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IWPR

Taleban Justice Dominant in Logar Province

By Abdul Maqsud Azizi

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Taleban control of Logar, a province just south of the capital Kabul, is so complete that the insurgents' own justice system is seen as preferable to state institutions. Locals say Taleban courts might be rough and ready, but at least they do not require bribes to be paid to massively corrupt state officials and judges.

Sitting in his grocery shop pouring tea from a vacuum flask into a broken cup, Abdullah, a 36-year-old trader at the village market in Baraki Rajan, described a recent Taleban punishment he witnessed.

He was out digging his land when his younger brother called him to come and see what was happening.

“I saw people walking behind two donkeys, like a line of ants,” he said. “I could see two young boys on the donkeys, their faces blackened with coal. Five motorcyclists, obviously Taleban, were riding to the right and left of the donkeys.”

Abdullah and his brother joined the procession of 200 young boys and children from the village. As they went along, an insurgent sitting behind one of the motorcyclists started using a loudhailer to proclaim, “This is the punishment for anyone who steals”. The chant was picked up and repeated by those in the processions.

When they reached open ground, Abdullah said, “The Taleban used the loudhailer to order people to sit down in a circle. Then they led the donkeys into the centre. One of the Taleban... told the crowd, ‘People! Look and listen! We are the Taleban. The two individuals whose faces we’ve blackened come from this area. Until six days ago, they were holding people up, beating them and stealing their money, mobile phones and watches.’”

The two offenders faced no further punishment, and left the village the next day because they could not face their community. They ended up travelling illegally to Iran, relatives told Abdullah.

For Abdullah, the moral was simple – “anyone who commits a crime where the Taleban flag flies will be punished like those two guys”.

It is no idle claim. Taleban courts in Logar are commonly asked to adjudicate on civil and family matters as well as criminal cases. Judgement is swift and often harsh. In criminal cases, the punishments range from the ritual humiliation and shaming described by Abdullah to lashings, amputations, stonings, and summary execution.

Mohammad Bashir, 26, described one such punishment that he watched in the Charkh district on July 21.

“That morning, I heard the Taleban loudspeaker saying, ‘People! Hurry and come to the Shash Qala Bazaar’. When I got there, I saw 12 Taleban with their faces covered. They had brought two young men with them,” he said. “One of the Taleban, using a loudhailer, said, ‘These two humiliated people you see standing before you are criminals. They wanted to kidnap Abdorrahman’s son and demand money from him, but thankfully, our mujahedin arrested them.’”

The Taleban then ordered the boys to take off their shirts and sit on the ground. They were then given 40 lashes each.

One of the Taleban handed the loudhailer to the now bleeding men and told them to repent their wrongdoing and promise not to do it again, which they did.

The district government chief in Charkh district, Humayun Faruq, confirmed that this incident took place. But he could add no detail about those punished, since his own travel around the province was restricted to flights on United States military helicopters.

IWPR interviewed around 80 residents of the Mohammad Agha, Charkh, Baraki Barak and Pol-e Alam districts in Logar in May and June who had applied to the Taleban rather than Afghanistan’s formal court system. Asked why they had done so, interviewees said state courts could take years to process a case, and the judges took bribes to sway the outcome.

IWPR also spoke to Taleban spokesman Zabihullah Mojahed, who said the insurgents had received around 70 applications from Logar residents relating to civil disputes and criminal offences. He said the Taleban dealt with these referrals quickly, by convening a court in a local

mosque, with the plaintiff, defendant, village head as well as judges in attendance. Sharia, Islamic law, was used to form a ruling and decide on any penalty.

The growth of this form of justice is clearly a PR coup for the Taleban in this part of Afghanistan, where all the institutions of state are present but are ignored by the locals. Such attitudes are not, however, universal. In other regions including Paktia, Ghazni and Nuristan, residents have staged local uprisings against the insurgents, whose rule they regard as draconian. (See Afghan Villagers Rise up Against Taleban.)

One case dealt with in late June 2012 was brought by a woman called Sakina, who wrote to the Taleban to complain of mistreatment by her in-laws.

