second stage of the loya jirga because the commission has cancelled the results of the May 19 meeting.

According to independent observers covering the elections in Zabul, at least eight other independent candidates who had intended to nominate themselves were detained prior to the second loya jirga meeting and remained in custody while it was underway.²⁰ Three other local citizens, ethnic Tajiks who tried to encourage people to participate in the process, were also taken into custody. A Qalat resident described the arrests of the three men, whom he identified as Shafiq Mohammad, Sharif, and the son of Alam Shah:

They went to the bazaar, and told people that the election commissioner had come, that the election was under way, and that they should participate. They said, “Tell them, ‘We are introducing our representatives to you.’” All three were arrested, and until the end of the election, kept in the custody of Abdul Jabbar, the head of security in Qalat. They were detained for about eight hours.²¹

The same resident said two or three vehicles were patrolling in the street with armed people, to intimidate them and deter them from participating. “They were directly warning people not to participate,” he said.²²

The provincial government’s continued interference with the loya jirga process in Qalat, and its attempts to introduce essentially the same list of candidates as before, prompted the loya jirga commission to cancel the results of the May 19 meeting as well. As of May 29, the commission was poised to make a third attempt at holding elections in Qalat.

¹⁸ Letter to Candidate H, on file with Human Rights Watch.

¹⁹ Mohammed Hashemi is the deputy head of a military base in Qalat, and a member of the city council. Human Rights Watch interview with Candidate H.

²⁰ Human Rights Watch interviews with Observer O and Journalist N.

²¹ Human Rights Watch interview with M.D., Kandahar, May 27, 2002.

²² Ibid.

Similar steps to control the loya jirga process and prevent individuals from presenting themselves as candidates were taken in Suri district, 23 kilometers to the south of Qalat. For instance, fifty-year-old Candidate B wanted to stand for election to the loya jirga. He told Human Rights Watch that prior to the selection, a clerical council in the district – whom he said had been appointed by an advisor to the provincial governor – met privately at the home of a local commander to select the district’s representatives.²³ Upon learning of the meeting, Candidate B’s supporters gathered at his home and affixed their thumbprints to a letter introducing him as their representative. He brought the letter to the provincial governor’s office and received a registration number there.

A police officer then requested Candidate B to come to the police station, where he said he would receive an official card of introduction to the loya jirga commission in Kandahar. Upon arriving at the station, however, a police officer confiscated his letter of introduction and held him in a police lockup overnight. He described his interrogation by the police:

They [the police] asked me, “Who are you? Why have you gone to the provincial authorities? We have selected the representatives—why are you disturbing the process?”

On the day of the loya jirga meeting in Suri, he said, about one hundred people were gathered at the meeting site – the large majority of whom supported the candidates nominated by the clerical council. According to Candidate B, the provincial police chief had warned local residents that only those who obtained official permission from them could attend the meeting.²⁴

In several districts in Kandahar province and in Kandahar city itself, Human Rights Watch received information about commanders who intimidated community members standing for election to the loya jirga. According to loya jirga commission members monitoring the first-stage election in Shorawak district of Kandahar province, a local commander directly threatened commission members and his political rivals in order to get his proxy representatives chosen. One commission observer explained the circumstances as follows:

There was a leader named Wakil Dost Mohammad Khan, who was an elder, not a military commander. He had four hundred supporters with him. These supporters wanted the election to go forward. But there was a commander there as well, named Haji Mohammad, and he told us that he would not allow the election to go forward. He told us [the loya jirga commission observers], “If all twenty [of the representatives to be chosen] are not selected from my group, I will hold you prisoner.”

²³ Human Rights Watch interview with Candidate B, Kandahar, May 27, 2002. The clerics had been appointed to the council by Abdullah Zakiri, a Taliban representative in Quetta who returned to Zabul from Pakistan after the collapse of the Taliban and now advises the provincial governor. Human Rights Watch interviews with Candidate B and Candidate H.

²⁴ Human Rights Watch interview with Candidate B.

