

# Atrocities and Violations of Human Rights and International Law in Afghanistan

*Editor's Note:* For nearly five years, the world press, governments, and international organizations were reluctant to give credence to atrocity reports emerging from Afghanistan, because they could seldom be verified by independent observers and because many witnesses and survivors, to protect their family members still hostage inside Afghanistan, were unwilling to speak out publicly.

Now, however, a number of witnesses have begun to speak out, and in some cases their statements have been verified by international investigators who entered Afghanistan secretly. Thus, though full statistics may not be available, the nature and extent of the atrocities are becoming known, and the available information already clearly identifies them as part of an overall terror *policy*—as differentiated from discrete, exceptional, or unauthorized local events.

Two such reports follow. The first is a transcript of statements presented to a meeting of the Committee on International Human Rights of the New York Bar Association on January 28, 1983, by several Afghan witnesses and survivors. This group of five men and a young woman came from the refugee camps of Pakistan and the interior of Afghanistan to testify before the Tribunal of the People in Paris on December 18, 1982. Subsequently, the Afghanistan Relief Committee and Freedom House arranged for them to visit the United States. They were accompanied by the American Islamic scholar and specialist in Afghan affairs, Michael Barry, who provided his own testimony as well as serving as their translator.

Since the statements of the three survivors of the Logar Valley massacre of September 13, 1982, and of the torture victim were widely reported in the general press, they are here given only in Mr. Barry's introductory summary. The statement of Judge Babrakzai on the subversion of the legal system, and that of Commander Yussufzai on atrocities in northern villages, received little or no press attention, and are here given in full (translation by Mr. Barry).

The second item, a report by a Swedish observer on the situation in Logar even before the September massacre, is self-explanatory, and is translated from a Stockholm newspaper.

## Statements to the Bar Association, Jan. 28, 1983

**Michael Barry:** I would like to point out that these guests were chosen and brought to the West by an Inquiry Commission appointed by the present-day successor of the Bertrand Russell courts, now known as the Permanent Peoples' Tribunal, which has decided to judge the conduct of the Soviet Union in Afghanistan over the past three years. The Inquiry Commission, which went to Pakistan and, secretly, into Afghanistan in November and December 1982, was composed of myself as a regional and linguistic expert; Ricardo Frailé, a professor of International Law at the Sorbonne in Paris; Dr. Antoine Crouan, a member of the French medical team of volunteer doctors who go into Afghanistan; and Michel Barret, a professional photographer. Thus our investigations were carried out as rigorously as possible under the observation of a trained jurist, a doctor, and a regional expert, with a photographer to record the proceedings.

We selected witnesses by screening them as rigorously as we knew how and, in one case, we decided not only to screen and cross-examine witnesses from various refugee camps, but also to go to the site of a crime and see if we could prove it. We believe we have accomplished at least part of that goal. What we saw convinced all of us that, at the very least, Soviet troops on September 13, 1982, purposely burned alive 105 unarmed villagers, both men and children, using chemicals which definitely included gasoline. The rest we do not know yet since fragments brought back to Paris are still under analysis.

The witnesses our commission selected are all here with us today. Mr. Omar Babrakzai, a graduate of the University of Paris and a former judge of the Kabul High Court of Appeals, has carried out extensive investigation of the use of antipersonnel mines against the civilian population in his native province of Pakhtya in southeastern Afghanistan. These include booby traps shaped to look like alarm clocks or pens or match boxes, and small, butterfly-shaped antipersonnel mines no larger

than a human hand, which are scattered in rural areas where the flocks are ravaged, and small children who guard the flocks usually lose their feet or—if they fall hands first—lose their hands.\* These things are completely camouflaged: in desert territory, they are khaki-colored, while in foliage, pastureland, or forest they are green. In any case, they blend perfectly with the landscape. The judge has also located the only known case of a booby trap which did not self-destruct enough so that it could not be recognized; it was the shell of an alarm clock that had been rigged to explode in somebody's hands, and we have a photo of it.\*\* These were also placed in houses: Soviet troops often chased frightened villagers from their homes, and while they were gone, placed such booby traps in mattresses, where they were sure to inflict severe injuries against women and children.

