

A Report on Conditions at Shebarghan Prison, Northern Afghanistan

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A Report by
Physicians for Human Rights
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Introduction

Physicians for Human Rights (PHR) sent a three-person fact-finding delegation to Afghanistan from January 7 to 23, 2002. The team included Lynn Amowitz, M.D. MSc., PHR Fireman Fellow in Health and Human Rights, and a specialist on women's health and human rights in Afghanistan; Jennifer Leaning, M.D., SMH; PHR board member and Professor, Harvard School of Public Health; and John Heffernan, MPA, MIA, a consultant to PHR and former executive director of the Coalition for International Justice. Dr. Leaning and Mr. Heffernan spent five days in Mazar-I-Sharif and its environs, collecting information on human rights and health in this region. This was PHR's fifth human rights fact-finding trip to Afghanistan in the past three years and the second since September 11.

On Sunday, January 20, 2002, Heffernan and Leaning, accompanied by an Afghan interpreter whom they had brought from Kabul, visited Shebarghan Prison, a large military prison in northern Afghanistan, where about 3,000 to 3,500 Afghan Taliban and Pakistani prisoners said to be those who surrendered at Kunduz are detained. Until recently, U.S. forces controlled access to the prison until they had interviewed and removed inmates for transport to Kandahar, and presumably subsequently to Guantánamo. Although initially reluctant to allow the PHR delegation in, General Jarobak, the commanding officer, agreed to allow the delegation to inspect the prison and answered questions in his office. The delegation interviewed Jarobak, inspected the prison grounds, observed over 300 prisoners who were standing behind bars in the corridor of their cell blocks, and spoke directly with eight prisoners as well as medical staff in the prison's infirmary. The PHR delegation was provided unlimited access to the facilities and personnel and allowed to take whatever photographs they requested. For safety reasons, the team did not enter or inspect the individual cells.

In addition to direct observations and interviews on site, the PHR investigators conducted interviews with local and international representatives of major non-governmental organizations (NGOs) and international organizations, as well as local Afghan officials and community members.

General Jarobak told PHR that it cost about \$3 US per prisoner per day, or about \$10,000 US total per day, to maintain the current conditions at the prison. He stated that General Dostum did not have the funds to continue at this rate of expenditure, which itself, he acknowledged, was completely inadequate. He noted that the men were getting progressively weaker and that the food supplies were not enough. He asked for tents, warm clothing for the prisoners, a medical supply depot, better food

and urged PHR also to ask the UN to dig a deep well to provide a more regular source of clean water.

Summary

On the basis of direct observation, contact with the prisoners, and interviews prior to and subsequent to this inspection, Physicians for Human Rights reports that conditions at Shebarghan are in grave violation of international standards for those held in detention or as prisoners of war. The facilities are entirely inadequate for the care of the number of people now held there, the food is insufficient in quantity and nutrition, the water supply unclean, sanitation virtually absent, clothing meager, and barred walls open to the elements expose the inhabitants to winter conditions. Disease is rampant. Each cell block contained a series of 18 rooms on one side of a central concrete floored corridor that ran the length of the structure. Each cell was built for 10-15 men, according to General Jarobak, the commander of the facility who escorted the PHR team in the prison, but some now held up to 80-110 men.

Capacity to provide medical care is hampered by insufficient supplies and primitive facilities. Dysentery and yellow jaundice, probably due to Hepatitis A, are epidemic. When PHR asked what the death rate was, General Jarobak said that he did not know numbers but that "many, many, many prisoners" had already died, mainly from dysentery, some from pneumonia.

The prison administration is aware that the life supports provided are not only inadequate but alarmingly deficient. The commanding officer has submitted requests for further assistance and additional resources to the international community but reports that the response has been minimal.

PHR found no indication that the prisoners are being deliberately abused, tortured, or psychologically tormented, although there were many prisoners whom they did not observe, and they were not able to conduct in-depth interviews with detainees in private.