We tried to have the election. The supporters of Wakil Dost Mohammad Khan and Haji Mohammad started to discuss how they might divide the twenty seats. A question arose about whether the seats should be divided according to the number of tribes supporting each of the leaders, or the number of villages. It was then the fighting started. The troops of Haji Mohammad had been surrounding the compound during the meeting, and they poured into the compound and started beating the elders, the supporters of Wakil Dost Mohammad Khan, kicking them. The elders fled.²⁵

The election was cancelled. The observer noted that his office had no power to stop what happened. "People like you and me have the support of the loya jirga commission and the United Nations, and yet we have no power to protect these people. Is it fair that we question whether they stand up or not?"²⁶

The competition for power between various warlords was one of the most significant barriers to the fairness and independence of the loya jirga process. On May 28, 2002, Human Rights Watch visited Shah Wali Kot district in Kandahar province and spoke with several members of the community and with new security troops who had been sent there from another district a day before. Three distinct groups have influence in Shah Wali Kot district: one group centered around the power base of a commander, Amir Lali, who commands a main military base in Kandahar; another centered around the family of Wakil Lal Mohammad Khan, a former minister in the Afghan parliament, and a third power base is associated with a local commander named Shair Agha.²⁷

U.N. and loya jirga commission officials stated to Human Rights Watch that the first scheduled election for Shah Wali Kot in early May had to be cancelled because of tensions between these groups, and because the local population appeared to be in fear of some of the commanders associated with these groups.²⁸ One observer noted:

We found that the supporters of the different tribal groups there were not really free to choose what representatives they wanted. The people are compelled to say whatever the commander wants. They have no power by which they can represent themselves.²⁹

Two days before the first attempt at an election in Shah Wali Kot, on around May 10, 2002, four people were killed on the road from Shah Wali Kot to Kandahar. According to local villagers, the car had been carrying members of the loya jirga commission who had been sent to Shah Wali Kot to disseminate information about the loya jirga process. At some point on the road back to Kandahar, the commission staff had gotten out of the vehicle and proceeded on to Kandahar by other means. Three other passengers had continued in the vehicle with the driver, who himself

²⁵ Interview with Observer A, loya jirga commission observation team member, Kandahar, May 27, 2002.

²⁶ Ibid.

²⁷ This information is based on interviews with several loya jirga commission observers, Kandahar, May 27, 2002, and interviews in Shah Wali Kot, May 28, 2002.

²⁸ Human Rights Watch interview with Observer H.R.

²⁹ Human Rights Watch interview with Observer A.

was said to be working for the commission. (One resident in Shah Wali Kot said that his cousin, one of the passengers, had been “working with the loya jirga commission,” possibly as a temporary guide.) Some time later the car was found on fire. The three passengers were found nearby. They had been shot, and one had his throat slit.

Residents interviewed in Shah Wali Kot indicated that this incident – occurring just before the elections – frightened people. Three residents told Human Rights Watch that recurrent violence in the area, linked to troops of the local commanders noted above, had created a general atmosphere of fear in the community.³⁰

As of June 1, a rescheduled election in Shah Wali Kot had not occurred, and the loya jirga commission officials were deciding whether to directly appoint candidates, as allowed under the loya jirga procedures in cases in which elections are not free and fair.

Even a fairly minor local commander could adversely affect the loya jirga process. Human Rights Watch received reports from some residents of a main village in Argandab district, called Sanzari, that a local commander there, Haji Habibullah, was undermining the loya jirga process. They reported that he was involved in looting and extortion from villagers, as well as other criminal activity. One interviewee stated that all the local meetings in Sanzari concerning the loya jirga process had taken place at Haji Habibullah’s house. “They [the elders] gathered with him, and he is involved, as they discuss the loya jirga. They will pick the electors as he says. He is probably the one who will represent the area.”³¹

The loya jirga commission monitoring team for Argandab could not ascertain the validity of the election process there, reflecting limits in its ability to monitor the loya jirga selection. An observer for Argandab district stated that he had received no reports of the commanders asserting themselves in the election process, but he pointed out that the election in Argandab did not take place in Sanzari, and that the Sanzari delegates had all shown up together: “They were already chosen, so there is no way of knowing if they were already pressured [by commanders].”³²

Human Rights Watch found that the election in Kandahar had far fewer problems than in surrounding rural areas, and that general security was far better inside the city than in other locations in the south of Afghanistan.³³ Because of the centralized security apparatus under Governor Gul Agha, and possibly because of the close presence of international troops, there were no reported incidents of commanders or troops showing up at first stage election sites and intimidating potential representatives.

³⁰ Human Rights Watch interviews, Shah Wali Kot, May 28, 2002.

³¹ Interviewees from Sanzari refused to be interviewed in Sanzari itself: Human Rights Watch shuttled them from Sanzari to a private residence in Kandahar for interviews, and in one case a resident refused to even meet with international researchers, instead giving his story through a Human Rights Watch interpreter.

³² Human Rights Watch interview with Observer Q, loya jirga commission observation team member, Kandahar, May 27, 2002.