Here is also Mr. Ghafoor Yussofzai. He is a resistance commander in northeastern Afghanistan, in Takhar Province, which borders the Soviet Union. He has terrible things to say about events which he has either witnessed directly or of which he has very close knowledge. Before the Soviet invasion, Mr. Yussofzai obtained a degree in law at Kabul University and was employed in a government ministry until he decided to join the resistance and take up arms against the occupying forces.

Miss Farida Ahmadi was a fourth-year medical student at Kabul University. What she has to say concerns the conditions in Kabul prisons as they are experienced by somebody who was subjected to interrogation and torture. Farida Ahmadi was arrested in a Kabul University corridor in the spring of 1981 for having picked up an antigovernment leaflet. She was not tried, but tortured for four months, and forced to witness tortures inflicted on other inmates, mostly women. Farida was released because her torturers were unable to prove that she belonged to an anti-government organization. When she fled the country, however, her entire family was placed under arrest, and still is today.

Mr. Habib-ur-Rahman Hashemi is the mayor of Padkhwab-e-Shana [in the Logar Valley], the village where the atrocity occurred. We tried, to the best of our knowledge and skill, to investigate it for factual proof. As mayor, Mr. Hashemi performed a very valuable service in identifying all of the dead who could be identified, despite the fact that they were

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\*The use of such booby trap mines is outlawed by the 1980/81 Protocol signed by the Soviet Union in Geneva in April, 1981.—Ed.

\*\*In Paris, Judge Babrakzai announced that he had brought the actual object—previously viewed by Mr. Barry, et al.—to present in evidence; it and other evidence subsequently disappeared when his luggage was ransacked by persons unknown.—Ed.

burned practically to cinders. He has made a very complete list of age, profession, etc., of those who were killed in the underground irrigation canal in his native village.

Beside him is Mr. Gol Mohammed, one of the village elders who was forced by a Soviet officer to stand directly over the main entrance of the irrigation canal, where 105 people were burned to death. He is our star witness. He can describe events that occurred in that village from 6 o'clock in the morning of September 13, 1982, when Soviet troops entered the village, until 3 o'clock in the afternoon when, after having burned these people alive, Soviet troops applauded, got back into their tanks, and left.

Beside him is Mr. Sayyid Mortaza, the village priest, who officiated over the burial services, and who can describe the effect on the bodies of the gasoline and other chemicals used. Mr. Sayyid Mortaza was the first person who brought news of this incident to the outside world when he made his way to Pakistan in the second half of September 1982. It is thanks to him that our Inquiry Commission became aware that this atrocity had occurred, and thanks to his assistance that we were able to go inside the country and clandestinely visit the site on the first and second of December, 1982, during a night lit by the full moon and with flashlights. We went in, saw the canal and can testify that it was burned. These are the witnesses. The Permanent People's Tribunal in Paris felt that the evidence was overwhelming and condemned the Soviet Union for flagrant violations of the laws and conduct of war.

Now Judge Babrakzai would like to describe the legal situation in Afghanistan today.

**Babrakkzai:** In the name of God, most merciful and compassionate.

It is a very great honor for me as your colleague, a man of your age. I studied law at the same time as you and to be able to sit with my colleagues today and to tell them our story of what our people are suffering is very deeply gratifying to me. I am grateful for this opportunity to state my case in your assembly along with my fellow resistance fighters who are here from the interior of Afghanistan. You are greatly to be honored, because your preoccupation is the defense of the rights of man. The profession of lawyer is one of defense of human rights. It is a high position.

I beg permission to describe the legal system of Afghanistan as it existed before the Russian invasion, and to contrast it with its present status today.

