

TAJIKISTAN

TAJIK REFUGEES IN NORTHERN AFGHANISTAN

Obstacles to Repatriation

SUMMARY	3
RECOMMENDATIONS	3
BACKGROUND.....	4
THE CIVIL WAR AND ITS AFTERMATH	5
FORCED MIGRATIONS	7
TAJIK REFUGEES IN AFGHANISTAN	8
Konduz and Takhar Provinces	10
Balkh Province.....	12
Access to Refugees by UNHCR and Other International Organizations.....	12
Discouragement of Voluntary Repatriation.....	15
SAFETY OF RETURNEES.....	19
Dushanbe.....	19
Harassment by Kulabis and Uzbeks	20
Equal Access to Justice	22
Prosecution of Human Rights Abusers.....	23
Discrimination.....	25
REINTEGRATION OF REFUGEES AND INTERNALLY DISPLACED PERSONS	26
Local and International Humanitarian Assistance	26
The Role of the Organization for Security and Cooperation in Europe	26
The Government's Role in Repatriation and Reintegration.....	27
APPENDIX I: Conditions in the Refugee Camps	29
APPENDIX II: Application of International Law to the Tajik Opposition	34

MAP

SUMMARY

Four years ago, a devastating civil war in Tajikistan led to the deaths of more than 20,000 (with some estimates as high as 50,000) and created more than 800,000 displaced persons and refugees. Although the human rights situation in Tajikistan has in many respects steadily improved since the end of the war in December 1992, fighting between the Tajik government and opposition forces continues sporadically in some areas, and tension between the antagonists still exists in several parts of the country, creating an atmosphere of fear.

Since early 1993, refugees and internally displaced persons have returned to their villages in the southern oblast of Khatlon, from which the largest number of people were displaced following the active phase of the war. Hundreds of thousands of others who fled the fighting, destruction and persecution are still scattered in northern Afghanistan, the Commonwealth of Independent States and throughout Tajikistan itself.

In December 1995, some 26,000 of the refugees who had fled to northern Afghanistan still remained there in four refugee camps in the provinces of Balkh, Konduz and Takhar. These refugees face a difficult dilemma. The opposition exercises close control over the three refugee camps in Konduz and Takhar provinces, blocking access to the refugees by the United Nations High Commissioner for Refugees, hampering the relief efforts of western aid organizations, and impeding refugees' attempts to repatriate voluntarily. On the other hand, refugees who choose to return to Tajikistan often face harassment by neighbors who were on the victorious side in the civil war, a situation that is exacerbated by the unwillingness of government officials to safeguard their rights and the absence of government will to prosecute vigorously those who abuse returnees.

In April 1994, Human Rights Watch/Helsinki opened an office in Dushanbe, the capital of Tajikistan, in order to monitor and report on human rights violations on a regular basis. During the month of December 1995, our Tajikistan representative and a researcher from the New York office traveled twice to the Bokhtar district in Khatlon oblast and met with scores of returned refugees and internally displaced persons. In addition, our researchers made two trips to northern Afghanistan, meeting with refugees in all four Tajik refugee camps in northern Afghanistan. While in Afghanistan, our researchers also met with leaders of the Tajik opposition to raise human rights issues involving the Tajik refugees. Our researchers also raised the rights of returnees with Tajikistan government officials in Dushanbe and Bokhtar.

RECOMMENDATIONS

Recommendations to the Government of Tajikistan

- Conduct thorough investigations of attacks on and threats against returning refugees and internally displaced persons and punish perpetrators of such crimes as required by both Tajik and international law; and
- Protect returnees who report attacks, threats, thefts of property, and other problems.

Recommendations to the Tajik opposition

- Lift the ban against repatriation imposed in November 1995.
- Stop the use of threats and violence to prevent or discourage the voluntary repatriation of refugees.
- Grant access to the refugee camps in Konduz and Takhar to relief organizations including Médecins Sans Frontières/Belgium and the United Nations High Commissioner for Refugees for the purpose of providing humanitarian assistance.

- Allow the United Nations High Commissioner for Refugees to provide all Tajik refugees in Afghanistan, and especially in Konduz and Takhar provinces, complete and balanced information about conditions in Tajikistan, on the basis of which they can freely make an informed decision on voluntary repatriation.

Recommendations to the U.N. High Commissioner for Refugees

- Keep complete and updated records of addresses of repatriating refugees before they enter Tajikistan, for the purpose of monitoring their safety upon return;
- Closely monitor conditions of repatriation by comprehensively completing regular follow-up visits to returnees, to the extent that this monitoring is not done by the Organization for Security and Cooperation in Europe;
- Maintain a presence in the Sakhi camp near Mazar-i-Sharif in Balkh Province, Afghanistan; and
- Stop the practice of decreasing food and fuel rations in the Sakhi camp as a means to coerce repatriation, and immediately resume providing at least minimum rations under the guidelines of international organizations such as Médecins Sans Frontières and the World Food Programme.

Recommendations to the Organization on Security and Cooperation in Europe

- Actively monitor the human rights situation of returning refugees and internally displaced persons in Dushanbe.
- Closely monitor conditions of repatriation by comprehensively completing regular follow-up visits to returnees; and
- Open a field office in Bokhtar on a full-time basis.

BACKGROUND

Tajikistan, now a member of the Commonwealth of Independent States (CIS), declared its independence from the USSR on September 9, 1991. It became a member of the Conference on Security and Cooperation in Europe (renamed the Organization on Security and Cooperation in Europe in 1994) in January 1992, and of the United Nations in March of the same year. Tajikistan covers a mostly mountainous land mass of 143,100 square kilometers, bordering China, Uzbekistan, Kyrgyzstan, and Afghanistan, with which it shares a border of more than 1,000 kilometers. According to the 1989 USSR census, the last census to be taken in the country, Tajikistan's population was 5.1 million.

Of those counted, about 61 percent (3.2 million) identified themselves as Tajik, 23.5 percent (1.2 million) as Uzbek, and 7.6 percent (388,000) as Russian. New studies estimate the country's current population at more than 5.9 million.¹

Tajik, the state language of Tajikistan since 1989, belongs to the western Iranian language group and is similar to the Persian spoken in Iran. Most Tajiks are Sunni Muslims, with the exception of Pamiris (see below), who are Ismaili Muslims. The poorest of the Soviet central Asian republics, Tajikistan's economy has collapsed since the end of the civil war. Tajikistan's gross domestic product declined by 12.4 percent from 1994 to 1995.² In 1995, the average

¹The World Bank estimates the total population at the end of 1995 at more than 5.9 million. *The World Bank Atlas, 1996*, 1995, p. 4. The International Monetary Fund estimated the total population at the end of 1991 at 5.5 million. International Monetary Fund (IMF), *Economic Review: Tajikistan*, November 1994, p. 1.

²Finansovye izvestiya, as cited in OMRI Daily Digest, No. 34, Part I, February 16, 1996.

income of a family was US \$400.³ In another indication of the desperate state of the Tajik economy, the United Nations Food and Agriculture Organization (FAO) released a statement on February 6, 1996, warning that Tajikistan faces a serious food shortage in 1996. According to the FAO, Tajikistan has only 40 percent of the required food grain imports necessary for 1996.⁴ Poverty is also reflected in the infant mortality rate which now stands at sixty per 1,000 births according to UNICEF.⁵

Tajikistan's five regions differ from each other in terms of topography, economic development, culture, and — in certain cases — in terms of religion, ethnicity and language. These differences play a critical role in internal politics and were crucial in determining loyalty in the civil war. Perhaps the most distinct region ethnically is Gorno Badakhshan, located southeast of Dushanbe. Set in the Pamir mountain range, the Gorno Badakhshan autonomous oblast⁶ is the least developed economically. The majority of its inhabitants are Ismaili Shiites, whereas the rest of Tajiks are Sunni. Pamiris speak at least six different dialects of eastern Iranian, which are distinct from Tajik, and are thought to consider themselves as Pamiris, as distinct from Tajiks. The Gharm valley, northeast of Dushanbe, is a mainly agricultural, mountainous region whose population is known for being among the most religious in Tajikistan. The Leninabad oblast to the north, and Hissar, to the west of Dushanbe, are the most economically developed regions and have significant Uzbek communities. Khojand, the capital of Leninabad oblast, was the source of traditional Communist Party elites.

To the south are the former Kulab and Kurgan Teppe oblasts, now joined together to form the Khatlon oblast. The current government is dominated by people from Kulab, a region of mixed topography and economy, or of Kulab origins. Kurgan Teppe, previously desert land, was irrigated for growing cotton and other crops in the 1940s and 1950s. The area was populated mostly through Stalin's policy of forced migration, under which a significant portion of Kurgan Teppe's population was transplanted from Gharm and Gorno Badakhshan.

THE CIVIL WAR AND ITS AFTERMATH

The civil war in Tajikistan broke out in May 1992 and lasted a mere six months, although hostilities continue. During that six month period, the civil war claimed as many as 50,000 lives, caused the displacement of more than 800,000 persons, and fundamentally transformed the newly-independent nation. The civil war culminated a power struggle between the communist-led government and an emerging political opposition during the late 1980s and early 1990s. The opposition consisted of a coalition of democratic, nationalist, cultural revivalist and Islamist parties and movements and drew support primarily from people whose origins were from the mountainous districts of Gharm (hereinafter Gharmis) and Gorno Badakhshan or Pamir (hereinafter Pamiris). The government was supported by the old-guard communist elite from the Leninabad region in the north and by people from the southern region of Kulab (hereinafter Kulabis). The November 1991 presidential election pitted the elite against this new coalition, and was ultimately won by Rahman Nabiev, a former communist leader, amid allegations of election-rigging by the opposition.

Beginning in March 1992, tensions between opponents and supporters of the Nabiev government erupted into large-scale demonstrations and violent clashes in Dushanbe. The violence soon spread south, to what were then the Kulab and Kurgan Teppe oblasts. In an effort at compromise, a coalition government was formed on May 7, 1992. Heavily armed bands continued to fight each other, however, and the violence soon escalated into full-scale civil war. Fighting on behalf of the government were local armed bands, led by a Kulab-based paramilitary force known as the

³See United States of America Department of State country report, 1996.

⁴Statement of the United Nations Food and Agricultural Organization, February 6, 1996, as cited in OMRI Daily Digest, No. 28, Part I, February 8, 1996.

⁵United Nations Children's Fund, as cited in OMRI Daily Digest, No. 63, Part I, March 28, 1996.

⁶ An autonomous oblast is a territorial administrative unit inherited from the Soviet era.

National Guard (later succeeded by the Popular Front). These groups rushed to the support of the Kulabi population of Kurgan Teppe, where they were assisted by ethnic Arabs and ethnic Uzbeks, against pro-opposition paramilitary forces.

During the course of the fighting, both sides committed atrocities, including murder, disappearances, hostage-taking, and burning and looting of homes. In June and July 1992, thousands of Kulabis and Uzbeks temporarily fled what is now Khatlon oblast, taking refuge in Kulab and Uzbekistan, respectively.⁷ Once they had fled, many of their homes were burned and looted. By August, however, the Popular Front and its supporters had gained control of most of the oblast and forced out hundreds of thousands of Gharmis and Pamiris, most of whom were perceived to have supported the opposition. The victorious Kulabis and Uzbeks engaged in widespread looting and burning of the empty villages left behind.

