

Journalists' Murder Suspect on Trial

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High-profile case provides a test of the nation's justice system on the eve of the presidential election.

A Kabul man facing public execution for his involvement in the murder of three male journalists and the murder and rape of a female journalist six days after the fall of the Taleban, has spoken from jail exclusively to IWPR.

Reza Khan, 26, from the Sorobi district of Kabul, is currently being tried in proceedings involving a judge, prosecutor and representatives of the Afghan supreme court. While Kabul views this as an "open trial", the exclusion of the public and journalists mean that it falls far short of western requirements for such a hearing.

In the interview, conducted prior to the trial with the consent of the authorities, Khan admits his part in the killings in Sorobi - but says he was acting on the instructions of local commanders. His account to IWPR raises key questions about whether the murders were political killings or simply opportunistic gangsterism.

The case is seen by some as a barometer of the way Afghanistan conducts war crimes' trials and how it deals with its past. It raises issues about the power of commanders and their accountability, the nature of Afghan justice and the penal system.

It remains unclear whether any of this trial, or subsequent appeals to higher courts, will be made open to journalists and members of the public.

FAIRNESS AT ISSUE

Khan was arrested about six months ago and is accused of the murder of Julio Fuentes, 46, a reporter with the Spanish daily *El Mundo*, Harry Burton, 33, an Australian cameraman who was working for the British agency Reuters Video News, and Azizullah Haidari, 33, an Afghan photographer who was also working for Reuters. He is also accused of the rape and murder of Maria Grazia Cutuli, 39, a reporter on the Italian daily, *Corriere della Serra*.

He is formally charged with "looting, banditry, the rape of Cutuli and the murder of [all] four journalists in Sorobi". Khan is also charged with murdering his wife in Peshawar, Pakistan, according to General Abdul Fatah, head of the prosecution department of the National Intelligence Directorate, NID, which has been handling the investigation.

Khan's account to IWPR of events on November 19, 2001, differs in several details from a videotape released to Afghan television, ATV, by the NID prosecutors' office that shows Khan, apparently voluntarily, giving an account of the crime.

The tape of Khan was aired by ATV and subsequently obtained and made more widely available by the news agency, The Associated Press, and its television arm, APTN. Some observers question the motives for this highly unusual act - and how the public release of the tape will affect a trial.

THE ARREST OF SUSPECTS

Khan is one of two men who are currently in custody for the attack. The second man, Mamoor, was arrested at the beginning of last year – before Khan – and tried earlier this year in a hearing not open to journalists or the public.

He was convicted and sentenced to 16 years imprisonment for previous charges of looting and banditry, and being an accessory to the Sorobi murders.

Mamoor apparently implicated Khan in his testimony but his account of the attack and the details of the case have never been released. And his closed trial also raises issues of due process.

Mohammed Nayem Dawari, head of the investigation branch of NID's prosecution department, said three other men from Sorobi had also been arrested with Mamoor in connection with the attack but had subsequently been released.

Khan does not deny his involvement in the murders in either his taped interview with NID officials or with IWPR. But he said he was acting on orders from two local commanders - Mohammed Agha and Zar Jan - neither of whom have been arrested.

SOROBİ -TRADITIONAL TERRITORY OF GULBUDDIN HEKMATYAR

It is unclear whether the murders were political killings or opportunistic gangsterism, but the attack on November 19, 2001, took place at the most dangerous time in any conflict - during the dying moments of one regime- the Taleban - and before the widespread assertion of control by another, the Coalition-backed Afghan temporary government.

Sorobi has long had a reputation as a place of menace. It is located in the west part of Kabul province, about 50 kilometres from the capital. It is surrounded by mountains and traversed by a narrow road, which has a small main shopping street.

During the last two decades, governmental conveyances and private cars have been looted there. Robbers and thieves hide in the mountains. Those passing on the road are easy prey.

After 1992, and during the factional wars, Sorobi was one of the strongest bases of the conservative Islamic party Hizb-i-Islami.

During the mujahedin government, this area was a stronghold of Gulbuddin Hekmatyar, leader of Hizb-i-Islami, and despite coming under heavy attack from Ahmad Shah Massoud, the then government defence minister, territory was never ceded.

Hekmatyar is currently sought by US forces fighting against insurgents in Afghanistan and features on the US state department's list of terrorist suspects.

Among Hizb-i-Islami devotees in Sorobi, during the mujahedin period, was a powerful commander, Zardad – under whom Khan served in the early 1990s.

Khan told IWPR that ever since the collapse of Najibullah government in 1992, he had a gun and was fighting for another well-known Hizb-i-Islami commander based in Sorobi, Ezatullah – who in turn served Zardad.

Zardad was said to be notorious for his brutality. He was arrested in July, 2003, in Britain, for murder, abduction and torture in Afghanistan. It's said that one of his most infamous acts in the early 1990s was to get a man to imitate a dog and bite prisoners.

The Taleban, who took power in Kabul in 1996, only gained control over this area after striking a deal with Zardad, who allowed them to move into the area.