Before the Russians entered Afghanistan, the judiciary was very properly organized, and was completely independent of the legislative branch, which in turn was completely independent of the government. We had complete separation of powers. In Afghan courts two systems of law

prevailed, the traditional Islamic law (Shari 'yat) for certain affairs and, separate from this, civil codes for certain civil affairs. Trials had a triple process, first the trial, then the appeal, and lastly the case was carried up to the third supreme judgment.

The Russian presence has ended this delicate system of checks and balances and abolished the independence of the judiciary. Russians were appointed to sit as advisors on the Supreme Court; Russian advisors watched over the proceedings of every court and gave their opinions. Actually, as a consequence of the entry of the Red Army into Afghanistan, it is not proper any longer to speak of such things as courts, lawyers, or judicial proceedings in our country.

I would like to give some examples of what are known as judicial proceedings in our country today. People who express dissent or hold views opposed to the present [Russian-installed] government—without having committed any crime whatsoever, and without ever appearing before a court—are hauled from their homes in the middle of the night. They are first sent to the torture chambers of the [Communist-created and Soviet-supervised] Kabul security police, which is known as Khad. After this they are sent to Pul-i-Charkhi “detention center,” or concentration camp, ten kilometers east of Kabul. Every night between 200 and 300 people are told that they are being released from detention, and are escorted to a former artillery field known as the Polygon, where they are executed.

These people have never seen a lawyer and have no recourse to the law. They are not brought before a court, nor told why they are arrested nor why they are being sent to execution. They are simply put to death. Families are not told whether those in prison have been executed or are still alive. They gather around the prison doors and ask for news of their loved ones, and are never told whether this or that relative has been executed or is still alive.

**Barry:** I add my own testimony to this, which is that 13,000 people were executed in Kabul between late 1978 and early 1979\* and the list of the executed was only published all at once, posted in the various post offices so that the families would know that there was no point any longer in coming to the prison to bring packages, parcels of food and clothing

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\*I.e., between the Communist coup of April 27, 1978, and the entry of the Soviet forces which installed Karmal. In the August 1982 issue of *Commentary*, Barry noted that Karmal accused his predecessors, Taraki and Amin, of killing *one million* people. The 13,000 mentioned here are only those whose names were posted in October 1979; their ages ranged from 12 up. —Ed.

and to find out what was going on. Listing the dead only occurred once; usually one does not know whether prisoners are dead or alive. I will add that Miss Farida Ahmadi has said that she has no knowledge about whether her family is alive or dead. Nor does Mr. Yussufzai know whether his brother, a student in economics at Kabul University, who was arrested two years ago, is alive or dead.

The Soviets have brought into our country implements such as electric chairs, where the shock is such that it will project the prisoner straight out of the chair when he receives a bolt, or tables of torture through which electric current runs and subjects them to severe pain. People who do not confess under such torture—95–99 percent of them undergo such torture until they die. People who do confess must sign their name to a list of crimes to which they have confessed to be party. For this confession they are condemned to death and executed.

However, there is a third category concerning petty civil cases which, of course, do not go through this process. These consist of such things as contract disputes between merchants, and anything disconnected from military or political matters. They usually go through the normal process of law such as had existed before.

**Babrakzai:** I can give you the example of my own elder brother, who was arrested on the very day when pro-Soviet forces took power during the coup, on April 27, 1978. He was one of the first to be arrested. For four months I went from prison to prison in Kabul and the surrounding area asking about him, but could find out nothing. After four months, a strip of paper was smuggled to me, a little strip of paper on which was my brother's handwriting and signature asking for a parcel of clothing for Pul-i-Charkhi concentration camp. Since that day I have received no news of my brother, and do not know whether he is alive or dead.

I mentioned this first class of people, who are arrested without having committed any recognizable crime whatsoever. Of course, there is a second category of people who are accused of specific acts—or “crimes,” if you like: people who, the government is convinced, are guilty in their eyes of some specific act, are carried to the underground cells of the Interior Ministry, which are occupied by the security police—Khad—where they must submit to torture. Of course, the confessions of these people are extorted under torture\*—electro-shocks, beatings, burning of the flesh with cigarettes or other things, application of electric prods, stripping of the skin—and worse.