³³ Within Kandahar city, there are large numbers of armed and uniformed men. Some are troops attached to the Governor; others are police under the command of the Chief of Police, General Akram. There are still other troops, from surrounding bases, who are sometimes within the city, and troops from other commanders from outside the district.

However, Human Rights Watch did receive isolated reports of threats against the loya jirga participants during the first stage of the process. One loya jirga candidate, Candidate K, reported having been intimidated from participating in the process. His testimony, corroborated by neighbors and other witnesses with whom Human Rights Watch spoke, demonstrated the tactics used to pressure independent candidates against taking part in the consultative process. Human Rights Watch spoke with him on two occasions during one week, over the course of which he was forced to withdraw from the elections as a result of threats by gunmen associated with local commanders.

Two nights ago [May 24, immediately before the elections to the first stage of the loya jirga], some armed men came to my home and threatened me from taking part in the elections. They knocked at my door. I asked, “Who are you?” They said, “We have a problem with you.” I opened the door and went out. And I asked them to come into my house to have tea. But they started giving their message to me in the street. They wanted me to vote as they said in the loya jirga.³⁴

Candidate K told Human Rights Watch that the men were “from Jamiat,” referring to supporters associated with two senior commanders in Kandahar – Khan Mohammad and Haji Nakibullah – who are loosely linked with the predominately Tajik Jamiat-i-Islami party base in Kabul and the northeast of Afghanistan, but are also loosely allied with Gul Agha in Kandahar. The candidate described how the visit turned hostile:

At first they respected me, and asked, “Give your word to us” [to vote with us.] I refused. And gradually we became heated in the discussion. And finally it was 11:10 p.m. that they told me: “The choice is with you, you have to take the choice, and you will face the consequences.”³⁵

I said, “I am a worker, that my aim is to stand against you and to have my campaign for the loya jirga.” But they threatened me and said, “If you do not sit aside or vote in our favor, you will face the consequences.” It means that if you do not do what they say, your life is at threat. No. I have no fear. It is not the first time I have been intimidated by gunmen. Time and again I have been intimidated, and this time I am not afraid of them, and I would like to go forward.³⁶

The candidate was elected in the first round. But a return visit by gunmen persuaded him to drop out of the process.

Well, if I ran [in the second round], I could win. And if I won, I would vote for the people of Afghanistan and against the warlords. But I will not try to be

³⁴ Human Rights Watch interview with Candidate K, a loya jirga participant in Kandahar city, May 26, 2002.

³⁵ Ibid.

³⁶ Ibid.

elected, I will not try to be in the group. Because now my life is in danger. I have now promised to these men that I will not try to get elected to the final [group].³⁷

Similar conditions prevailed in Helmand and Nimroz provinces, to the west of Kandahar. Human Rights Watch spoke with several U.N. observers, loya jirga commission members, and NGO officials about the loya jirga process and the security situation in Helmand and Nimroz. Human Rights Watch also traveled to Helmand province on May 28, 2002 to observe a first-round election with a U.N. observation team. Reports of insecurity and difficulties during the elections in both areas were numerous.³⁸

International observers faulted the election process throughout Helmand province.

We had major problems in almost all places [in Helmand]. At most election sites, there were armed men, military people, with guns, rocket launchers, and so on. They were inside the polling place, and guarding outside. We told them to have the election sites outside the mosques [in the garden or courtyards outside] and no armed men. But they were all inside, and with armed men everywhere. In north of Helmand it was especially bad. A general [there] came to me and he said that there were many problems, but he said “I cannot talk to you. There are people around who are fundamentalist.” By this he meant Hizb-i Islami. He was afraid of them.³⁹

A loya jirga commission member provided one example of the kind of political pressure used in Helmand to subvert the loya jirga.

When we went to Lashkar Gah [district of Helmand province], the people had complaints about the warlords, that they were intimidating them. They said to us: “Do not give our complaints to the commanders.” Because all the population were living in a panic. They said to us: “Every four hours someone is killed by these commanders. Insecurity is everywhere in Helmand. These commanders are misusing their power.”⁴⁰

Farther west, the first stage election in Khash Rud district of Nimroz province was cancelled because of intimidation by warlords. Several observers reportedly saw commanders and troops intimidating local people who had shown up to take part in the process.⁴¹ A loya jirga commission team member described the situation in Khash Rud on the day of the first election attempt:

The elections were not done properly. In Khash Rud, they [the commanders] gave all the names of the representatives [i.e., they supplied a list of

³⁷ Ibid.