Sakina, now 30, had been married off to a cousin as “compensation” to settle a 20-year family feud – a practice common in traditional Afghan society.

“I have served as a slave to my husband’s family for the past two years, and they still do not hold back from using cruelty and torture against me,” her letter said. “Since my husband and father-in-law beat me up all the time, I write this complaint to you so that you will treat me in accordance with Sharia.”

After the letter was smuggled to them, the Taleban summoned Sakina’s parents and in-laws to the village mosque in Sarsang on July 1, where three judges and two local elders were present. As a woman, Sakina was not invited.

However, her father Abdullah told IWPR she was satisfied with the ruling the court came up with – that she should remain living with her in-laws, but that any mistreatment or cruelty directed against her would be dealt with the full force of Islamic law.

Abdullah said that since the ruling, Sakina’s in-laws had not dared do anything to harm her.

Among the unusual features of this case is that Sarsang, the village where it played out, is just three kilometres away from the offices of Logar’s provincial governor, Mohammad Tahir Sabaray.

The Taleban also dealt with another case brought by a woman called Shahnaz, whose 21 year old daughter Torpekay was abducted last December by armed men who burst into her home at night and bound and gagged family members.

Shahnaz, 45, is from Kamal Khel, a village located 13 km from Governor Sabaray’s office. She says she reported the abduction there and also at the provincial police headquarters, but no action was taken until May, when the Taleban moved in and took control of Kamal Khel.

Within minutes of receiving her complaint, in which she identified the principal culprit as one Habibullah, the Taleban summoned the man’s father and gave him 30 days to appear before a court together with his son, otherwise they would both be punished. The father complied, and

Habibullah soon reappeared in the village together with Torpekay. He had fled to neighbouring Khost province to hide out there after the abduction.

Sayed Ahmad, 41, who lives in a neighbouring village, said Habibullah was now under house arrest and barred from leaving Kamal Khel until the court decided his fate.

IWPR managed to interview the Taleban judge in the case, Maulavi Habibullah, who has conducted three hearings on Shahnaz's complaint so far.

He outlined the possible penalties, which included 100 lashes for the abduction, assuming Habibullah had not married Torpekay; and stoning to death if it was shown he had sex with her without marrying her.

As for Torpekay, the judge said, "The girl is innocent and there can be no punishment for her." He added that even if she had gone through a marriage with Habibullah, the court could nullify that if she wanted, and she could return to live with her family in safety.

Provincial officials acknowledge that Taleban courts are prevalent in Logar, and accept that they exist because of the injustices, sluggishness and other failings of the state judicial system.

Din Mohammad Darwesh, spokesman for provincial governor Sabaray, said, "The Taleban have a strong presence in Logar. Their courts are active in all the districts... And since 80 per cent of people in Logar don't believe in the justice delivered by government judges, they bring their claims to the Taleban."

Using a common Afghan phrase, he said, "The sun can't be hidden behind two fingers – the Taleban judges bring balance and justice to bear in their decisions, so they have drawn people to them."

Abdul Wali Wakil, chairman of the Logar's elected council, told IWPR he saw three reasons for the popularity of Taleban courts – the slowness with which cases were dealt with by the state judiciary, the lack of public confidence in government institutions generally, and the sheer numbers of insurgents in the province.

Wakil said he had witnessed two Taleban court sessions in the past three months. They took place in Azra district; one was a case of violence against a woman and the other a legal dispute. Both were handled swiftly and fairly, he said.

Even government employees in Logar are now turning to the alternative courts.

One statistical agency staff member in the Baraki Barak district described how he asked the Taleban to arbitrate on a case in which his son had been seriously injured by his cousins. Asking not to be named because of his position, he said the case would have taken years to go through an official court. The Taleban have held two hearings on the matter, but have yet to issue a ruling.

“No bribery or connections are needed in the Taleban court,” he added.

Taleban spokesman Mojahed said arbitration was open to anyone, including Afghan officials and public servants.

“Even if an American comes to us to solve a problem, our court will deal with the case with full impartiality,” he said.