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\*Torture was outlawed in Afghanistan in 1905. The 1964 constitution specified civil rights modeled on the U.S. Bill of Rights.—Ed.

Yet even in this category of petty cases, the views of a Soviet advisor are requested, and are binding in all cases. The views of the Soviet advisor will sway the case—for example, in a lawsuit involving somebody who is thought to be a merchant belonging to the so-called “capitalist class,” even though the law may be on his side in a particular case, there is very little chance that he will ever be able to prove his case in court.

I would just like to submit to you by way of example a case that was brought before the court not long ago.

**Barry:** The judge is referring to the time when he was still on the court, even though this was after the pro-Soviet 1978 coup.

**Babrazzai:** A group of workers in the city were having lunch, and they must have suffered some kind of food poisoning. They were taken to the hospital and one of them died. The only person who was hauled before a court was one of the workers who had himself been sick and who, as they were told, had been guilty of having bought meat [for the lunch] in the bazaar. The Justice Minister ordered that this man be convicted and executed.

**Barry,** querying: In other words, he was accused of poisoning another person?

**Babrazzai:** This was the person who had cut up the meat, divided it and shared it with the group, so he was to be convicted.

I was the judge on this case, and I said, “I cannot accept such a judgment—when a person buys meat in a shop the day before, and just for this you are going to condemn him to death? I cannot accept this case.” There had been no medical expertise, no autopsy performed to prove the person who died had actually been poisoned by a certain chemical. There was no proof whatsoever that this was a case of deliberate poisoning. In terms of law, the whole matter seemed to be extremely strange, considering that nothing was actually proved and that there was nothing but rumor. But the Soviet advisor said that the court must set an example that crimes are punished, the court has said that a man will die as a consequence of what has been described as a crime, and the important point here is the example to be set. So the man was condemned.

I went to the Ministry of Justice, and pleaded by saying that the man who was condemned to death belonged to the social class of workers. I explained that the society they were bringing about was to be a workers’ society, and asked them why they were making an example out of a worker. “Why do you want to kill a working man? All I want from you is at the very least to carry out proper investigations and to prove satisfactorily that there has been a case of deliberate poisoning.” I did manage to have an investigation carried out: an autopsy was performed,

and the laboratory confirmed that it was not the meat but the potatoes that were eaten with the meat which were bad. Since this was something entirely natural, the man had really died of natural causes. Thanks to my intercession, it was possible to save the man's life and he was acquitted.

I have given this example, though it may be a ridiculous little case, just to show you how Soviet advisors weigh on particular cases throughout Afghanistan's courts today. I will not take up all your time by telling of the many hundreds of such cases that are submitted to Afghan courts every day.

Actually the examples of what is going on in Afghanistan today belong on another level, and this is what I really must tell you about. Fortunately, today 80 percent of Afghan soil is in the hands of the resistance movement. Thus, in 80 percent of Afghanistan's territory, justice is actually administered by the resistance movement itself according to traditional tribal law. Most of the cases now tried by country courts in resistance-held areas are of an entirely peaceful nature—litigation and wrangling between various plaintiffs—and these are settled peacefully. We in the Muslim Unity of Afghan Mujahidin\* have in our unified political structure an Office of the Supreme Court, and we apply the law that was formerly the supreme law of the Afghan state.

Each one of these people here [i.e., Messrs. Yussofzai, Hashemi, Mortaza, and Gol Mohammad]—who, each in his own way, exercises commanding responsibilities in the resistance movement—can tell you exactly how justice is administered at the local level according to traditional law and custom in liberated areas.