³⁸ Although Nimroz province is not in the domain of the loya jirga commission office in Kandahar (it is under the domain of the Herat office), several complaints were received in Kandahar from loya jirga participants there.

³⁹ Human Rights Watch interview with Observer C, international observer for U.N. loya jirga team, Kandahar, May 26, 2002.

⁴⁰ Human Rights Watch interview with Observer Q.

⁴¹ Ibid.

representatives before the election started] and they threatened people not to make trouble for them.⁴²

In Chora district of Oruzgan, a loya jirga commission observer described a particularly difficult commander who had clearly intimidated residents before the elections had begun:

In Chora district, in Urozgan, the people came to us, and they said that they are afraid of the commander there, Akhtar Mohammad. A group of them said to us: “He has killed 70 of us. If we oppose him, then he will have no mercy. We know our situation, and we have to do what is right for us.”⁴³

An international observer said that the first stage election in Chora in the end had to be cancelled, but was being rescheduled as of June 1. It proved impossible to negotiate with the local commander:

We told him [Akhtar Mohammad] that the process did not allow commanders, or local authorities, to be candidates. And he agreed not to take part. But then he showed up, with his troops, and clearly was intimidating the population. He was clearly the local strongman. The local people did manage to speak with us, and confirmed that this commander and his troops were terrorizing the area. There were rumors that he had had a lot of people killed: one case of three people killed, another of thirteen killed, and yet another of six people being “carried off.”⁴⁴

Human Rights Watch visited Gizab district in Oruzgan with a loya jirga commission monitoring team on May 28, 2002. By prior agreement between the political leadership of the two ethnic communities in the area, two-thirds of the candidates were to be Pashtun and one-third Hazara. Further allocations were made along tribal lines for the Pashtun and by village for the Hazara. There was little opportunity for free selection during the process.

A.M., a thirty-year-old resident of the district, commented afterwards on the process:

People just raised their hands [in assent] – even though there were people among them [the candidates] who had killed. Among the candidates, there were people who were in touch with and members of the Taliban. There were only one or two impartial candidates; all the other candidates were part of the government in the time of the mujahideen and the time of the Taliban, and they are oppressing us today. All the old commanders and leaders had their followers in the past, and they gathered their people and they voted in their favor.⁴⁵

Although Hazara made up a large proportion of the district’s population, few were present for the loya jirga selection process. Some Hazara present blamed the distance of the main Hazara

⁴² Human Rights Watch interview with Observer H.R.

⁴³ Human Rights Watch interview with Observer Q.

⁴⁴ Human Rights Watch interview with Observer M, international member of loya jirga observation team, May 27, 2002.

⁴⁵ Human Rights Watch interview with A.M., Gizab, May 28, 2002.

population centers from the district centers. G.H., a 23-year-old Hazara man, told Human Rights Watch that he had walked twelve hours on foot to participate in the meeting. He also complained about lack of information, a grievance voiced by Hazara interviewed by Human Rights Watch in Kandahar as well.⁴⁶

Many of those Hazara who did attend were supporters of one of two rival commanders, Ittimadi and Abdul Wahid. Z.N., a Hazara man from Bari village, told Human Rights Watch that people voted for the commanders because they were the only real alternative: “After twenty-three years of fighting, people have the experience that they need support, and therefore they favor one or the other side. They have a great fear of the commanders, too.”⁴⁷

III. Threats to women’s security and their rights

As recently as May 9, 2002, Human Rights Watch reported its concern about the effect of the ongoing insecurity in Afghanistan on women.⁴⁸ Afghan women of all ethnicities have been compelled to restrict their participation in public life to avoid being targets of violence by armed factions and by those seeking to enforce repressive Taliban-era edicts. Afghan women, especially outside Kabul, continue to face serious threats to their physical safety, denying them the opportunity to exercise their basic human rights and to participate fully and effectively in the rebuilding of their country.

A handful of women in southern Afghanistan have been undeterred by such intimidation and made progress toward election to the loya jirga. At least 160 of the 1,500 seats at the loya jirga are reserved for women, with five seats set aside for delegates from Kandahar. According to U.N. observers in Kandahar, twenty-eight women were selected during the first phase of the loya jirga. Across the southern region, one woman was selected in Helmand province, and four in Oruzgan.⁴⁹

A.B., a female observer for the loya jirga commission, indicated that for the most part, the loya jirga process for females in southern Afghanistan had gone smoothly, but admitted that in many rural areas, local authorities and commanders had tried to intimidate potential female candidates.⁵⁰ Strong efforts by the loya jirga commission and U.N. observers seem to have helped combat some of these instances of intimidation. Despite these modest successes, only increased security conditions can establish an enabling environment for Afghan women, and thereby ensure the inclusion of women's rights in all aspects of governance, including post-conflict reconstruction, justice, and accountability.