Access to the prison had until very recently been controlled by two United States military personnel stationed there. The PHR delegation was also told that during the first two to three weeks of the arrival of the prisoners at Shebarghan, the U.S. military authorities had prevented access to prisoners in order to conduct prisoner interviews and select those they wished to move to Kandahar for further interrogation. When the International Commission of the Red Cross gained access, its initial task focused on prisoner identification, registration, and family notification. Because of the large number of prisoners found to be in the prison, that process had not yet been fully accomplished. Based on reports from several sources the team understands that the U.S. military left the prison sometime between January 14th and the time of PHR's visit on the 20th.

The state of Afghanistan is one month old, and several of the ministers in Kabul still lack offices, staff, and minimal equipment. The Geneva Conventions and the United Nations Standard Minimum Rules for the Treatment of Prisoners require that the parties responsible for the capture and custody of prisoners, including the United States, in this case, treat them humanely. PHR has sound indications that the U.S. military in Afghanistan is distinctly aware of the conditions at Shebarghan.

Description of Findings

The prison is on the outskirts of the town of Shebarghan, a one and one half hour

drive west from the northern Afghan city of Mazar-I-Sharif. The first approach to the prison is via a tree-lined dirt road heading directly to a high prison wall which encircles the entire prison complex, entered through a locked metal double door flanked by several armed guards. These men were standing and sitting in relaxed posture as the team arrived. All were in military fatigues and armed with Kalashnikovs.

General Jarobak described the prison and his role. He said that he had served under the Najibullah government, at one point in his military career supervised a camp for Tajik refugees and, as of two months ago, reporting to General Abdul Rahid Dostum, carried out responsibility for the approximately 3,000 to 3,500 prisoners reported to have surrendered at Kunduz and who have been held at Shebarghan for a period he described as somewhat under two months. He said about 1,000 of these prisoners were Pakistanis and the others Afghan Taliban. He told the PHR delegation that he made no distinctions among the prisoners and follows a Dari saying, according to which "if an enemy becomes your prisoner, treat him with kindness." At the time of their arrival he said that he had been concerned that the prisoners were violent and suicidal, but over time he said that they had adjusted to their situation relatively well. He made a point of noting that all prisoners were allowed to perform prayers five times a day.

The PHR questions focused on the problem of resources and medical care, and after some discussion, General Jarobak became more forthcoming about the situation of the prison. His principal concerns were with overcrowding, food (quantity and quality), clothing, heat, and medical care. At the time of the PHR visit, the weather was in the 40s, clear, with a cold breeze. The team was accompanied throughout the prison by General Jarobak and his two military associates. None of them appeared to carry weapons.

The inner compound of the prison is laid out in two separate sections, divided by a broad expanse of rough furrowed field of frozen mud. The first section, reached upon entering through the prison wall, holds several small buildings, including the command office and the infirmary, as well as a much larger kitchen building and a block of cells housing approximately 150 people, whom General Jarobak terms "old prisoners." (These he said have been held for various lengths of terms for a range of civil and criminal offenses, not dating from the recent Coalition war.) The second section, reached by traversing a mud path across the large open field, is defined by three long cell blocks, facing into a central mud courtyard entered at the far end of the field.

The kitchen, a voluminous hanger-sized building with a packed earth floor, was littered with food debris, containing on one side large metal canisters heated by what appeared to be diesel-fueled stoves and on the other a number of people squatting on the floor, preparing food on mats. Near the entry, at the time of the PHR visit, were about 20-30 metal bowls on the mud floor, each about 20 inches in diameter and 8 inches deep, containing a steaming thick green-brown stew of what we were told was beans, rice, and carrots. Other bowls were being filled from the vats and then placed on the floor. Each of these bowls provided food for ten men and was intended as the dinner meal for the inmates. A similar meal was prepared for lunch. For breakfast, the prisoners were given two pieces of bread (nan) and tea (without sugar). General Jarobak said he was concerned that the diet was not enough in terms of quantity and that it lacked nutritional variety, such as fruit and meat.