But as regards protection afforded by law in any area which is controlled by Soviet troops, I can assure you that there is no such thing any longer as the rule of law and order. In any area, especially urban areas, controlled by the Soviet army, government, Party, or Soviet military personnel have the complete right to arrest anybody they choose, search them, throw them into jail, and kill them.

Private homes are not protected by law: they can be violated, visited, searched at will. The reason given for house searches is a search for weapons. However, when houses are searched and valuables are found—whether money, jewelry or what have you—they are confiscated. The reason given is that “you people have no right to possess such things.”

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\*A coalition of many of the major resistance groups inside Afghanistan with the three moderate groups based in Pakistan.—Ed.

I would now like to leave the floor to my associates, who can tell you of actual Soviet atrocities, violations of human rights, violations of the legal code, whether of war or peace. These people can tell you in their own voices what they have actually witnessed. . . .

**Mr. Ghafoor Yussofzai:** In the name of God, most merciful and most compassionate, to Him we turn, and to our Prophet.

With your permission, Mr. Chairman, and all of you in the legal profession—the Soviets have violated every kind of international law by invading our country in this way. The Soviets are signatories to the Charter of the United Nations, and this they have violated. Every sort of treaty existing between the Soviet Union and Afghanistan to which the Russians affixed their signature has been violated by the Soviets themselves in the occupation of our country. And worse than this, every kind of elementary human right has been trampled on by the occupation forces.

They deny us the freedom to worship and to profess our faith: they belittle and humiliate our religious beliefs. Despite the fact that this war is taking place between a world power and a tiny underdeveloped nation—even with the balance of power so firmly on their side—nevertheless, they violate every rule of war.

I would like to give you a number of examples. Today, 80 percent of Afghan soil is in the hands of resistance forces. We administer justice and law in those territories which we control. Such cases which are submitted to us, whether civil or military, are pleaded before duly appointed judges. Nobody is convicted, condemned, or sentenced to death without having been tried and proved guilty before responsible appointed judges. In those cases in which we feel that we do not have sufficient information, or in which an appeal was made, then, as His Honor Judge Babrakzai said, we from our local district courts send the person on to be tried by the higher court which is at the political center. The basic legal code today in that part of Afghanistan which is held by resistance forces is based on the Koran and on the traditional religious law of Islam.

The Soviets are practicing collective guilt. In other words, suppose I've committed a crime myself, personally; if they can't find me, then other people are punished for the crime. For example—I myself don't consider this a crime, of course—I have taken up arms to defend the independence of my country. My brother did not do so. But it is my brother, a student at the university, who was arrested several years ago and who has disappeared from sight. My wife and two children were executed by firing squad.

[At this point, Mr. Yussofzai began reading a list of specific atrocities:] On January 15, 1980, [three weeks after the Soviet invasion] just above the provincial district capital of Kunduz in northeastern

Afghanistan, in the subprefecture of Hazrat-i-Imam-Sahib\* in the village of Chukhurkhalbad, 480 people, including women, children, and the elderly, were crushed by Soviet tanks, and those who survived were executed by firing squad. Those, however, who were bearing arms, and who were captured by Soviet forces, were tied to the tanks and dragged behind them until they died.

On January 30, 1980, they attacked the district of Takhar, also in northeastern Afghanistan. I was there. I have direct knowledge of death by bombing of 1,000 people who were not bearing arms.

On September 23, 1980, villages in the district of Farkhar, also in northeastern Afghanistan, were bombed. I have direct knowledge of the death of 110 people, and I am speaking only of women, children, and the elderly.

November 8, 1981, the district capital of Khanabad was bombed. I have direct knowledge of the destruction of twenty-two shops and twelve private homes.

December 1, 1981, in two villages in the area of the district capital of Taluqan in northeastern Afghanistan, five elderly were seized. They were asked, "Where are the bandits?" (That's what the Russians call resistance fighters.) They said "We don't know." They were killed by a bullet which caused their bodies to decompose as if they had been burned.