⁴⁶ Human Rights Watch interview with G.H., Gizab, May 28, 2002.

⁴⁷ Human Rights Watch interview with Z.N., Gizab, May 28, 2002.

⁴⁸ For further information on the conditions for Afghan women in northern Afghanistan and in Kabul, see Human Rights Watch, “Taking Cover: Women in Post-Taliban Afghanistan,” A Human Rights Watch Briefing Paper, May 9, 2002, <http://humanrightswatch.org/backgrounder/wrd/afghan-women-2k2.pdf>

⁴⁹ IRIN, “Successful Turnout for Women’s Election in Afghanistan,” May 28, 2002.

⁵⁰ Human Rights Watch interview with XX, female member of the loya jirga observation team, Kandahar, May 25, 2002.

An example of intimidation against women candidates, and women in general, came from Candidate X, who was a candidate for the loya jirga from Kandahar city. After winning a spot in the first round of the loya jirga selection, she spoke with Human Rights Watch on May 28, 2002, a day before the second-round election for women in Kandahar.

We received a letter, it was not clear who it was from. It was addressed to my husband. It said: "If your wife participates in the loya jirga, we will kill you, and if we do, it is your sin, not ours."⁵¹

In her case, the threat appears to have failed. "I am not afraid. I am afraid of God, and not of anyone else."⁵² Nevertheless, when asked about security for women in Kandahar city, Candidate X was reluctant to speak openly about the situation. She described incidents of general violence and intimidation of females:

I meet about 250 women every day [through my work]. There are many mental problems with these women, because of the violence everywhere: they are afraid for their lives. There are warnings about women not to do this or that: "Do not go to school, we will kill you if you do. Do not go to work, we will kill you." Rickshaw drivers drive past, and they hit women on the back of the head, and they say, "do not go to school, we will kill you." Or: "Do not go to work."⁵³

Human Rights Watch asked if regular troops in the city were creating problems for women.

Well, the women say these things, but I cannot. The situation is not good. There have been problems. But I cannot talk about them now. They will threaten me again. I do not want to speak about it now. After the loya jirga process, I will tell you about these things.⁵⁴

An independent journalist assessing security conditions in Zabul province visited a girls' school in Qalat and found continuing restrictions on education and pervasive insecurity for female students.

I went to the only girls' school in the district and spoke to the female teachers in the office. The female students I interviewed complained about the curriculum and security. They said they did not feel safe walking along the streets, from fear of the gunmen. They said the gunmen and soldiers were all Taliban. They said books printed by the interim government were not being provided to them to distribute among the students. All of the books were being kept in storage, with the door sealed. "We are compelled to teach the curriculum published by the Taliban," they said.

⁵¹ Human Rights Watch Interview with Candidate X, Kandahar, May 28, 2002.

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Ibid.

The school's teachers also told the journalist that the head of the provincial education department appointed by the Kabul authorities had been rejected and threatened with death if he tried to occupy his position.⁵⁵

IV. General Insecurity and Lawlessness

Interference with the loya jirga process is only one element in a broader pattern of abusive behavior and intimidation by warlords in southern Afghanistan. In interviews with Human Rights Watch, local residents and independent observers described a general absence of the rule of law or any accountability for those in power.

In Zabul province, witnesses described an administration that had changed only nominally since the Taliban, retaining, for example, the heavy-handed religious police and the Taliban's school curriculum. They portrayed a profoundly repressive administration that offered little or no prospect of participating freely in a political process.

For instance, M.D., a thirty-five-year-old ethnic Tajik resident of Qalat district of Zabul province, described the beating and detention of Agha Mohammad, a local Tajik landowner who had been a Jamiat-e Islami commander during the mujahideen period and now supported the loya jirga process. M.D. pointed out that the three ethnic Tajiks who were detained on the day of the loya jirga meeting in Qalat were relatives of Agha Mohammad.

Four days ago, in the evening, local police under [deputy provincial police chief] Mohammad Wali, arrested Agha Mohammad in the bazaar. Then they entered his home, and searched it and arrested his two brothers: Faiz Mohammad, thirty-five years old, and Taj Mohammad, thirty-eight years old.