On September 7, 1992, President Nabiev was forced to resign at gunpoint by a faction loosely identified with the opposition. By November, the coalition government had crumbled; first, members of the old communist elite and, later, the opposition, resigned from the coalition. On December 2, 1992, the Supreme Soviet (or parliament) of Tajikistan met with the stated objective of creating a government of national reconciliation. Instead, it elected a government dominated by Kulabis and the former Communist Party old guard, headed by Emomali Rahmonov, a Kulabi. Most remaining leaders and active members of the various opposition movements fled the country at that point, in the face of the government's intense crackdown against the opposition and people associated with it,⁸ and currently live in exile in Russia, Afghanistan, Iran and elsewhere.

Since December 1993, armed factions of the opposition located in Afghanistan have been involved in ongoing fighting against government troops and units of the approximately 17,000 Russian border guards who, along with border units from Kazakhstan and Kyrgyzstan, are assigned to protect the Tajik-Afghan border. The Russian military presence in Tajikistan predates the civil war. In addition to the border guards, another 7,000 troops of Russia's 201st Motorized Rifle Division, together with a small number of Uzbek troops, made up the majority of a CIS peacekeeping force in Tajikistan in 1995. In January 1996, the Council of the CIS Heads of State agreed to extend the term of the peacekeeping force through June 30, 1996.⁹

⁷The Department of Refugee Affairs of the Ministry of Labor of Tajikistan estimates that 133,000 Kulabis and Uzbeks fled the region during mid-1992.

⁸See "Human Rights in Tajikistan: In the Wake of the Civil War," Human Rights Watch/Helsinki, December 1993.

⁹Letter, dated February 1, 1996, from the representatives of Kazakhstan, Kyrgyzstan, The Russian Federation, Tajikistan and Uzbekistan to the United Nations, addressed to the Secretary General. Security Council S/1996/77, February 1, 1996.

Since April 1994, the government and the opposition¹⁰ have been engaged in United Nations-sponsored peace negotiations, and an agreement on cessation of hostilities was signed on September 17, 1994, in Tehran (the Tehran agreement).¹¹ On November 6, 1994, Rahmonov was elected president of the republic in a nationwide election marred by fear and flagrant fraud.¹² On December 16, 1994, the United Nations Security Council created a United Nations Mission of Observers to Tajikistan (UNMOT), to monitor adherence to the Tehran agreement.¹³ Against a backdrop of escalating fighting in the Tavildara and Gharm areas and internal disturbances in several Tajik towns, the fifth round of peace talks in Ashkabad, Turkmenistan adjourned on February 16, 1996, without yielding any significant progress.

FORCED MIGRATIONS

The conflict in Tajikistan resulted in the flight of hundreds of thousands of persons from Tajikistan, most of them to northern Afghanistan and the countries of the Commonwealth of Independent States (CIS). Statistics are unreliable, with the government and the opposition providing different and often vastly contradictory figures.¹⁴ Even estimates by international organizations are imprecise, as no systematic counting of refugees from Tajikistan has taken place in the CIS or in Afghanistan.

¹⁰ In late 1995, the Tajik opposition coalition in northern Afghanistan renamed itself the United Tajik Opposition. For the sake of convenience, the opposition coalition is referred to throughout this report as either the "opposition" or the "Tajik opposition."

The opposition, led by the Islamic Renaissance Party, has experienced some dissent in the past year. In late May 1995, a faction of the Democratic Party of Tajikistan (DPT) returned to Tajikistan and announced its support for the Tajik government. The Rastokhiz movement, formerly part of the coalition, publicly stated in early January 1995 that it recognizes the Tajik constitution and president.

¹¹ The Tehran agreement has been extended several times. Most recently, the government and the opposition agreed to a three-month extension of the cease-fire through May 25, 1996.

¹² See Human Rights Watch/Helsinki Press Release, "Tajik Elections Conducted in Climate of Fear and Fraud," November 9, 1994.

¹³ Resolution 968 (1994). On December 14, 1995, the Security Council extended UNMOT's term for an additional six months to June 15, 1996. Resolution 1030 (1995).

¹⁴ The two sides usually employ different terms to refer to the refugees. The Tajik opposition prefers to use the term "mohajir" (meaning migrant) to describe the Tajik refugees in Afghanistan. The Tajik government uses either: "gorizeh" (fugitive) or, more recently, "mohajirin ejbari" (forced migrants). The latter terms are also used to describe internally displaced persons.

While the government of Tajikistan's estimates regarding refugees are usually based on statistics compiled by the UNHCR, the two have different estimates of the Tajik refugee population in northern Afghanistan, with the government figures lower than UNHCR figures. Nevertheless, a government official in charge of refugee affairs was eager to point to the disparity between UNHCR and Tajik opposition figures as evidence that the latter are unreliable. Human Rights Watch/Helsinki interview with Teymour Tabarov, director of the Department of Refugee Affairs of the Ministry of Labor, December 4, 1995.

Following the first round of United Nations-sponsored peace negotiations in April 1994, a Joint Refugee Commission (hereinafter the Commission) was set up in order to study “problems relating to refugees and internally displaced persons” from Tajikistan. The Commission, which consists of members of the government and the opposition and is chaired by a United Nations representative, has as one of its objectives determining the number and location of Tajik refugees. However, according to UNHCR officials, the Commission has been unable to agree on many fundamental issues, notably on the number of refugees, and has become essentially paralyzed by both sides’ unwillingness to compromise.¹⁵

The UNHCR and other international organizations have, at best, imprecise estimates of the number of refugees for two reasons. First, the UNHCR has had until recently access to Tajik refugees in only one region of northern Afghanistan. Second, assessing the number of refugees in the CIS is difficult because many individuals who sought refuge there never registered as refugees within their host country. Moreover, ethnic Russians and other, non-Tajik national, religious or ethnic groups (such as Germans and Jews) are often included in opposition estimates of “Tajik refugees.” In a trend that started in the late 1980s,¹⁶ many of these individuals fled to the CIS, particularly to Russia, to escape more generally from economic disaster and political instability in Tajikistan and would not necessarily return to Tajikistan were the conflict to end.

The hundreds of thousands of ethnic Tajiks who fled their villages and resettled in northern Afghanistan or in other parts of Tajikistan (see below) did so out of immediate fear for their lives. In some cases, this fear was based on past support for the opposition or participation in the war. This includes the *vovchiki* (pro-opposition fighters), mostly young men who remain in hiding in Afghanistan or in the Gorno Badakhshan district of Tajikistan, as well as opposition leaders and activists living in exile in Russia, Afghanistan, Iran and other countries. Thousands of others, however, mostly Gharmis and Pamiris, were associated with the opposition simply by virtue of their ethnicity or regional origin and faced collective punishment at the hands of the National Front.

TAJIK REFUGEES IN AFGHANISTAN

Tens of thousands of people who fled the war in Tajikistan sought refuge in northern Afghanistan. Statistics are unreliable, with the government and the opposition providing different and often vastly contradictory figures. The UNHCR estimates that some 90,000¹⁷ refugees fled to northern Afghanistan in the period during and immediately following the civil war, some 60,000 of whom stayed in Afghanistan for a significant period of time, the rest spontaneously repatriating soon after the cessation of intense fighting. Of these, some 27,500 fled to Balkh province to a refugee camp near Mazar-i-Sharif administered by the UNHCR, and some 25,000 others fled to Konduz and Takhar provinces, where three camps were established.¹⁸

¹⁵Human Rights Watch/Helsinki interview with the UNHCR, November 30, 1995.

¹⁶Since June 1992, some 190,000 people of all ethnicities who fled Tajikistan for Russia and other CIS countries registered as refugees. As of May 1996, some 185,000 of these people remained outside Tajikistan. Human Rights Watch/Helsinki interview with Teymour Tabarov, director of the Department of Refugee Affairs of the Ministry of Labor, May 3, 1996.

¹⁷Human Rights Watch/Helsinki interview with the UNHCR, November 30, 1995. According to Tajik opposition leader Said Abdullo Nuri, 150,000 Tajiks fled to Afghanistan. Human Rights Watch/Helsinki interview, December 15, 1996.

¹⁸Human Rights Watch/Helsinki interview with the UNHCR, April 24, 1996.

Konduz and Takhar provinces fall within territory controlled by the Kabul government of President Burnahuddin Rabbani and Defense Minister General Ahmad Shah Massoud. Balkh province is controlled by General Abdul Rashid Dostum, who administers this territory independently from the Afghan government. In 1994, General Dostum made several attempts to wrest parts of Konduz province from the Kabul government, failing ultimately to hold on to the territory he invaded. The experiences of Tajik refugees in these two regions of Afghanistan have differed in at least two significant respects. First, the UNHCR has had continued and free access to refugees near Mazar-i-Sharif, but until recently has had little or no access to those refugees in Konduz and Takhar provinces. Second, the Tajik opposition has exercised significantly more control over the operation of the refugee camps in Konduz and Takhar provinces than in Balkh province.¹⁹

Estimates of current refugee populations in these four camps vary significantly, even for the Sakhi camp which is administered by the UNHCR. According to the Tajik opposition, some 32,000 Tajik refugees live in the four camps,²⁰ but UNHCR officers in Tajikistan claim there are approximately 18,000. A UNHCR field officer in Afghanistan estimated that there are approximately 26,000 Tajik refugees in Afghanistan, of whom 18,000 remain in the Konduz and Takhar camps and 7,000 in Sakhi. On December 4, 1995, a Tajik government official told Human Rights Watch/Helsinki that there were 11,196 Tajik refugees remaining in all of Afghanistan. In addition, Tajik opposition leader Said Abdullo Nuri told Human Rights Watch/Helsinki that there had been an influx of some 2,000 Tajiks in the past couple of years, including more than 700 in the last six months of 1995.²¹

¹⁹Despite allegations by the Tajik opposition leadership to the contrary, it is evident that they do not exercise the influence or control over the Sakhi camp that they exercise over the camps in Konduz and Takhar. Human Rights Watch/Helsinki interview with the UNHCR on December 17, 1995; interview with General Said Kamal, chief of security in General Dostum's government, December 21, 1995.

²⁰According to Mr. Abdoghoffor Borhani, head of the opposition's political committee, there are about 24,800 Tajik refugees in the Konduz and Takhar camps, with 6,800 in the Ameirabad camp, 15,000 in the Bogh-i-Sherkat camp, and 3,000 in the Sherkat camp in Teloquan. Human Rights Watch/Helsinki interview, December 15, 1995.

²¹Human Rights Watch/Helsinki was not able to confirm this figure. A UNHCR field officer agreed that some 400 Tajiks had crossed into Afghanistan in 1995. Human Rights Watch/Helsinki interview with the UNHCR, December 17, 1995.