We found their bodies only four hours after execution, and they were decomposing as if they had been burned. However, we have been able to recover some of these cartridges from their bodies and have submitted them for analysis to the Permanent People's Court which was held in Paris last December; they are currently in the laboratory.

On January 3, 1982, in the subdistrict capital of Khwaja-i-Ghar in the prefecture of Dasht-i-argh, villagers were bombed and I have direct knowledge of the death of 250 people. In another village, 26 people, without judgment of any kind, were lined up and executed. Ninety people at that time were cast into the river which forms the boundary between Afghanistan and the Soviet Union [This is the Amu Darya or Oxus River.] The Soviet soldiers took pot shots at anybody's head which popped out of the water, as if they were duck shooting.

On January 6, 1982, the district capital of Khanabad was bombed. I have direct knowledge of the death of 600 women, children, and elderly

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\*Close to the Soviet border, on the main invasion route.—Ed.

people. In the main square of the city of Khanabad on that date was a bus containing twenty people, which was about to leave. The Soviets surrounded the bus and prevented anybody from getting off. They set it on fire and burned alive the twenty passengers, who included four children and two women. After bombing the city, the Soviets occupied it.

In March 1982 in the village of Sabsposh-i-Kalatan, two children, Sultan and Wazalmai—seven and eight years old, the sons of His Holiness Abdul Qader, a cleric—were seized. They were condemned because their father happened to be a resistance fighter. They were told, “You have given food to resistance fighters.”

These children had toy rifles made of wood. The Afghan government translator who was with the Russian forces asked the children what they used toy guns for. “We use these guns to fight against the Russians,” said the children. Russian troops doused the children with gasoline and set them on fire.

I submitted this particular case to the Inquiry Commission of the Permanent People’s Tribunal which came to Peshawar, Pakistan. One hundred witnesses testified to the veracity of this event, and you have here Mr. Michael Barry, who was a member of the Inquiry Commission, and who can testify that he was able to interrogate with some rigor the 100 witnesses to this particular event of the burning alive of the two children.

The crimes that I have just mentioned occurred only in one corner of the country where my resistance forces can be directly aware of such things. I am only telling you about what I know directly, having witnessed it myself, or from what I have been told by the people working with me.

What more can I tell you about Soviet war crimes? You know what it’s all about. You know, the Communists promised that they would give us bread, housing, and clothing: they promised us lodging and they gave us graves. They promised us clothing and they gave us winding sheets; and in place of bread, they gave us poison gas.

**Barry:** Mr. Yussufzai has not only suffered bullet wounds, but he was involved in a chemical attack which has left these marks on his body. [Mr. Yussufzai removed his shirt to show the inflamed patches on his skin as well as a Soviet bullet still lodged in one arm.]

**Yussufzai:** The Soviet Union is saying, “We have come into Afghanistan to protect the Afghans from the attacks of Chinese, Pakistanis, and American soldiers. We are only in Afghanistan—100,000 Soviet troops—to defend the people of Afghanistan from these foreigners.” I can assure you that *no foreign troops whatsoever*—no foreign country whatsoever—has given the Afghan people any kind of help at all, except the Islamic government of Pakistan, which has given

to our refugees asylum and sanctuary, and has extended to them humanitarian assistance.

These weapons which we have, we have seized from the Russians with our own empty hands, and by suffering wounds and great pain. I still have Russian lead in my body, and until I have driven Russian forces out of my homeland, I will not pull it out of my body. My skin now bears the traces of a chemical warfare attack. But how long are we going to have to come before you and weep? How long are we going to have to tell you what our country is suffering?

I have come as an Afghan resistance fighter, but I am also a student of law, and of your proud nation and of the government of America. I lay this case before you:

Do not leave our oppressed nation alone and defenseless before a group of criminals. Help us with weapons. Help us so that we shall not starve to death. I assure you most solemnly that as long as there is a single individual left alive in Afghanistan, that one individual will do everything he can to prevent Afghanistan from being occupied by the Soviets.