All of the city [bazaar] people saw Agha Mohammad being arrested. He was beaten in public view. And in police custody, he was beaten black and blue. Permission has not been granted to any of the city people to visit him in custody, but we know of his treatment from two sources: a police officer in the station and a personal friend who works there. They said they were in a separate room, and heard the sound of whips. They said they were astonished that the man [Agha Mohammad] wasn't shouting, when he was being beaten so severely. In the morning, they came to know that he had fallen unconscious.

Although Agha Mohammad's brothers were subsequently released, Agha Mohammad remained in custody as of May 27, 2002.⁵⁶

An Afghan journalist described an attack by agents of the Ministry of Prevention of Vice and Promotion of Virtue, which was responsible for maintaining social control (especially over women) during the Taliban's rule. The Ministry seemed to be operating again in much of Zabul

⁵⁵ Human Rights Watch interview with Journalist N.

⁵⁶ Human Rights Watch interview with M.D., Kandahar, May 26, 2002.

province. He told Human Rights Watch what he saw on May 19, while trying to interview people in the Qalat bazaar about their feelings about the loya jirga process:

When I put the microphone in front of a person [in the bazaar], I saw a group of Vice and Virtue people pulling a guy by force who was selling tape recorded cassettes. They tore down the placards in front of his shop, laid him face down, and started beating him.⁵⁷

In Kabul province, Sanzari residents told us they were concerned about Habibullah, their local warlord. One resident told Human Rights Watch, “Because of his record, in the past, it is better that he is not involved.”⁵⁸ Several witnesses, who only spoke after being shuttled out of Sanzari itself, suggested that Habibullah was involved in extortion, looting, and sexual violence. In comments endorsed by all, they explained:

One of the things that he has done is that he had roadblocks, and he would take bribes, and he has forced people to give him money. And not only did he take money, he took double what other commanders took. He has forced beardless boys [adolescent boys] to his command post for sexual purposes. These were examples of the worst atrocities.⁵⁹

Kandahar city itself appeared relatively secure at the time of first-stage elections. Still, there were several reports concerning violence and looting by gunmen employed by the local government.

A businessman told Human Rights Watch that he had been robbed and beaten in his house by men in “government uniforms.” This account was confirmed by members of the loya jirga commission observation team who were familiar with the case.

I was taking a nap in the afternoon when I heard a knocking at the door. My younger brother went and opened the door. The moment he opened there were many soldiers – gunmen – wearing government uniforms, as the police. They put the gun on my brother not to move. And many others entered into my yard. At this time, my wife informed me that there are some soldiers in the yard. I put on my clothes. I went out, and they ordered me not to move and told me that there are Arabs and Al Qaeda in your home, and we are searching for them. I told them that there are neither Arab nor Al Qaeda groups inside my house, and I have no relation with them, and I asked them, “Who are you?” And they told me that “we are members of the intelligence services of Afghanistan, the Amniat-e Melli.” And then they fastened our hands, and after searching all around our house, took 151,000 rupees, and 30 million Afghanis. And after beating us they left the house and told us not to shout and not to move.⁶⁰

⁵⁷ Human Rights Watch interview with Journalist N.

⁵⁸ Human Rights Watch interview with Sanzari residents, in Kandahar city, May 28, 2002.

⁵⁹ Ibid.

⁶⁰ Interview with businessman from Lui Wala neighborhood in Kandahar, May 26, 2002.

The businessman said that local authorities had not pursued the case. “They have done nothing. They have neither arrested anyone nor given security... All the businessmen have no feeling of security. It’s the same thing that always happens.”⁶¹

Interviews with local professionals and officials yielded a similar description of the conduct of local troops on the streets of Kandahar. The manager of one of Kandahar’s hospitals explained:

They [soldiers] steal everything they get their hands on. Sexual relations between men and boys are still around. They still are around like it was under the Taliban. Their conduct is still the way it was under the Taliban. They do not understand the value of what has happened in the past few months. They are driving fast in their cars, making the streets unsafe, they are smoking hashish, and smoking even opium, and stealing everything around them.⁶²

A regional manager of an Afghan humanitarian aid group, responsible for humanitarian assistance throughout the southern region, compared the insecurity in Kandahar with the relative security of Kabul:

We can see the situation inside Kabul, where there is peacekeeping. If you compare Kandahar and Kabul you will find a very big difference. In Kabul you can see how people are living, how they go to their work, around the streets, the roads, going to their offices.... But here in Kandahar it is very different. They must send some more security here.⁶³

A senior member of the loya jirga commission observation team suggested that commanders in Nimroz were engaging in extortion on the road. He told Human Rights Watch that on the road through Nimroz, duty or “tax” was extorted by local commanders in three different places.⁶⁴ And in Nadali district in Helmand province, loya jirga commission observers confirmed incidents of insecurity on the roads.