Nongovernmental organization (NGO) activity and voluntary repatriation in the three camps in Konduz and Takhar provinces differ markedly from Mazar-i-Sharif.²² An atmosphere of secrecy surrounded the identity of NGOs active in the former which, combined with restricted access to the UNHCR and obstacles to repatriation, suggested a desire on the part of the opposition to control carefully information, organizations and individuals in the camps in Konduz and Takhar provinces. These three camps have received assistance primarily from a group of NGOs, including the Iranian Red Crescent and several NGOs based in Arab countries. The activities of these "Arab NGOs" have not been publicized, and it was difficult for the Human Rights Watch/Helsinki mission to learn more about the nature or the scope of their activities from the Tajik opposition leaders or from the refugees themselves. Most refugees simply are not aware of the exact identity or background of these organizations.²³ Members of the medical assistance NGO Relief International have heard from Qari Rakhmatullah, the governor of Konduz, that these Arab NGOs include the Islamic Relief Agency and the Islamic International Relief Organization, both based in Saudi Arabia.²⁴ According to a doctor with Médecins Sans Frontières/Belgium, the main Arab NGO is called the Islamic International Relief Organization.²⁵ Human Rights Watch/Helsinki was unable to gather other information about the work of these NGOs in Bogh-i-Sherkat. The UNHCR field officer responsible for Konduz and Takhar provinces stated that the UNHCR had never been able to meet or otherwise communicate with the Arab NGOs.²⁶

Beginning in March 1993, the UNHCR began assisting in the voluntary repatriation of refugees from the Konduz and Takhar provinces, and in May 1993, the Sakhi camp. As of March 1996, 28,060 Tajik refugees have returned to Tajikistan under the UNHCR program.²⁷ Of these, 13,255 have returned from Sakhi and 14,805 have returned from the Konduz and Takhar camps.

Konduz and Takhar Provinces

Refugees who fled to the Konduz and Takhar provinces were initially concentrated in the northern part of Konduz province in several areas, including the town of Imam Sahib. Assisted by Afghans as well as several NGOs, the Tajik opposition created a refugee camp among the barracks of an airfield in Konduz which had formerly been used by the Soviet air force during the war in Afghanistan. Most Tajiks moved to this camp.²⁸ When fighting between

²²See Appendix I: Conditions in Refugee Camps.

²³Human Rights Watch/Helsinki interviews in Konduz and Takhar provinces, December 15-17, 1995.

²⁴Human Rights Watch/Helsinki interviews with Relief International staff, November 8 and 27, 1995. The identification cards for the refugees living in Bogh-i-Sherkat camp are written in Arabic and state that they have been issued under the auspices of an entity named the "Islamic Coordination Council." Human Right Watch/Helsinki interviews, December 17, 1995.

²⁵Human Rights Watch/Helsinki interview with MSF, December 20, 1995.

²⁶Human Rights Watch/Helsinki interview with the UNHCR, December 17, 1995. A field officer told Human Rights Watch/Helsinki that his personal view was that the UNHCR's difficulties in gaining access to these camps was largely a result of the Arab NGOs' desire to maintain exclusive control over the Tajik camps. For example, when UNICEF offered to provide vaccinations in the refugee camps, one of the Arab NGOs insisted that, while UNICEF could supply the vaccines, UNICEF would not be permitted to administer the vaccinations in the camp.

²⁷Annual figures show a significant decline in repatriation from Afghanistan in 1995. Under the UNHCR program, in 1993, 15,624 returned to Tajikistan 10,938 in 1994, and 1,325 in 1995. These figures, provided by the UNHCR, do not account for those refugees who returned to Tajikistan spontaneously or with assistance other than from the UNHCR.

According to Teymour Taborov, director of the Department of Refugee Affairs of the Ministry of Labor, 39,743 refugees had returned thus far. Government figures show that while 27,050 returned in 1993, 11,276 returned in 1994 and only 1,410 in 1995. These figures also indicate that of those who returned in 1995, 318 came from the Sakhi camp in Mazar-i-Sharif and 934 from the Konduz and Takhar camps. In addition, Mr. Taborov noted that ninety-seven of the Tajik returnees had returned from Herat, in Afghanistan, via a flight from Merv to Dushanbe. Human Rights Watch/Helsinki interview, December 4, 1995.

²⁸Human Rights Watch/Helsinki interviews with Tajik refugee returnees in Bokhtar district, December 7-9, 1995.

General Dostum's and General Massoud's forces resulted in the destruction of part of the camp, the Tajik refugees were moved primarily to two camps: Ameirabad, near the town of Khanabad on the road between Konduz City and Teloquan, and Bogh-i-Sherkat, on the outskirts of Konduz City. The residents of Ameirabad have received assistance primarily from the Iranian Red Crescent, while the residents of Bogh-i-Sherkat have benefitted from assistance primarily from several Arab NGOs.²⁹ The third Tajik refugee camp in these provinces, the Sherkat camp, is located on the outskirts of Teloquan, the capital of Takhar province. The residents of Bogh-i-Sherkat and Sherkat primarily receive assistance from the Arab NGOs. Since late 1993, when security problems forced the UNHCR to suspend its operations in Konduz and Takhar provinces,³⁰ the UNHCR has had extremely limited access to these three refugee camps. In 1994, UNHCR re-opened an office in Konduz City and now provides some assistance to the camps. (See below.)

²⁹In general, it was difficult to obtain information about these Arab NGOs from Tajik opposition officials. However, one official at Bogh-i-Sherkat camp did note that Qatar had once helped the Tajik refugees in that camp. This official also explained that these NGOs did not bring their own food, but rather purchased food from local markets and brought it to the camps. Human Rights Watch/Helsinki interview, December 17, 1995.

³⁰In 1993, three UNHCR officers were killed in Afghanistan.

According to UNHCR field officer Cyrus Shakalili, it is the policy of the UNHCR to gain full and free access to a refugee camp as a prerequisite to providing assistance. Among other things, such access permits the UNHCR to establish that the refugee population they are working with qualify as refugees under the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol thereto. An important issue in this context is whether or not the training of combatants takes place within these camps. Mr. Shakalili stated that although the Tajik refugees in Konduz and Takhar provinces had not yet been officially recognized by the UNHCR as refugees, he himself was confident that the population comprises refugees.³¹

More recently, the UNHCR opened negotiations with the Tajik opposition to gain greater access to the Konduz and Takhar camps in order to provide assistance to the Tajik refugees. After several months, the Tajik opposition has agreed to permit the UNHCR to make limited visits to these camps and to provide some assistance. (See below.) Apart from certain Arab NGOs, few other NGOs have had access to the camps. Relief International made four visits to Konduz and Takhar in order to deliver medical supplies in the second half of 1995 and early 1996, and Médecins Sans Frontières/Belgium (MSF) has had sporadic access to Ameirabad and Sherkat camps. In mid-December 1995, Human Rights Watch/Helsinki learned from a doctor with MSF based in Mazar-i-Sharif that the Tajik opposition had, effective in January 1995, barred MSF from further access to the camps without providing any explanation for the decision. Less than a week earlier, the Tajik opposition leadership had claimed in an interview with Human Rights Watch/Helsinki that the Tajik opposition would welcome anyone who offers material assistance to the refugees. As one Tajik opposition official had explained at that time, "Wherever we can find help, we accept it."³² (See below.)

Human Rights Watch/Helsinki researchers sought to conduct interviews with refugees in Konduz and Takhar provinces in private or in the presence only of family members, the same methodology they used in the Sakhi camp near Mazar-i-Sharif and with returnees in Tajikistan. From the outset, Abdoghoffor Borhani, head of the political branch of the opposition, and Qoibnazar Hakhnazar, head of the opposition's refugee committee, agreed to this interview environment. Human Rights Watch/Helsinki researchers were generally successful in conducting interviews in this manner; however, it was evident that refugees in Konduz and Takhar provinces, as well as some of the leaders, were under some pressure from the Tajik opposition leadership to tailor their responses to what the leaders believed were appropriate answers. For example, when asked about the number of new refugee arrivals in 1995 to Bogh-i-Sherkat, the deputy camp leader of Bogh-i-Sherkat initially responded, "What did the leader [Borhani] say? So I can give the same answer."³³ In one case, this deputy camp leader rushed ahead of the Human Rights Watch/Helsinki researchers to ask a prospective interviewee to "say good things." Similarly, in the Ameirabad camp, one woman told Human Rights Watch/Helsinki that "the bosses told us to say nice things." On the whole, such preparation of interviewees was not a problem, as Human Rights Watch/Helsinki researchers began interviews in each camp by meeting one or two of the families the camp authorities suggested, and then reminded camp authorities of the agreement as to how interviews would be conducted and selected the remainder of the interviewees at random.

In the most serious instance of interference with the interview agreement, Nazri Imam, a member of the security committee of the Ameirabad camp, and his eighteen-year-old daughter, burst into a hut and threatened the Human Rights Watch/Helsinki researchers and a couple that was being interviewed, all in plain view of the camp leaders, including Mr. Borhani. The leaders' ensuing attempts to dissociate themselves from the incident by claiming that the father and daughter were random troublemakers in Ameirabad sounded hollow, as the daughter had been introduced earlier as the head of the committee of women refugees in that camp. Human Rights Watch/Helsinki interviewers had first encountered this young woman while meeting with a group of women at the request of camp leaders, who had claimed that this group represented "especially vulnerable cases." The woman, who had recently returned from training in Iran, was the spokesperson for the group. Human Rights Watch/Helsinki researchers broke off that earlier interview

³¹Human Rights Watch/Helsinki interview with UNHCR, December 17, 1995.

³²Human Rights Watch/Helsinki interview with Mr. Qoibnazar Hakhnazar, head of the refugee committee of the Tajik opposition, December 15, 1995.

³³Human Rights Watch/Helsinki interview in Bogh-i-Sherkat, December 17, 1995.

when one of the women told the Human Rights Watch/Helsinki researchers that there were certain things that they were not supposed to tell them, prompting recriminations and shouting among the women over whether it was true or not that they had been so instructed.

Balkh Province

Since 1993, the UNHCR has administered the Sakhi camp for Tajik refugees, located approximately forty-five kilometers outside of Mazar-i-Sharif, just off the road from Mazar-i-Sharif to the town of Heiraton on Afghanistan's border with Uzbekistan. The UNHCR has had a continuous and prominent presence in Sakhi, in contrast to its limited access to the refugee camps in Konduz and Takhar provinces. In addition to the UNHCR, other NGOs providing assistance to the refugees in Sakhi include Médecins Sans Frontières/Belgium (MSF), which supervises a clinic, and the World Food Programme (WFP), which provides food assistance.