The Taleban subsequently set up a military checkpoint on a main road running through the area – and Sorobi became the gateway to Kabul for all traffic coming from Jalalabad.

WHO CONTROLLED GATEWAY TO THE CAPITAL?

How much of this was known to the four journalists, as they drove down from Jalalabad to Kabul, on the morning of November 19 is not clear.

But one key to the case, is the nature of the attack and a clue to this may lie in another question: whether a chain of command still held, despite the crumbling Taleban regime, by the time the journalists car was halted?

Some observers believe a Taleban chain of command still existed and suggest the deaths might have been them signalling that they continued to hold territory. Others say it's also possible Hekmatyar was behind the attack in order to demonstrate that he remained in control of the area.

Khan told IWPR that, after the collapse of the Taleban, he went to Sorobi and on November 19, joined 11 other armed men on the mountain pass. He said they were led by powerful Taleban commanders Zar Jan and Agha, who were both members of Hizb-i-Islami in Sorobi district.

"We were given a gun immediately and told to ride in the car by Mohammed Agha." Khan said. "We [the twelve men] couldn't disobey because we were soldiers and I didn't know anything until we reached the mountain pass."

He said that when they arrived at the pass, Agha hid his face with his scarf.

"He ordered us to stop the vehicles. After stopping two big vehicles, we saw the foreign journalists in the third car," he said.

Khan said he and the other gunmen ordered the journalists out of their cars and that Agha raped the Italian woman behind some rocks. This contradicted his recorded confession made public by the prosecution.

Khan said the gunmen then lined up their captives. "We shot the [three foreign] journalists on the order of Commander Mohammed Agha," he said.

Khan told IWPR that Agha personally killed the Afghan cameraman.

"When Mohammed Agha revealed his face, he shot the photographer, because he might know him," he said.

Khan said the gunmen did not loot the vehicles but did take 100,000 Pakistani rupies, about 1,600 US dollars, from their victims.

According to Khan, Agha and Zar Jan had been issued a general order by Mullah Birader, a well-known Taliban commander from Kandahar, to kill foreigners. Khan said Birader gave the two commanders a reward for killing the journalists.

Khan said he didn't know whether the motive for the killings was robbery or political and that he was just a soldier following Agha's and Zar Jan's orders. He said the two local commanders paid all 12 men who participated in the attack.

Asked if he had arrested the two commanders mentioned by Khan, Dawari, of NID, said only, "We have asked the security organisations to arrest them."

KHAN'S VIDEOTAPED CONFESSION

Khan's account to IWPR differs in several ways to that on the videotape. He told IWPR that the Taliban wanted foreigners killed, but says he didn't know the specific motive for this attack. On the videotape, Khan claimed robbery was motive for the attack.

Khan mentions two Taliban commanders to both IWPR and prosecutors - Zar Jan and Mohammed Agha. But while he told IWPR the man behind the attack was Agha, on the videotape he blames Zar Jan

And in contrast to his account to IWPR, Khan said in the interview taped by prosecutors and aired on August 3 by ATV, that he raped Cutuli and that he killed one of the journalists under the orders of Zar Jan.

In the videotape, Khan said that he took Cutuli 12 meters away behind a big rock and raped her. He told prosecutors, "It was evil's work - according to Islam a Muslim is always led by evil to do bad action - and I regret it."

He added that they were ordered by Zar Jan to kill the journalists and had no choice. "He ordered us to kill them. And if we didn't obey the order, it would be a threat to us," Khan said on the tape.

On the tape, Khan said he travelled Peshawar after the attack and returned home 25 days later. He also said that Zar Jan gave him 300 dollars.

And he maintains to the prosecutors that the motive was robbery. "We were not there to kill the journalists. We went to loot," he said on the tape.

It is unclear why the prosecutor's office took the unusual step of taping Khan's statements and allowing them to be broadcast before he appeared in court to enter a plea.

Dawari said Khan has not had access to a lawyer. "He has not asked for a lawyer [and] we have not appointed one for his case."

A PARALLEL INVESTIGATION

The NID seem convinced they have their man. "During the investigation, it was revealed that he [Khan] is the main perpetrator of the rape and that he shot the journalists," Dawari said.

The Afghan authorities however, are aware that Italy is required by law to carry out its own parallel investigation because Cutuli, an Italian national, was killed on foreign soil.

The findings of this could prove very sensitive if they lay the blame wider than simply Khan and point the finger toward more influential Taleban commanders as well as Khan and his fellow Sorobi gunmen.

Fatah of NID said that prosecutors believed Khan should face the death penalty. He said his case would go through three courts and the verdict would ultimately have to be approved by the president, so final sentencing may take some time.

On learning that he may be executed, Khan said, "If I am sentenced to death, it's God's will. And it can't happen one second before [he wills] or a second later. And I will obey God's will."

Human-rights activists in Afghanistan oppose execution. Nadir Nadiri, a spokesman for the Afghan Independent Human Rights Commission, said the commission currently opposes all death penalties because there is not a single body of law in Afghanistan; instead there is both Shariat and civil law.

"Afghanistan's people are not yet able to organise fair court trials and that is why the commission is against the death sentence," he said.

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