Across the mud field from the kitchen area is the set of cell blocks holding the Taliban prisoners. These three cell blocks surround an inner courtyard. At one corner of the courtyard a water pipe protrudes from the wall, spilling into a long mud trench, where the delegation was told the prisoners are allowed to wash. On the left and the right cell blocks Afghan Taliban were held; in the central cell block, Pakistanis. Each cell block contains a series of 18 rooms on one side of a concrete floored corridor that ran the length of the structure. Each cell was built for 10-15 men, according to General Jarobak, but some now hold up to 80-110 men. The ceilings of these cell blocks were 20 feet high, with concrete walls rising about 15 feet, topped by about another 5 feet of open space, broken by narrow vertical metal bars that ran to the flat roof. These barred openings permitted ample ambient light and direct air circulation to the outside. General Jarobak said that each room had a diesel stove and pots to hold water.

The Prisoners

At the time of the visit, prisoners had massed at the barred open gates to the three cell blocks, and stood, 10-20 men deep, looking out at the investigators. The investigators saw about 300 men. They appeared to be young, drawn, some with red scabs on their faces, wrapped in thin blankets, some without shoes. Several had shaved their heads that day reportedly due to lice infestation. (Coils of black hair were evident on the mud floor of the compound.) All the men had beards. General Jarobak told PHR that the prisoners each had received one blanket, one bar of soap and one pair of shoes. The delegates spoke with the groups of men from each cell block in turn.

General Jarobak introduced the PHR investigators to the prisoners. The men asked the investigators to provide more clothing, blankets, and medical care. One Afghan man stated that the prison was terrible, like a stable, and that he would not keep his animals in such conditions. Another man said they all had "stomach problems," which others chimed in as trouble with their bowels, and General Jarobak acknowledged that virtually all of the men had some form of dysentery. He also noted that many were developing a "yellow condition," which Dr. Leaning inferred to be jaundice, probably from Hepatitis A. She was not able to examine the men. Other men said they were very cold and suffering from respiratory problems, which General Jarobak confirmed to be another significant health issue. Several said they had problems with itchy skin and rashes, others said that their feet were cold and painful. A number of Pakistani prisoners in particular asked what was to become of them, to which General Jarobak responded with a grin and a shrug. One Pakistani asked PHR "to tell General Musharaf to come get us out."

The remaining prisoners, according to General Jarobak, were in cells deep in the cell blocks. From where the team stood it was not clear whether these cells had locked doors opening on to the central corridor. Due to security concerns the team did not to ask to go into the cell blocks, behind the barred doors. The team was not able to determine the exact extent of over-crowding in these areas, whether each room did have a functioning stove, or the physical condition of the thousands of men in them.

General Jarobak said the men are allowed to exercise every third day, with one cell block permitting phased entry to the open courtyard each day. Toilet facilities are at the end of each cell block, with 8-12 toilet holes per block. The delegation was told by General Jarobak that the men used dirt from the field to clean themselves and it

was unclear, despite several attempts at questioning, whether the men actually defecated in the field or brought dirt back to the toilet holes.

The delegation was introduced to about 100 "old prisoners" whose incarceration reportedly pre-dated the recent war, and who were said to have been detained for a variety of reasons. They had been brought out of their cells and assembled, seated on the ground, in the open front courtyard. They ranged in age from young adult men to elderly men with long beards. Each of them was enveloped in a common issue blue quilt. They came up to the visitors quietly and politely and spoke of problems with the cold and no medicines, requesting help from the international community. General Jarobak mingled easily with them and there appeared to be no problem with security.

Health Conditions and Facilities

The infirmary consists of three concrete rooms, one for the male doctor and male medic and the other two for patients. At the time of the PHR visit, eight patients were in these two small rooms, each heated by a diesel stove. Unlike the other parts of the prison, these rooms were warm. The air was fetid and light dim. The men appeared gaunt and dehydrated, lying on cots, clothed in dirty nondescript cotton clothes, covered by thin dirty blankets. One patient used a thin rubber dirty white mat as a blanket. No other equipment or furnishings were present nor was there any sign of medications or medical charts. The physician introduced the patients to the visitors but often the medic had to furnish specifics and neither appeared very familiar with the patients' medical conditions. The PHR delegates spoke briefly with seven of the eight men. The men were listless and replied in monosyllables. Time with the patients was very limited because General Jarobak, who did not accompany the delegation into the building, appeared anxious at the time of the infirmary visit and called several times for the PHR investigators to come out.