In the fall of 1995 the UNHCR announced it would terminate its care and maintenance program in the Sakhi camp at the end of April 1996 and expanded its efforts to encourage the Tajik refugees living there to return to Tajikistan. To this end, the UNHCR reduced rations per person by 10 percent in October 1995 and another 10 percent in December 1995, with a final 10 percent reduction to come in April 1996.³⁴ Both MSF and the refugees in Sakhi camp protested these measures. A doctor from MSF insisted that these reductions were excessive for two reasons. First, the UNHCR had calculated food distribution for the summer at 1,900 calories per person, which meets WFP's guidelines, but falls short of MSF's 2,100 calorie standard. Second, WFP's standards call for an increase to 2,400 calories for the winter; yet, the UNHCR ration cuts were designed to take place over the course of the winter without any adjustments from the summer ration levels.³⁵

Even after the termination of the care and maintenance program, explained a UNHCR officer in Afghanistan, the UNHCR would probably continue administering minimal food assistance to any Tajiks who remain. The UNHCR expects that the cuts in food assistance may be partially offset by the fostering of income generation projects. This UNHCR official also sought to distinguish between measures undertaken to "encourage" or "facilitate" repatriation and measures that would "promote" repatriation, emphasizing that the UNHCR had not yet undertaken any of the latter measures. According to Pierre-François Pirlot, UNHCR Chief of Mission in Tajikistan, there is no such distinction in UNHCR operations.³⁶ This seeming confusion over repatriation terminology reflects the apparent inconsistency between the UNHCR's repatriation policy for the Tajik refugee camp in Balkh province, as opposed to its policy of seeking access to the camps in Konduz and Takhar. (See below.)

Access to Refugees by UNHCR and Other International Organizations

³⁴Human Rights Watch/Helsinki interviews with the UNHCR, December 17, 1995; with MSF December 20, 1995; with refugees in the Sakhi camp, December 21-22, 1995.

³⁵Human Rights Watch/Helsinki interview with MSF, December 20, 1995.

³⁶Human Rights Watch/Helsinki interview with Pierre-François Pirlot, December 19, 1995.

As noted previously, the UNHCR and many other humanitarian assistance NGOs have had extremely limited access to the refugee camps in Konduz and Takhar.³⁷ More recently, the UNHCR began negotiating with the Tajik opposition to gain full access to the camp. These negotiations are complicated, in part, by the fact that the Tajik opposition does not entirely trust the UNHCR's motives in seeking this access. The opposition has two major grievances: first, there is some bitterness among Tajik refugees and opposition leaders that the UNHCR "abandoned" the Tajik refugees in Konduz and Takhar in 1993, when they effectively closed down their operations in those provinces; second, both refugees and opposition leadership question why the UNHCR is seeking to initiate assistance efforts in the camps in Konduz and Takhar, when at the same time, the UNHCR has emphasized that it will terminate its care and maintenance program in the Sakhi camp. (See above.)

This sense of abandonment led some Tajik opposition leaders initially to assert to Human Rights Watch/Helsinki that the UNHCR had offered little to no assistance to refugees in Konduz and Takhar. For example, Mr. Borhani initially explained that "in principal" the UNHCR had provided nothing, conceding only later that in December of 1993, UNHCR had helped a little, with every fourth person (or each family) receiving plastic sheeting.³⁸ Furthermore, Mr. Borhani was skeptical of the UNHCR's claim that security concerns prevented it from operating in Konduz and Takhar provinces. He also denied that the opposition had prevented western NGOs from assisting the camps.³⁹ Similarly, Mr. Nuri denied that the opposition leaders had refused access to the UNHCR. Mr. Nuri claimed that the Tajik opposition had in fact written several letters to the UNHCR in Mazar-i-Sharif and in Islamabad, asking for assistance. He further asserted that the Tajik opposition had never imposed any restrictions on UNHCR activities in the Tajik refugee camps.⁴⁰ Nevertheless, Mr. Nuri said, the UNHCR had turned down requests for assistance on grounds that the situation near Konduz City was not secure.⁴¹ Suspicion and distrust of the UNHCR was an issue at meetings with the leaders of each of the three camps.⁴²

³⁷Although it was somewhat difficult to get a clear statement of policy, Tajik opposition leaders appear currently to refuse visits to the camps from Tajik government representatives. They believe that such a visit would violate the Alma Ata accords on voluntary repatriation. Furthermore, they pointed out, the refugees themselves do not want to meet representatives of the Tajik government. To illustrate the point, they said that they had heard on the radio that representatives of the Tajik government had gone to the Sakhi camp and were accepted at the gate, but none of the refugees wanted to meet with them. The leaders claimed that the opposition has no policy against the UNHCR's coming to the camps to discuss repatriation. Human Rights Watch/Helsinki interview in Konduz City, December 17, 1995.

³⁸Human Rights Watch/Helsinki interview in Konduz City, December 15, 1995.

³⁹Mr. Borhani further insisted that the Iranian Red Crescent had not been involved in driving western NGOs out of the refugee camps. Rather, he claimed, the Iranian Red Crescent had requested the western NGOs to grant assistance. Human Rights Watch/Helsinki was unable to confirm or deny Mr. Borhani's claims.

⁴⁰At the same time, Nuri said, "We have our conditions of course; when [aid organizations] come, they should work with us." In addition, he stated that there were certain organizations that the opposition would bar from the refugee camps: "Any organization that enters the camps to further that country's interests, we will not permit." He cited as examples, organizations that conduct religious proselytization and organizations seeking to promote the interests of a particular country, offering Pakistan as a specific example. Human Rights Watch/Helsinki interview, December 14, 1995.

⁴¹In response to this issue, Mr. Nuri pointed out that other U.N. operations were being carried out in Konduz and Takhar provinces during the time the UNHCR excused its absence on grounds of security. For example, Mr. Nuri mentioned a de-mining effort in that area involving some seventy to eighty people.

⁴²In Bogh-i-Sherkat camp, camp officials told Human Rights Watch/Helsinki that they had a "dispute" with the UNHCR regarding the latter's unwillingness to provide assistance since 1993. Human Rights Watch/Helsinki interview, December 17, 1995.

The Tajik opposition viewed as inconsistent the UNHCR's plans for Sakhi camp, on the one hand, and for the camps in Konduz and Takhar, on the other. Mr. Nuri claimed that the Tajik refugees feared that UNHCR tactics for pressuring people in the Sakhi camp to return to Tajikistan might be employed in Konduz and Takhar after gaining access to camps there. Although such comments contained a blend of hyperbole and fact, many refugees interviewed by Human Rights Watch/Helsinki in the Konduz and Takhar camps echoed their leaders' uneasiness about the UNHCR's seemingly inconsistent programs.⁴³ Underlying these concerns was the suspicion, clearly articulated by some Bogh-i-Sherkat camp officials, that the UNHCR was seeking access to refugees in the Konduz and Takhar camps merely to push them to return to Tajikistan.

Despite these attitudes, the UNHCR has been able to deliver some aid. In 1994 and 1995, the UNHCR distributed plastic sheeting to each family in Bogh-i-Sherkat and Ameirabad,⁴⁴ and in late 1995, it provided blankets (4,700 in Bogh-i-Sherkat and 1,868 in Ameirabad). The UNHCR has planned additional assistance projects, including a project to set up bakeries in Bogh-i-Sherkat and Ameirabad camps and, in conjunction with the WFP, the installation of a generator and a pump to irrigate the garden plots in the Bogh-i-Sherkat camp. The UNHCR is also planning some Quick Impact Projects (QIPs) and other projects aimed primarily at Afghan returnees and internally displaced, including the construction of diversion walls for a river in Konduz province, the repair of a bridge in upper Takhar province, and income generation projects.

The suspicion directed at the UNHCR may have affected the efficacy of some other programs that the UNHCR had instituted in the Konduz and Takhar areas (programs currently being administered by the OSCE). For example, Tajik opposition leaders and many of the refugees interviewed by Human Rights Watch/Helsinki expressed a marked hostility to the UNHCR mail delivery program. A story that Human Rights Watch/Helsinki heard several times involved the deputy leader of the Bogh-i-Sherkat camp, who had received a letter purportedly delivered through the UNHCR mail delivery program from his brother in Khatlon, telling him that conditions in Tajikistan were safe and that he should repatriate. However, the brother, who had supposedly written this letter from Tajikistan, was still living in the Bogh-i-Sherkat camp and had no intention of returning to Tajikistan.⁴⁵ In addition to reports of fraudulent letters, there were numerous accusations from camp leaders and from several refugees of mail tampering by the UNHCR. Several camp officials in both Bogh-i-Sherkat and Ameirabad claimed that the UNHCR regularly opened all letters and read them before delivery. They also alleged that the UNHCR had been giving letters posted through their program to the Tajik government.⁴⁶ Human Rights Watch/Helsinki also encountered some refugees who were unaware of the mail delivery program and some who claimed that their mail was not delivered to them.⁴⁷ Some refugees complained of a lack of formal means of getting mail to Konduz; one must bring it there by one's own means.⁴⁸ For the poorer refugees living in the Ameirabad and the Sherkat camps, the absence of opportunities to go to Konduz City significantly curtails their ability to benefit from the UNHCR's mail program.

⁴³Human Rights Watch/Helsinki interviews in the Konduz and Takhar camps, December 15-17, 1995.

⁴⁴Human Rights Watch/Helsinki interview with Mr. Hakhnazar, December 15, 1995; Human Rights Watch/Helsinki interview with UNHCR, December 17, 1995.

⁴⁵Human Rights Watch/Helsinki interview in Bogh-i-Sherkat, December 17, 1995.

⁴⁶Human Rights Watch/Helsinki interview in Bogh-i-Sherkat and Ameirabad, December 16-17, 1995.

⁴⁷The Tajik opposition leadership denied that people do not receive letters. Letters arrive in Konduz City from Sher Kan Bandar, where, twice a week, camp leaders reportedly arrive to pick up the mail for distribution back at the camp.

⁴⁸Human Rights Watch/Helsinki interview in Ameirabad, December 16, 1995. Messrs. Borhani and Hakhnazar insisted that mail is delivered each day to each of the refugee camps. In response to the same allegations regarding frequency of mail delivery, the security representative of the Ameirabad camp said that perhaps many of the letters were being held in the UNHCR office without delivery. Human Rights Watch/Helsinki interview in Ameirabad, December 16, 1995.

The UNHCR also operates a radio conversation program, currently administered by the OSCE. Under this program, refugees in northern Afghanistan can go to the UNHCR offices in Sher Kan Bandar or in Konduz City and communicate with relatives at UNHCR/OSCE offices in Khatlon. Although many refugees were aware of the program, for the poorer refugees in Ameirabad and Teloquan, the radio program was essentially inaccessible because the costs of transportation to either of the UNHCR field offices — estimated at 10,000 afghanis for Konduz City — was prohibitive.⁴⁹ As a result, the radio system and, to a lesser extent, the mail system appear to be less accessible to the poor in the camps.

It is difficult to argue that living conditions in the refugee camps of Konduz and Takhar have reached such a level of hardship that the Tajik opposition's failure to grant access constitutes a violation of international standards.⁵⁰ However, there is reason for concern that such conditions may occur. Mr. Hakhnazar acknowledged that there have been some food problems in Bogh-i-Sherkat more recently. In addition, Mr. Nuri himself told Human Rights Watch/Helsinki that "the help [we have been receiving] has been insufficient . . . the humanitarian NGOs helping us never told us how long they can help us. They do not have the same supplies stock that the U.N. has."⁵¹ Returning to the dilemma the Tajik opposition feels they face with the UNHCR, Mr. Nuri also added that "however, only the UNHCR has said for sure that their aid will terminate, telling [the refugees in Sakhi] that it would end by January [sic]."