Three boys, each about eight or nine years old, were killed when they were on their way to school. They were wearing turbans, and the police, army men, stop the three guys and asked them: “why have you put on turbans?” And then they shot them. Two were killed, and one was not. This is a confirmed case. We confirmed this.⁶⁵

V. External Factors in the Reemergence of the Warlords

⁶¹ Ibid.

⁶² Human Rights Watch interview with Mohammad Shah, manager at Mir Wais hospital, Kandahar, May 26, 2002.

⁶³ Human Rights Watch interview with the regional manager of an Afghan humanitarian agency, Kandahar, May 25, 2002.

⁶⁴ Human Rights Watch interview with Observer H.R.

⁶⁵ Human Rights Watch interview with Observer Q.

The resurgence of the warlords is fueled in part by international factors. In the case of Western troops, the unwillingness of the international community to deploy peacekeeping forces outside of Kabul to rein in the warlords combined with the frequent presence of U.S. troops and their apparent cooperation with the warlords has left the impression among many Afghans that the warlords enjoy U.S. support. Unconfirmable reports abound of financial and military support. In addition, Human Rights Watch received unconfirmed reports of active Iranian and Pakistani involvement.

The United States and its coalition forces have an active presence in southern Afghanistan and have used local troops supplied by warlords in combat operations. These activities have fostered the impression that the United States is supporting the warlords, directly or indirectly. In Zabul, for instance, Observer O, who has been traveling throughout southern Afghanistan to monitor the loya jirga process, described the perceived link between U.S. coalition forces and Governor Tokhi:

Because the United States does not have any troops – no land troops – to deploy, it was only bombing, and they used these people as land troops to capture and take the place of the Taliban. Therefore they came into power, and then Hamid Karzai had no police and no army and he was compelled to accept their authority and their power in Zabul. The U.S. gives them satellite telephones, financial support, and enough weapons. On our way back from Qalat [after elections were cancelled due to Governor Tokhi's repressive tactics], we saw that American troops were on their way to Qalat.⁶⁶

An international member of a loya jirga observation team described a similar perception of the link between U.S. coalition forces and local warlords in Oruzgan province, and the widely shared belief that “the U.S. forces are helping to protect the governor in Tirin Kot [the governor of Oruzgan]... in Helmand... in Kandahar.”⁶⁷

Official U.S. policy in Afghanistan is driven by a desire to avoid entanglement in Afghanistan and minimize the commitment of American combat troops there, necessitating a reliance on local commanders – regardless of their human rights records – to provide security. While the U.S. government does not view this policy as actively supporting local warlords, the distinction is often lost on Afghan civilians who see coalition forces openly interacting with warlords.

A senior member of the loya jirga observation team for the southern region of Afghanistan repeated the widespread sentiment that commanders across the area west of Kandahar were directly using American support to intimidate local populations. He told Human Rights Watch that commanders in Gholistan, Farah, north Helmand, and Nimroz have used satellite phones, many given to them by coalition forces, to threaten opposition leaders or other villages with bombing:

The commanders who the United States have supported, there is no one to stand up to them. The commanders all around this area very easily threaten the local

⁶⁶ Human Rights Watch interview with Observer O, Kandahar, May 25, 2002.

⁶⁷ Human Rights Watch interview with Observer M.

population. Many of them have been given satellite telephones, and they use these to scare everyone. They say to people, "If you do not do what we say, we will tell the Americans you are Taliban or Al Qaeda, and have the Americans bomb you." They misuse the phones, they intimidate people. [We hear this from] all the people who have been nominated for the loya jirga process, who have complaints about the commanders, and who come to us.⁶⁸

Residents of Sanzari district, in Kandahar province, told Human Rights Watch that their fear of their local commander Habibullah was in part based on their perception that U.S. coalition forces, as well as provincial governor Gul Agha, supported Habibullah. One man explained the roots of this belief:

These people got their weapons from Gul Agha. Gul Agha did get support from the Americans, and Habibullah got the support from Gul Agha, so you can decide for yourself... Gul Agha has been out to Sanzari some times, to have lunch with Habibullah. The American troops have come to Habibullah about ten times. Sometimes with two trucks, with three trucks, or four trucks, sometimes just with one truck. Many times they have come.⁶⁹

Such fears about the involvement of U.S. troops are stoked by incidents such as the assault on the village of Band-e Temur, when some fifty local villagers were arrested and their elderly leader was killed while being taken into custody of U.S. troops, apparently because of a case of mistaken identity.⁷⁰