The patients were as follows:

- 1) A 25-year-old male Afghan Taliban from Khost, in a long cast with a fractured right lower leg from battle injury (unclear whether from blunt trauma or gunshot or shell wounds), treated first in the Mazar military hospital and then transferred to the prison when stable, had been at the prison for two days;
- 2) A 23-year-old male Afghan Taliban, with bilateral lower leg casts from battle injuries (unclear whether caused by blunt trauma or gunshot or shell wounds) treated first in the Mazar military hospital and then transferred to the prison when stable, in the infirmary for two days;
- 3) A 22-year-old male Afghan Taliban from Kandahar, suffering from dysentery, treated with oral rehydration salts provided by the International Committee of the Red Cross (ICRC) that had now run out. He was still ill and had been in the infirmary for two days;
- 4) A 20-year-old male Pakistani Taliban with a shell wound to left thigh, in the infirmary for two days;

- 5) A 21-year-old male Afghan Taliban from Kandahar, with fever, headache, and diarrhea, in infirmary for two days;
- 6) A young male Taliban, obtunded and non-communicative, reported to have dysentery;
- 7) An 18-year-old Afghan Taliban with dysentery and a left thigh abscess;
- 8) A 20-year-old Afghan Taliban from Kandahar with dysentery and a left foot injury.

According to General Jarobak, the ICRC had provided some medications for the prisoners but the supply was completely insufficient for the need. He said that patients who were very ill were transferred by ambulance to the hospital in Shebarghan. When PHR asked what the death rate was, he said that he did not know numbers but that "many, many, many prisoners" had already died, mainly from dysentery, some from pneumonia.

PHR had been told by informed sources in the NGO and international community that the situation at Shebarghan had reached disturbing proportions in terms of prison health and morale. Dysentery was known to be rampant and scores of prisoners were reported already to have died from this illness. Based on the PHR delegation's observations, the organization can confirm that the living conditions are very harsh and expose the prisoners to high risk of illness from gastrointestinal diseases (spread by fecal-oral routes) and respiratory diseases (caused by crowding, scanty clothing, and lack of shelter protection from cold weather). The medical supports in the infirmary are woefully inadequate: there were no signs of intravenous fluid capacities; necessary medications were reported to be depleted; and four of the eight patients appeared critically ill, with one moribund. PHR is concerned that without immediate corrective action, the numbers who are clinically ill will rise dramatically and the numbers who are dying (unquantified at the moment but acknowledged to be at a high rate) will also increase.

Role of the United States and International Organizations

Access to the prison had until very recently been controlled by two United States military personnel stationed there. When the ICRC gained access, its initial task focused on prisoner identification, registration, and family notification. Because of the large number of prisoners found to be in the prison, that process had not yet been fully accomplished. Based on reports from several sources we understood that the U.S. military had left the prison sometime between January 14th and the time of PHR's visit on the 20th.

PHR understands from General Jarobak and from other sources that the UN and the ICRC had provided some supplies and medication. All those PHR spoke to acknowledge that the supports to date were insufficient and that the conditions were becoming progressively deplorable. At the prison, without the benefit of close financial and record audit or visual inspection of each individual cell, PHR's observations would still suggest that the prison administration is using the meager funding and supports that have been provided for the benefit of the prisoners and is not engaged in gratuitous withholding of resources or infliction of active harm.

Obligations under International Law

The United States, as well as the Interim Administration in Afghanistan and the International Committee of the Red Cross, has a responsibility to assure that the prisoners in the Shebarghan prison are treated humanely, as required by the Geneva Conventions. This includes adequate food and nutrition, sufficient clothing and shelter to keep them warm, decent conditions of confinement, including sanitation, and meeting of basic medical needs. This obligation exists irrespective whether the United States physically captured the prisoners, whether it currently has custody of them, or whether the detained individuals are considered prisoners of war of the United States.