Even if the Tajik opposition's refusal to grant aid organizations access to the camps would not constitute a violation of international standards, Human Rights Watch/Helsinki believes the opposition has a moral obligation to permit such aid, given the squalid living conditions in the camps.⁵² Refugees in all three camps in Konduz and Takhar provinces face persistent and possibly life-threatening problems related to their physical condition that would most likely be alleviated should the UNHCR and aid NGOs have greater access. These problems include lack of milk for children, a children's diet that is identical to that of adults, lack of baby food, nearly a total lack of fruit and vegetables, extremely poor access to drinking water, and frequent incidents of diseases including malaria and typhoid.⁵³ Furthermore, in addition to offering or coordinating humanitarian assistance, in order for all Tajik refugees to be truly able to decide whether to repatriate voluntarily, the UNHCR (which in Tajikistan is uniquely suited for providing the complete and balanced information necessary for such a decision) must be granted access to all the Tajik refugee camps.⁵⁴ (See below.)

Discouragement of Voluntary Repatriation

⁴⁹Human Rights Watch/Helsinki interview, December 16, 1995. According to a Tajik opposition official, the trip from Sherkat to Sher Kan Bandar costs about 8,000 afghanis. Human Rights Watch/Helsinki interview, December 15, 1995. The UNHCR reimburses refugees for the costs of travel with their belongings to Sher Kan Bandar. Human Rights Watch/Helsinki interviews with returnees in Bokhtar district, December 8-10, 1995. In December 1995, one U.S. dollar bought about 6,500 afghanis.

⁵⁰See Appendix II: Application of International Law to the Tajik Opposition.

⁵¹Human Rights Watch/Helsinki interview in Teloquan, December 14, 1995.

⁵²See Appendix I: Conditions in Refugee Camps.

⁵³See Appendix I: Conditions in Refugee Camps.

⁵⁴See Appendix II: Application of International Law to the Tajik Opposition.

Since 1994, several international organizations working in Tajikistan had heard from Tajik refugees who had repatriated that the Tajik opposition was undertaking various measures to either hamper or prevent voluntary repatriation of Tajik refugees from Konduz and Takhar provinces.⁵⁵ During a meeting with Human Rights Watch/Helsinki, Tajik opposition leader Said Abdullo Nuri offered an indirect response to this question, pointing out that if the Tajik opposition actually had a policy against voluntary repatriation, the refugee population in northern Afghanistan would not have decreased from 150,000 to 40-42,000 (including 6,000 to 7,000 in Mazar), clearly implying that the opposition had no such policy. In Mr. Nuri's view, "That is enough of an answer." Mr. Nuri also claimed that two days prior to the meeting with Human Rights Watch/Helsinki, twelve refugees had repatriated,⁵⁶ adding that, "if [the Tajik opposition had] wanted to stop them, we would have."⁵⁷ Mr. Nuri explained that repatriation figures had declined because, among other things, it was winter and people were concerned about their prospective security in Tajikistan, adding that perhaps a commission could be set up to evaluate the security situation in major repatriation destinations, including perhaps the establishment of neutral protected zones. Mr. Nuri added that it was only his "personal view" that the Tajik refugees "should not go back [to Tajikistan]" because of the security situation.⁵⁸

Returnees in the Bokhtar area, however, reported to Human Rights Watch/Helsinki a wide range of measures taken by the Tajik opposition to impede repatriation. Several returnees stated that although they were not physically prevented from returning to Tajikistan, the Tajik opposition regularly advised the refugees not to go back, warning that anyone who goes back would certainly suffer abuse at the hands of the government and their Kulabi neighbors.⁵⁹ Other returnees, however, noted that in 1994 there had been a checkpoint between Konduz City and Sher Kan Bandar manned by armed men from the Tajik opposition who stopped and returned to the refugee camps any Tajik refugee seeking to repatriate.⁶⁰ Some returnees who had initially stated that refugees in Konduz and Takhar were free to repatriate, after further conversation, conceded that they themselves had not told camp authorities or their neighbors about their plans to repatriate out of fear that the Tajik opposition authorities might prevent their departure.⁶¹ In general, the returnees were initially apprehensive about speaking about the opposition's efforts to discourage repatriation, with most returnees avoiding discussion of such efforts early on in Human Rights Watch/Helsinki interviews. A man who had returned to Dushanbe in the fall of 1993 initially asked that Human Rights Watch/Helsinki not publish his description of a prayer session in Teloquan in the summer of 1993, during which Mr. Nuri had advised the refugees against repatriation. The man changed his mind when he was assured that his name would not appear in this report.⁶²

⁵⁵"Return to Tajikistan: Continued Regional and Ethnic Tension," Human Rights Watch/Helsinki, May 1995.

⁵⁶In fact, there were no Tajik returnees on December 13, 1995, under the UNHCR repatriation program. On December 13, 1995, the Human Rights Watch/Helsinki mission had crossed the Amu Darya on a commercial barge because the UNHCR repatriation barge had been canceled due to an absence of returnees.

⁵⁷Human Rights Watch/Helsinki interview in Teloquan, December 14, 1995.

⁵⁸Human Rights Watch/Helsinki interview in Teloquan, December 14, 1995.

⁵⁹Human Rights Watch/Helsinki interviews in Bokhtar district, December 8-10 and 22-23, 1995.

⁶⁰Human Rights Watch/Helsinki interview in Bokhtar district, December 8, 1995.

⁶¹Human Rights Watch/Helsinki interviews in Bokhtar district, December 7-9, 1995.

⁶²Human Rights Watch/Helsinki interview in Dushanbe, December 3, 1995.

Tajik opposition leaders did acknowledge that there had once been a checkpoint manned by the Tajik opposition for a brief period in 1993, but insisted that the checkpoint had been instituted solely for the purpose of searching for persons wanted for a murder. These leaders claimed that there were no longer any checkpoints at which Tajiks seeking to return would be arrested or stopped and returned to their refugee camp, and that there had been no such checkpoints for at least the last year and a half. Opposition leaders also explained that refugees often sought to evade camp officials when repatriating because refugees often sold their houses and camp registration cards (with which one obtains food). Both practices are forbidden by the opposition leadership; returnees are required to give up their house and their camp registration cards to the camp authorities before repatriating.⁶³ They further emphasized that for temporary travel between the refugee camps and even to other places in Afghanistan and Pakistan, the movement of refugees is not restricted (without distinguishing excursions from permanent departures). Camp officials responded to questions regarding restrictions against voluntary repatriation with elliptical answers. As the deputy leader of Bogh-i-Sherkat camp deftly put it, "Whoever has the right to go [back to Tajikistan], can go."⁶⁴

⁶³On the right to sell houses, the leadership explained a vague and apparently inconsistent policy. If refugees seek to move from one camp to another, they can either sell or give away their houses. The practice exercised in the past of dismantling their houses to take the materials with them has been banned. Those who are leaving for Tajikistan, however, cannot sell their houses. Messrs. Borhani and Hakhnazar gave the following reasons for this distinction: first, they said that 1995 had yielded a net increase in the camp population, creating a housing shortage; second, the leadership had paid for the housing, so it was not fair for the prospective returnees to earn money from these houses. However, in some cases, houses can be sold with the consent of the camp leader. Those living in houses outside the camps have no restrictions on the sale of their homes. There is no penalty for violating these real estate restrictions; one is only blocked from making the sale. As an afterthought, Messrs. Borhani and Hakhnazar added that consulting with the camp authorities is necessary if you want to give your house away, since there are some refugees who are currently homeless. Human Rights Watch/Helsinki interview in Konduz City, December 15, 1995.

For "good reasons" (examples provided included marriages, family reunifications), refugees can move from one camp to another. In such cases, the refugees are required to de-register with the camp authorities at the camp that they are leaving and register at their new camp. Those who are returning to Tajikistan must also turn in their refugee cards. Refugees sometimes sell their registration cards — an illegal practice — and the authorities find out about it only one or two months later. Those who seek to leave for Tajikistan with housing materials must pay the camp authorities for the value of the materials. When the registration card is returned, the refugee is issued a receipt. With this receipt in hand, the refugee will be permitted by the guards at the camp entrance to leave. Without this receipt, the refugee will not be permitted to leave. Human Rights Watch/Helsinki interview in Konduz City, December 15, 1995.

⁶⁴Human Rights Watch/Helsinki interview in Bogh-i-Sherkat, December 17, 1995.

While opposition leaders at first vigorously disputed returnees' accounts of restrictions on repatriation, at a later interview with Human Rights Watch/Helsinki, Messrs. Borhani and Hakhnazar abruptly acknowledged that the Tajik opposition had "temporarily stopped repatriation." The leaders explained that the opposition had instituted a "ban" on repatriation out of concern that people who return to Tajikistan either would be killed or otherwise suffer.⁶⁵ An opposition leader, illustrating this paternalism, drew the analogy that "for sick people, sometimes, you need a doctor; sometimes you cannot drink cold water." Opposition leaders promulgated the ban orally among the refugees at meetings in the camps.⁶⁶ "It is not," they explained, "as though we are holding each person's hands." Leaders explained that they would forbid repatriation so long as shelling continued in Tajikistan; yet, they also added that the ban would not be lifted until "real security is established in Tajikistan." As proof of the seriousness of the security situation in Tajikistan, Messrs. Borhani and Hakhnazar noted that although many people had returned to Tajikistan, the majority (offering a figure of 1,000,000) of such returnees have been unable to live in their homes and have fled to other CIS countries. They did note that they would evaluate the status of the ban at some unspecified time in the future, taking into consideration the status of the war and of the peace talks and the economic situation in Tajikistan. In addition, they noted that the harsh weather conditions during winter imposed greater difficulties on repatriation.⁶⁷

Messrs. Borhani and Hakhnazar claimed that no one had yet violated the ban. Refugees violating the ban would be returned to their refugee camps but would not be subjected to any other penalty.⁶⁸ Even under the current ban, there are no checkpoints along the Sher Kan Bandar road, and checkpoints continue to be manned only at the entrance and exit of the camps. Otherwise egress and ingress remain unhindered, and nearly 1,000 people enter and leave Bogh-i-Sherkat camp daily, according to camp authorities.⁶⁹

There did not seem to be widespread knowledge of the ban among the Tajik refugees in Bogh-i-Sherkat. However, a refugee in Bogh-i-Sherkat told Human Rights Watch/Helsinki that she had heard that the opposition had prohibited repatriation during the fifth round of peace talks in Ashkabad and believed that it was on account of the ban that no one had returned to Tajikistan from Bogh-i-Sherkat recently. This refugee had heard that two people who had recently tried to repatriate were stopped in Konduz City near a bus station and returned to Bogh-i-Sherkat, but added that no one knew who stopped them.⁷⁰

⁶⁵In order to illustrate the benevolent character of the ban, one of the leaders offered as an example his elderly uncle, who desired to return to Kurgan Teppe. This leader explained that if his uncle, who had been shot six times during the war, tried to return, he could well be arrested and killed. Accordingly, this leader had himself stopped his uncle from returning and will not permit him to go to Tajikistan.