Although U.S. forces were clearly visible to our researchers, Human Rights Watch during its mission could not independently confirm allegations about active agents from other governments. The consistent and broad nature of the testimony raised serious concerns about recurring interference of Afghanistan's neighbors in the country's domestic processes. International and local observers of the loya jirga expressed their strong belief that agents of these two governments are active throughout southern Afghanistan.⁷¹ Given the history of involvement and support by Iran and Pakistan with various Afghan factions, such allegations are eminently plausible and require proper investigation by the Afghan government, the United Nations, and international security forces.⁷²

VI. CONCLUSION AND RECOMMENDATIONS

In many ways, Afghanistan today resembles Afghanistan in the early 1990s, when regional commanders were consolidating their power before the onset of the savage civil war that followed the fall of the Soviet-sponsored communist government. Many of the actors, domestic

⁶⁸ Human Rights Watch interview with Observer O.

⁶⁹ Human Rights Watch interview with I, 27 years old, a resident of Sanzari, Kandahar, May 28, 2002.

⁷⁰ Carlotta Gall, "U.S. Troops Release 50 Men From Afghan Village Raid," *The New York Times*, May 31, 2002.

⁷¹ Human Rights Watch interview with senior U.N. officials in Kandahar, May 29, 2002.

⁷² See Human Rights Watch, *Crisis of Impunity: The Role of Pakistan, Russia, and Iran in Fueling the Civil War in Afghanistan*, July 2001.

and foreign, are the same as a decade ago. However, in 2002 the international community has a direct stake in, and considerable influence over, Afghanistan's future. It is crucial that the United Nations, the United States and its coalition forces, and Afghanistan's neighbors act to prevent a reprise of Afghanistan's bloody past.

Any future Afghan government, along with the international community, the United Nations, the United States, and Afghanistan's neighbors, must:

Halt assistance to the warlords.

The direct and unconditional assistance to local commanders in the south of Afghanistan, undertaken by different parties and nations for different reasons, should immediately stop if regional security and stability is to be restored. All outside actors who are directly supporting local military forces should immediately halt this assistance and coordinate further assistance to local areas and commanders through the United Nations, and the interim authority (and its successor).

U.S. coalition forces should immediately cease their direct support to individual local warlords and try to create with the interim authority (and its successor) a more stable centralized command structure. All armed groups outside the control of the central government must be disarmed. The possible involvement of other countries, and the ability of local warlords to augment their income by engaging in extortion, cross-border smuggling, and the drug trade, greatly weaken one of the central tenets of U.S. strategy in Afghanistan, namely, the use of reconstruction aid as an instrument of ensuring good behavior by local commanders.

All donor nations must rigorously enforce their "conditionality criteria" to ensure that development aid is not supplied in areas where local commanders cannot ensure security and basic human rights.

Expand security forces.

The loya jirga process does not signal the end of the need for international involvement in Afghanistan's reconstruction. The reemergence of regional warlords at a time when any Afghan central government still lacks the ability to project itself beyond Kabul places the burden on the international community to help maintain the security necessary for civil society to take root in Afghanistan. The need for expanding peacekeeping forces in Afghanistan is not going to go away. Recent events, and the deteriorating security situation detailed in this report, demand that the members of the U.N. Security Council, and particularly the United States, revisit and reevaluate their refusal to commit resources to expanding security throughout Afghanistan, both in the south and to other areas of Afghanistan.

Counteract the influence of warlords during the loya jirga process.

The Special Commission and United Nations should rigorously challenge all candidates who do not meet the eligibility requirements set out in the Special Procedures for the loya jirga, which require, among other things, that representatives affirm that they do not have histories of committing war crimes or other serious human rights abuses or of engaging in drug smuggling or other criminal activity. Furthermore, the Special Commission for the loya jirga process should use its "appointment power" carefully (the commission is allowed to appoint over 400

representatives directly to the body) to ensure that the loya jirga is not dominated by commanders who are hostile to the peace process.

Institute a system of accountability for violations of human rights in Afghanistan.

The Bonn Agreement included institutions designed to begin the process of establishing accountability in Afghanistan, such as the Human Rights Commission and the Civil Service Commission. These institutions have not yet begun effective operations. The United Nations and the international community should assist these institutions to robustly investigate and address past and present human rights abusers. The international community should support efforts to promote justice for human rights violations, particularly by strengthening Afghan institutions of justice that respect internationally recognized norms.