From the information available to Physicians for Human Rights, it appears that the individuals in the prison were captured at a time when what had been an ongoing civil war had become an international conflict and the United States was allied with forces of the Northern Alliance and others. Further, to the extent that the Northern Alliance coordinated its military actions with the United States that resulted in capture, the Northern Alliance was acting as a partner or agent of the United States. Indications of the United States' responsibility for the prisoners includes the control of access to the prison described above, even to the extent of determining whether the International Committee of the Red Cross could inspect it.

To the extent that the prisoners were determined to have been captured during an international armed conflict, they have to be treated as prisoners of war in accordance with the Third Geneva Convention of 1949, which was ratified by the United States in 1955. The Third Convention contains detailed requirements for the treatment of prisoners of war, including housing them in conditions as favorable as members of the forces of the group that is detaining them. They are entitled to adequate daily rations, decent living conditions in terms of surface and cubic space, sanitary conditions and adequate medical care.

Though the United States does not now have custody of the prisoners in the Shebarghan prison, it is not relieved of obligations from a time when it did have single or joint custody over them. Article 12 of the Third Geneva Convention requires a party to assure that if prisoners are transferred (which should include transfer of jurisdiction over the prisoners) the party to which they are transferred has the "willingness and ability" to comply with the provisions of the Convention; the Northern Alliance clearly does not have this ability. Moreover, the Convention requires that if the custodial power fails to carry out the provisions of the Convention in any important respect, "the Power by whom the prisoners of war were transferred" has a responsibility to assure that the prisoners are properly treated.

Even assuming, moreover, that the detainees are not considered prisoners of war in an international armed conflict, the United States has responsibility for their well-being. In the first place, where doubts arise about a person's status as a prisoner of war, the person must be considered to have the protections under the Geneva Convention unless a competent tribunal determines otherwise. And even if that determination were made, and the prisoners are considered detainees in an internal conflict, Common Article 3 of the Geneva Conventions requires that detainees be treated humanely.

In the end, the United States cannot wash its hands of responsibility for prisoners whose fate from the start it has been in a position to influence or determine. The military campaign in Kunduz included the participation of the United States. Access

to the prisoners and their disposition until very recently had been controlled by the United States. Finally, and perhaps of most importance of all, it is known by the United States that the forces having current physical custody of the prisoners have no capacity to provide the material supports essential to meet the standards of the Convention, whereas the United States does have such capacity. The Conventions cannot be fairly interpreted to permit a party to it to avoid responsibility for prisoners of war by ceding custody to an ally without the capacity to respect the Convention.

Recommendations

1. The United States should take immediate steps to provide support and material assistance needed to bring the facility into compliance with international standards.

One option is joint management. In the same way that the French forces are responsible for the security of the Mazar airport and the Jordanians have been asked to run a field hospital near that site, a competent and well resourced force within the Coalition umbrella can be assigned to take over financial support and co-administrative management of the Shebarghan prison for the duration of the time this prison is required to hold Taliban prisoners from the war.

This international military force should coordinate efforts with the current military administrative team at the prison and organize an appropriate distribution of effort and responsibility.

2. Introduce immediate and short-term improvements.

Improvements to the physical plant to provide protection from the elements, adequate heating, reasonable water and sanitation facilities should be made. Also an immediate increase in the quantity and nutritional value of the food rations and provisions for warm clothing, blankets, and shoes must be fulfilled. In this immediate time frame, management must also provide adequate medical supplies, bring in minimal required medical equipment for the infirmary, and augment the current medical staff with competent physicians and medics.

3. Mobilize and coordinate resources from the ICRC, the NGO community, and the UN.

A number of mandated and charitable services are available to draw from to help support the additional funds that will be required to improve living conditions at the prison.

4. The U.S., as the leader of the Coalition forces, should engage with the UN and the ICRC to determine as soon as possible the legal status of these prisoners, any charges placed against them, and the judicial process that will be required in order to arrive at their ultimate disposition.

5. The ICRC should have unfettered access to the Shebarghan Prison and should conduct a census of all military detainees and prisoners of war throughout Afghanistan. The UN and the Afghan government should establish a process to assess the conditions of all non-combatant prisoners held for civil and criminal offenses.