⁶⁶According to Tajik opposition leaders, rules governing the rights of refugees are promulgated in meetings, not written down.

⁶⁷Human Rights Watch/Helsinki interview in Konduz City, December 17, 1995.

⁶⁸Human Rights Watch/Helsinki had heard from several Tajik refugees that the opposition had established jails for refugees who violate its rules; Messrs. Borhani and Hakhnazar denied the existence of or the need for such jails. Refugees stated that the opposition does occasionally detain people in these jails overnight when refugees violate a curfew. Even in the summers, there is a curfew that would begin at 7:00 or 8:00 in the evening. In any event, Messrs. Borhani and Hakhnazar stated that detention is not employed as punishment for those who violate the repatriation ban. They emphasized that the opposition does not make "political arrests," and that all disputes are resolved in courts.

⁶⁹Human Rights Watch/Helsinki interview in Bogh-i-Sherkat, December 17, 1995.

⁷⁰Human Rights Watch/Helsinki interview in Bogh-i-Sherkat, December 17, 1995. This refugee did not believe that those trying to repatriate had been jailed.

International standards accord Tajik refugees in northern Afghanistan the right to return to Tajikistan, if they choose to do so freely and voluntarily. In order to be able to make this decision, Tajik refugees need full and balanced information concerning conditions in Tajikistan, but refugees complained that such information is difficult to come by in the refugee camps. One refugee noted that he tried to gather information from at least three radio broadcasts, including the opposition radio, the government radio, and the BBC, knowing that no single source provides a complete story about conditions for returnees. Another refugee complained that what news they received in the camps often took on exaggerated significance, because of the general paucity of information about day to day conditions in Tajikistan.⁷¹ As noted above, the UNHCR mail and radio programs, which bring first-hand information to refugees from their repatriated relatives and friends, are not fully accessible to refugees. Women in the refugee camps experience particular difficulty in obtaining information relating to voluntary repatriation. Some single women told Human Rights Watch/Helsinki that they were frightened of making the journey to the UNHCR office to learn about the repatriation process.⁷² Unhindered UNHCR access to these camps would clearly facilitate the flow of information that is necessary for refugees to make a free decision about repatriation.

⁷¹Human Rights Watch/Helsinki interviews in Bokhtar district, December 8-9, 1995.

⁷²Human Rights Watch/Helsinki interviews in Bokhtar district, December 8, 1995. Other women noted that they had no idea how the repatriation process worked, because their husbands had made all the arrangements. Human Rights Watch/Helsinki interviews in Bokhtar district, December 8-10, 1995.

Informal pressure on those who seek to return to Tajikistan was illustrated by a man working in Mr. Hakhnazar's office, who told Human Rights Watch/Helsinki in confidence that he himself wanted to return to Tajikistan soon. When at one point he had mentioned his plans to some of his colleagues, he had been strongly discouraged by them from returning. Now, he planned to return in secret.⁷³

It should be noted that even apart from the ban on repatriation, most refugees interviewed by Human Rights Watch/Helsinki had several reasons for choosing not to return to Tajikistan at present. Many noted that winter is a particularly difficult time to move from Afghanistan to Tajikistan. More frequently, they cited as reasons their concerns about security and about Tajikistan's deteriorating economy. According to Mr. Borhani, in the past six months of 1995, some 500 to 600 persons, representing about 100 families, have gone to Afghanistan from Tajikistan. Mr. Borhani explained that pro-opposition Tajiks feel that they have no rights in Tajikistan, but he also noted that people continue to come to northern Afghanistan because the bread is cheaper there than in Tajikistan.⁷⁴ Among the Tajiks in Afghanistan, there is a widespread understanding that the economic situation in Khatlon is quite bad. But significantly, there is also a widespread and genuinely held fear that even in the absence of open warfare, the tension and hostility between Kulabis and Gharmis mean a life of fear for Gharmis who return to Tajikistan. As one woman said, "We want to go back with heads up, when there is peace; we want to go back with pride."

SAFETY OF RETURNEES

Dushanbe

According to UNHCR records, by April 1996, 426 Tajik refugees had listed Dushanbe as their destination when they filled out UNHCR voluntary repatriation registration forms. However, when Human Rights Watch/Helsinki researchers tried to interview returnees to Dushanbe, using addresses indicated on the forms, they were able to locate only two families, one of which had already moved on to Khatlon. The vast majority of the addresses on these forms were irremediably incomplete. For example, many of the Dushanbe returnees provided only an apartment number and the name of a major street in Dushanbe, leaving out the building and block numbers, without which the address is rendered meaningless. Several addresses also provided street numbers exceeding the range of numbers in existence on that street. Other addresses merely named a neighborhood in the city without further details. The head of one returnee family had written as his destination in Dushanbe the exact address of the military procurator's central office.

⁷³Human Rights Watch/Helsinki interview in Konduz City, December 16, 1995.

⁷⁴According to Mr. Borhani, one *non* (a flat loaf of bread) costs 200 afghanis. In December 1995, one U.S. dollar purchased approximately 6,500 afghanis in Konduz City. In early December 1995, one *non* in Dushanbe cost about 25 roubles. In late December, only days after the deregulation of the bread prices, one *non* cost about 34 roubles. By February and March 1996, one non cost about 72 rubles.

Such incomplete or facetiously provided addresses essentially make it impossible for any of the international organizations, including the UNHCR and the OSCE, to monitor the rights of specific returnees. It was difficult for Human Rights Watch/Helsinki to determine why it was that so many repatriating families gave false or incomplete addresses. One UNHCR official suggested that the addresses may result from clerical errors made by the UNHCR's local Afghan staff who fill out these forms in Sher Kan Bandar. This official also suggested that the refugees may have deliberately provided fictitious addresses out of fear that the addresses would somehow be used by the government to harass them in the future,⁷⁵ although UNHCR officers said that the Tajik government does not receive copies of the registration forms.⁷⁶ As of December 1995, the UNHCR had not conducted monitoring visits of refugee returnees to Dushanbe⁷⁷ and was therefore unaware that the addresses on the registration forms were useless. The absence of any effort to make follow-up visits gives returning refugees little incentive to provide accurate addresses. If prospective returnees believed that either the UNHCR or the OSCE might use their addresses to monitor their well-being in the capital, they might provide more accurate addresses. The UNHCR and the OSCE should consider monitoring visits in Dushanbe, given the importance of the UNHCR's visibility in Khatlon to improvements in the human rights situation there. (See below.)

Harassment by Kulabis and Uzbeks

The Human Rights Watch/Helsinki mission focused its research on the Bokhtar area in Khatlon because it had been a locale of particularly widespread and egregious rights abuses in the past few years.⁷⁸ Human Rights Watch/Helsinki researchers had also learned from several international organizations working in Khatlon that the Bokhtar area continues to be the site of some of the worst abuses.

The human rights situation in the Bokhtar district of the Khatlon oblast improved from 1994 to 1995, continuing a trend of improvement since 1993.⁷⁹ According to the UNHCR, as well as field workers for several of the NGOs in the Bokhtar area, there were relatively few reports of beatings, theft, or other harassment of returnees in 1995 in the Bokhtar areas.⁸⁰ In addition, many staff of international organizations working in the area note that forced labor is no longer a problem and that there is no longer a significant problem with occupied housing.⁸¹ Even among the returnees and their Gharimi neighbors interviewed by Human Rights Watch/Helsinki, the general consensus was that the instances of abuse and harassment had declined significantly from 1994 to 1995.⁸²

However, abuse and harassment, primarily of young Gharimi men at the hands of Kulabi and Uzbek neighbors, continues. For example, several returnees and their Gharimi neighbors stated that Gharimis who try to sell things at the

⁷⁵Human Rights Watch/Helsinki interview with UNHCR, December 8, 1995.

⁷⁶Human Rights Watch/Helsinki interview with UNHCR, December 12, 1995.

⁷⁷A UNHCR official explained that returnees were given the address of the UNHCR office in Dushanbe, and that it should be easy for residents of Dushanbe to contact the UNHCR office in case of harassment or abuse.

⁷⁸"Return to Tajikistan: Continued Regional and Ethnic Tensions," Human Rights Watch/Helsinki, May 1995.

⁷⁹See Human Rights Watch/Helsinki report, "Return to Tajikistan: Continued Regional and Ethnic Tension," May 1995.

⁸⁰Human Rights Watch/Helsinki interview with Save the Children/UK, December 6, 1995; interview with Relief International, December 6, 1995.

⁸¹In some instances, a UNHCR staff member even noted that returnees had worked out arrangements to occupy their homes jointly with the Kulabi occupants. Human Rights Watch/Helsinki was unable to investigate these living arrangements. Human Rights Watch/Helsinki interview with UNHCR, December 8, 1995.

⁸²Human Rights Watch/Helsinki interviews in Bokhtar district, December 7-9 and 23-24, 1995.

markets often have their wares openly taken by Kulabis. As one woman said, "They [the Kulabis] come in front of you and say 'fill this sack'. You can't do anything. You can only say 'you are welcome to it.'"⁸³ Beatings, although much more rare than in 1994, still occur on occasion. A woman told a story about her thirty-year-old brother-in-law who had returned from Afghanistan in June 1995:

⁸³Human Rights Watch/Helsinki interview in Bokhtar district, December 23, 1995.

Initially, he was afraid to leave the house. After two weeks, he left the house to visit a friend in our village. It was during daylight, in the afternoon. At the main road crossing our village, two men of his own age approached him. They were not armed. They yelled at him, "You are a Gharmi; what do you think you are doing here?" Then they beat him. He returned home and fled to Kazakhstan the next morning.⁸⁴

Human Rights Watch/Helsinki also heard from Save the Children/UK as well as Gharmis in another village in Bokhtar about an IDP returnee who had been beaten by Kulabis and robbed of two doors provided to him by Save the Children/UK.⁸⁵ In addition, many returnees spoke of the continued threat of beatings if they are not careful. As one young man who was severely beaten in February 1994 said, "They call us vovchiks; I am scared, so I say, 'OK, brother, I am a vovchik.'"⁸⁶ Returnees also claimed that they are more frequently the victims of certain forms of harassment than even non-Gharmis experience. For example, both Gharmis and non-Gharmis are subject to extortion at checkpoints, but Gharmis claimed that they were more likely to have some of their belongings confiscated.⁸⁷

At the same time, Human Rights Watch/Helsinki researchers also found among the Gharmis they interviewed an underlying tension and fear resulting from their perception that the government is unwilling or unable to protect them from private citizens who harass or intimidate them. Furthermore, Human Rights Watch/Helsinki found, after further conversation, that many of the Gharmis' initial protestations of improved human rights conditions turned out only to reflect their decision to withstand abuse without complaint in the face of the hopelessness of redress and in the sincere hope that the violence of the past four years might pass if they silently endure abuse by their Kulabi and Uzbek neighbors. For example, in several villages, conversations with village elders often began with their description of how the security of young Gharmi men⁸⁸ had improved greatly over the past year, but later turned into an acknowledgment of the fact that most of the young men in those villages had left Tajikistan for Russia or another CIS state, in order to flee both harassment and the floundering Tajik economy. In short, the departure of the young men was a way of resolving their problems with Kulabis. In one village, several older women whose sons remained in Afghanistan told Human Rights Watch/Helsinki that if their sons were to return to Tajikistan, they would urge them to flee to Moscow, for both security and economic reasons.⁸⁹

⁸⁴Human Rights Watch/Helsinki interview in Bokhtar district, December 9, 1995.

⁸⁵Human Rights Watch/Helsinki interview with Save the Children/UK, December 6, 1995. Human Rights Watch/Helsinki interviews in Bokhtar district, December 9, 1995.

⁸⁶Human Rights Watch/Helsinki interview in Bokhtar district, December 9, 1995.

⁸⁷Human Rights Watch/Helsinki interview in Bokhtar district, December 23, 1995.

⁸⁸For further information on harassment of young Gharmi men in 1994, see "Return to Tajikistan: Continued Regional and Ethnic Tension," Human Rights Watch/Helsinki, May 1995.

⁸⁹Human Rights Watch/Helsinki interviews in Bokhtar district, December 7-9 and 23, 1995.

Those young Gharmi men whom Human Rights Watch/Helsinki interviewed stated that the political situation had improved in 1995 to such an extent that they now felt that they were able to leave their homes and go to towns and markets, but many of them also added, after further conversation, that they would often try to bring a small child with them as protection, on the theory that Kulabis would be less likely to attack a man with a small child.⁹⁰ In another village, a fifty-five-year-old woman stated that her sixty-year-old husband does not leave the *kolkhoz* (collective farm) area for fear of being killed.⁹¹ In the same village, a young woman pulled aside a Human Rights Watch/Helsinki researcher and asked if it were possible for Human Rights Watch/Helsinki to tell her father in Afghanistan not to repatriate: "My mother can [come back] since women are not targeted, but every time a young man comes back from Afghanistan, he is taken by the militia and questioned and beaten for several days, asking why they stayed in Afghanistan for so long."⁹²

Fear continued to restrict the activities of some of the young men who remained in Bokhtar. One young man, a returnee from Afghanistan who had initially stated that he had not encountered any harassment since returning to Tajikistan in the summer, admitted that he had not been to the market for four months because he feared being beaten up by Kulabis.⁹³ In another village, when several of a group of young men claimed that the security situation in Bokhtar had greatly improved, one man who had returned from Afghanistan in January 1994 explained why he was unable to be as optimistic, "These other men do not have problems because they do not go to the town; I, however, am more adventurous."⁹⁴ This man had been severely beaten by several young Kulabi men while he was repairing the roof of his house a month after his return. The women in this village added, "Men cannot go to the market; they are scared."⁹⁵

Equal Access to Justice

The continued presence of the Kulabi victors, and in some instances their Uzbek allies, in nearly all government positions and at all levels (national, regional, *kolkhoz*) has effectively brought about a situation where the Gharmis feel they have no recourse to law enforcement officials when subjected to abuse at the hands of Kulabis. The sense that such recourse is entirely unavailable to them is so deeply ingrained that suggesting to a Gharmi that he bring a crime perpetrated against him to the attention of the authorities brings only bitter laughter or silent incredulity that anyone would propose such an absurd course of action. One young man who had suffered a severe beating in February 1994 (see above) said, "Why would I go to the police? If I just show up there, they will beat me up, too."⁹⁶ Another returnee who had also suffered a beating in late 1993 after his return said he would not go to police if he had any difficulties now as a result of his experiences with the police in the past: "When I was beaten, I went to the police, and they simply advised me to not to leave my house too often."⁹⁷ In addition, other returnees had not yet gone to the local office of the Ministry of Labor to get their identification papers because they were afraid of the government officials.

⁹⁰Human Rights Watch/Helsinki interviews in Bokhtar district, December 7-9 and 24, 1995.

⁹¹Human Rights Watch/Helsinki interview in Bokhtar district, December 8, 1995.

⁹²Human Rights Watch/Helsinki interview in Bokhtar district, December 8, 1995.

⁹³Human Rights Watch/Helsinki interview in Bokhtar district, December 23, 1995.

⁹⁴Human Rights Watch/Helsinki interview in Bokhtar district, December 23, 1995.

⁹⁵Human Rights Watch/Helsinki interview in Bokhtar district, December 23, 1995.

⁹⁶Human Rights Watch/Helsinki interview in Bokhtar district, December 23, 1995.

⁹⁷Human Rights Watch/Helsinki interview in Bokhtar district, December 9, 1995.

Finding that law enforcement and justice is in effect inaccessible to them, Gharmis in the Bokhtar area must endure in silence a range of low level crimes. For example, several of the Gharmis interviewed said that it is not uncommon for Kulabis to steal goods that the Gharmis bring to the market for sale. (See above.) In addition, many Gharmis noted that they see their cows, stolen from them when they fled Tajikistan, in their Kulabi neighbors' yards, but feel that there is nothing they can do.⁹⁸ In the minds of these Gharmis, there is no possibility of obtaining justice. Among a group of Gharmis who were asked why they did not go to the police about stolen property, one man responded, "Because I am a returnee," and another added, "Because I am a Gharmi."⁹⁹ Even family members and neighbors of internally displaced person (IDP) returnees killed by Kulabis or ethnic Uzbeks are so terrified of government officials that they were largely unaware of developments in the cases, hearing second or third hand about matters as basic as whether suspects have been arrested. (See below.)

Prosecution of Human Rights Abusers

The perception among Gharmis that they do not have equal access to the justice system in the Bokhtar area may be illustrated by the way the local police and procuracy handled the murders of two IDP returnees in the spring of 1995. On April 6, 1995, in the village of Communism of the Sovkhoz Sovzavod, an elderly couple, Mr. Saidmutair Kamalov, aged 70, and his wife Zhamlombi Kamalova, aged 65, were murdered in their home by a group of assailants. The Kamalovs had been village leaders and were among the first IDPs to return to Communism village, with the other residents following their decision. According to the Bokhtar prosecutor, Mr. Talibjan Asimov, police in Bokhtar and Kulab arrested seven men for these killings, four of whom were serving in the Tajik army at the time.¹⁰⁰ These men are allegedly part of a "band" that is also allegedly responsible for the killings of two other IDP returnees in 1994, as well as other acts of theft and banditry. Mr. Asimov stated that the investigation into the killing of the Kamalovs was conducted in conjunction with the investigation of the other crimes this band is alleged to have committed. In addition, the investigation team also included investigators from the Ministry of Defense's procuracy, since some of the accused are members of the military. According to Mr. Asimov, the investigation is complete, and the case is now in the hands of the general procuracy.

Mr. Greg Balke, the UNHCR protection officer, has also been following developments in this case. He expressed concern that since the case has not yet been brought to trial, the Bokhtar prosecutor might consider permitting the legal detention period to elapse without bringing the case to trial, requiring the release of the accused.¹⁰¹ According to Mr. Asimov's interpretation of Tajik criminal law, however, the prosecution has fourteen days after the conclusion of an investigation within which the accused must be brought on trial. Mr. Asimov was confident that the trial would begin in January.¹⁰²

These killings heightened fears among other returnees in the Bokhtar area, fear that was apparent from interviews Human Rights Watch/Helsinki conducted with neighbors and relatives of the Kamalovs. One of the sons of the victims stated: "If they [the accused] are released, we will all have to leave Tajikistan." The killings occurred amidst a general feeling among IDP returnees — who comprise a majority of the village population — that they are not safe in Bokhtar. A neighbor of the victims said: "I don't even have the right to walk to the main road [of the kolkhoz]; I don't have the right to go to the militia." Another neighbor said, "Whenever I go [out of the village], I take a small child with me, or I leave a note for my wife because I don't know about my safety." Another neighbor added, "A lot of Gharmis feel like this; when we go to the market, we go in groups and place our lives in God's hands."¹⁰³

⁹⁸Human Rights Watch/Helsinki interviews in Bokhtar district, December 7-9 and 23-24, 1995.

⁹⁹Human Rights Watch/Helsinki interview in Bokhtar district, December 23, 1995.

¹⁰⁰Human Rights Watch/Helsinki interview with Talibjan Asimov, Bokhtar prosecutor, January 4, 1996.

¹⁰¹Human Rights Watch/Helsinki interview in Bokhtar district, December 19, 1995.

¹⁰²Human Rights Watch/Helsinki interview with Talibjan Asimov, Bokhtar prosecutor, January 4, 1996.

¹⁰³Human Rights Watch/Helsinki interviews in Bokhtar district, December 24, 1995.

Even though the militia and the prosecutor had come to their village to investigate the killings, residents, including the relatives of the victims, were so frightened of the officials that they had not asked authorities about the progress of the case, and had only heard indirectly, through friends in other villages, that arrests had been made. The victims' son did know that one of the arrested men, the alleged head of the band, was named Yusuf Khalmoradov. The son explained that Khalmoradov's father had succeeded the murdered Mr. Kamalov as brigadier of the kolkhoz after the civil war. Although they were not sure, several of the relatives of the victims believe that the murderers had killed the Kamalovs in order to terrorize the other villagers into fleeing again so that they could take over some of the houses. The victims' son also explained that when the villagers had returned to Communism village in 1995, they saw that several of their houses had names written on them, usually of people identified as Kulabi "commanders" — suggesting that several of the houses had already been claimed by Kulabis who did not think their Garmi owners would ever return.¹⁰⁴

Another IDP returnee, Elfaeddin Suleimanov, age thirty-seven, was shot and killed in the Bokhtar area on May 13, 1995, in Stakhanov village, Nurrudin Safarov Kolkhoz. The Bokhtar prosecutor, Mr. Asimov, explained to the UNHCR field officer and protection officer that the shooting had been a tragic accident and brought negligent homicide charges against the accused, Ayubshoh Rustamov.¹⁰⁵ However, the investigator, Major Sobhan Taghimoredov of the Ministry of Interior militia, believed on the basis of the bullet's trajectory and the fact that Rustamov had fled the scene that the shooting had been intentional.¹⁰⁶ He suggested that unspecified people had been bribed by Rustamov's family or had otherwise been influenced by powerful friends of the family in order to engineer the negligent homicide verdict. Rustamov had indeed been the driver and bodyguard of the deputy chief of police of Khatlon province.¹⁰⁷ Rustamov was later convicted of negligent homicide and sentenced to one and a half years of hard labor.¹⁰⁸

¹⁰⁴Human Rights Watch/Helsinki interviews in Bokhtar district, December 24, 1995.

¹⁰⁵UNHCR Field Incident Report, Case No. BA-95-20. Neighbors and witnesses vehemently denied Mr. Asimov's claim that Rustamov and Suleimanov had been close friends. Human Rights Watch/Helsinki interviews in Bokhtar district, December 24, 1995.

¹⁰⁶Human Rights Watch/Helsinki interview with Major Sobhan Taghimoredov, Bokhtar Ministry of Interior militia, January 4, 1996.

¹⁰⁷UNHCR Field Incident Report, Case No. BA-95-20.

¹⁰⁸Human Rights Watch/Helsinki interview with Talibjan Asimov, Bokhtar prosecutor, January 4, 1996.

According to neighbors, the convict and his family had terrorized the Gharmis in the village with impunity since the civil war.¹⁰⁹ As one man put it, "When you have been defeated [in battle], people can even trample you with horses."¹¹⁰ Rustamov had also allegedly sexually assaulted Suleimanov's cousin, and Rustamov's father reportedly attempted to press her into forced labor.¹¹¹ Another neighbor also asserted that the convict's older brother had attempted to assault her sexually.¹¹² Finally, one neighbor added that Rustamov had beaten her husband in the past.¹¹³

Although Rustamov has been sentenced to hard labor, Suleimanov's neighbors and relatives told Human Rights Watch/Helsinki that the convict had been permitted to serve his sentence at his home which is only a few houses down the street from the victim's in the same village and that he has not been working at all.¹¹⁴ Even Mr. Asimov did not know whether or not Rustamov was serving out his sentence, and referred Human Rights Watch/Helsinki to the militia, which is responsible for enforcing sentences.¹¹⁵ Many neighbors saw Rustamov's apparent impunity as a continuation of this pattern of abuse and harassment. Incidents such as Rustamov's light sentencing can only further deepen the fears of Gharmis that they cannot hope to seek justice from the Tajik courts or protection from the Tajik police.

In other examples, neighbors stated that some fifteen cattle and thirty sheep had been stolen by Kulabi neighbors during and after the civil war; however, they did not express any interest in trying to recover the stolen livestock, fearing that any such efforts may increase tensions. As one man said, "We cannot show our animosity [to the Kulabis]; we live in the same village."¹¹⁶ Significantly, the victim's sister and cousin repeatedly asked the UNHCR field officer and protection officer to continue making a visible presence in the village and to investigate the crime.¹¹⁷ As another woman told Human Rights Watch/Helsinki, "We Gharmis have no guardians now; their [the non-Gharmis'] guardian is the government."¹¹⁸

Discrimination

¹⁰⁹Although the villagers had told the UNHCR that the convict and his family had terrorized the village, they further explained to Human Rights Watch/Helsinki that Gharmis were the targets of the abuse. UNHCR Field Incident Report, Case No. BA-95-20; Human Rights Watch/Helsinki interviews in Bokhtar district, December 24, 1995.

¹¹⁰A neighbor pointed out that Rustamov's father had been a Kulabi refugee during the war to explain his hostility to Gharmis. Rustamov himself was born in Uzbekistan. Human Rights Watch/Helsinki interview in Bokhtar district, December 24, 1995.

¹¹¹Human Rights Watch/Helsinki interview in Bokhtar district, December 24, 1995.

¹¹²Human Rights Watch/Helsinki interview in Bokhtar district, January 4, 1996.

¹¹³Human Rights Watch/Helsinki interview in Bokhtar district, December 24, 1995.

¹¹⁴Human Rights Watch/Helsinki interview in Bokhtar district, December 24, 1995.

¹¹⁵Human Rights Watch/Helsinki interview with Mr. Asimov, January 4, 1996. Major Sobhan Taghimoradov, Bokhtar Ministry of Interior militia, told Human Rights Watch/Helsinki that he did not know whether Rustamov was serving his sentence, but that he would investigate. Human Rights Watch/Helsinki interview, January 4, 1996.

¹¹⁶Human Rights Watch/Helsinki interview in Bokhtar district, December 24, 1995.

¹¹⁷UNHCR Field Incident Report, Case No. BA-95-20.

¹¹⁸Human Rights Watch/Helsinki interview in Bokhtar district, January 4, 1996.

Gharmis in Bokhtar also suffer from several forms of discrimination at the hands of local officials and Kulabis. For example, under current economic conditions, many people, including Kulabis, work without pay in the cotton fields.¹¹⁹ However, several people interviewed by Human Rights Watch/Helsinki claimed that while few cotton laborers are paid money for their work, the Kulabis occasionally receive payment in wheat or oil, payments which Gharmis do not receive.¹²⁰ In addition, some Gharmis claimed that the Kulabi villages often received more electricity than Gharmi villages in the same kolkhoz. Other Gharmis, including returnees, also claimed that they face discrimination in employment. However, under the general economic conditions, where many people find it difficult to find paying jobs, these allegations of discrimination were difficult to verify.

REINTEGRATION OF REFUGEES AND INTERNALLY DISPLACED PERSONS

Local and International Humanitarian Assistance

Since March 1993, the UNHCR has assisted Tajik refugees and internally displaced persons (IDPs) to return and reestablish themselves in their villages of origin. The UNHCR has concentrated its efforts on Khatlon oblast, in the south of Tajikistan, where fighting and damage during the civil war were most severe and from where most of the refugee population had fled. Citing a lack of resources, the government has extended only minimal assistance to returnees and IDPs. (See below.) During the past two years, this void has been filled by an increasing number of international and nongovernmental agencies that have set up operations in Tajikistan, providing assistance not only in Khatlon oblast, but also in Dushanbe and in the Gharm and Gorno Badakhshan districts.

Tajikistan's severe economic crisis, in which salaries go unpaid and medicine and food (particularly flour) are in short supply, has affected the population as a whole.¹²¹ As a result, many organizations have shifted their focus from returning refugees and IDPs to all vulnerable groups. The nature of the assistance has also changed, in many instances, from emergency relief to technical assistance and longer-term development aid, including income generation projects, education, the training of health care workers and the building of infrastructure for water and sanitation systems. In this context, the UNHCR began to scale back its operations in Tajikistan in late 1995, closing or handing over to the OSCE its seven field offices. The UNHCR will continue to provide the refugee reintegration assistance package, which consists of ten U.S. dollars per returnee, sufficient wood and plastic materials for partial reconstruction of homes, and sufficient food for four months.

The Role of the Organization for Security and Cooperation in Europe

The OSCE mission to Tajikistan was established in December 1993 and became operational in February 1994.¹²² Despite a broad mandate including the promotion of human rights, the OSCE mission focused in its first year on legislative reform, evaluating a draft Tajik constitution and electoral laws. Its efforts met with limited success because of its inability to engage the government in a meaningful dialogue and because some of its efforts at legislative review occurred after passage of relevant laws. In July 1995, the Permanent Council of the OSCE decided to monitor and report on the human rights situation in the country, directing specific attention to the rights of IDP and refugee returnees.¹²³

¹¹⁹Although the labor is not compensated by money, working in the cotton fields is one of the only means that many people living in the countryside have to gather dead branches and twigs of the cotton plants, the only sources of fuel.

¹²⁰Human Rights Watch/Helsinki interviews in Bokhtar district, December 8-9, 1995.

¹²¹Several refugee returnees told Human Rights Watch/Helsinki that there was more food in Afghanistan than in Tajikistan. Human Rights Watch/Helsinki interviews in Bokhtar district, December 22-23, 1995.

¹²²The OSCE's mission to Tajikistan was most recently extended until June 30, 1996 at the 45th meeting of the OSCE Permanent Committee meeting in November 16, 1995.

¹²³The decision of the Permanent Council specifically requests that the OSCE mission in Tajikistan "follow the human

rights situation of returning refugees and internally displaced persons in Tajikistan . . . draw the attention of the Tajik authorities on [sic] relevant problems relating to these groups, with a view to facilitating their reintegration into Tajik society, and . . . report on this matter on a regular basis." 28th Plenary Meeting, PC Journal No. 28, Agenda item 1 (6 July 1995).

Pursuant to the Permanent Council's decision, the OSCE mission was to take over three of the UNHCR field offices, in Kurgan Teppe, Shahrtuz, and Dosti. The OSCE mission had originally sought to staff these three field offices by October 1995. However, by December 1995, only two of the three offices had been fully staffed, with the Kurgan Teppe office still awaiting a field officer.¹²⁴ According to a member of the OSCE mission, at least two of the other former UNHCR offices, in Vakhsh and Bokhtar, would become OSCE offices without permanent field officers. The OSCE planned for a field officer to visit these two offices once a week from one of the three fully-staffed offices.¹²⁵

As of December 1995, it was still too early to evaluate the activities of the OSCE mission in monitoring the human rights situation facing refugee and IDP returnees. However, other international organization staff in Tajikistan expressed some reservations concerning the OSCE mission's ability to fulfill its refugee monitoring mandate, specifically noting that the OSCE's consensus approach might limit the mission's ability to operate independently, and that the OSCE's customary six-month field contracts did not assure the continuity of presence and experience in the field that was necessary for successful monitoring of refugee and IDP returnee rights in Tajikistan.¹²⁶ An international organization staff member cautioned that the OSCE mission's plan to visit the Vakhsh and Bokhtar offices once a week was insufficient, noting that "if a neighbor is killed, you can't wait a week" for the OSCE to visit.¹²⁷

Indeed, interviews with returnees revealed a common view that the persistent presence and visibility of international organizations contributed significantly and effectively to improving the human rights climate. A relative of one of the IDP returnees killed in the Bokhtar area in 1995 who expressed general nervousness about the security situation (see above) also said that in contrast to such incidents in 1994, the 1995 killing was an isolated event "because the U.N. people come here." He explained further, "Before the U.N. came, there was forced labor; when the U.N. came things improved." One of his neighbors added, "Every time the U.N. car comes by, the situation grows a little more calm."¹²⁸

The Government's Role in Repatriation and Reintegration

¹²⁴According to an OSCE mission member, delays in staffing the Kurgan Teppe office were caused by, among other things, fighting in Khatlon between rival units within the Tajik army, as well as by the reassigning to the Dushanbe office of the field officer originally slated for Kurgan Teppe. Human Rights Watch/Helsinki interview with John Sandrock of the OSCE, December 18, 1995. As of the end of December, the OSCE mission expected a field officer to be assigned to Kurgan Teppe would arrive in late January 1996.

¹²⁵Human Rights Watch/Helsinki interview with John Sandrock of the OSCE, December 18, 1995.

¹²⁶An international organization representative explained further that he believed the OSCE "does not have the same culture of impartiality [as the UNHCR]," critical for operation in the Khatlon area, where returnees are likely to face prejudice not only from the government, but from Kulabi citizens as well. Human Rights Watch/Helsinki interview, December 1995. In September 1995, Human Rights Watch/Helsinki submitted to the OSCE a critique of the activities of the OSCE's mission expressing similar concerns.

¹²⁷Human Rights Watch/Helsinki interview in Dushanbe, December 12, 1995.

¹²⁸Human Rights Watch/Helsinki interviews in Bokhtar district, December 24, 1995.

A July 5, 1992 presidential decree created the Department of Refugee Affairs, a division of the Ministry of Labor. This department works closely with the UNHCR in matters related to refugees. Since the creation of the Department of Refugee Affairs, the Tajik government has passed several laws regarding refugee reintegration including laws that, among other things, retroactively grant employment credit for a refugee's years of flight outside of Tajikistan for the purpose of his employment record book¹²⁹; provide three months' salary, based on the refugee's employment prior to flight, to be paid by his previous employer; and reinstated refugees to their job prior to flight or to an equivalent job, or job training if employment cannot be found.¹³⁰ As Mr. Tabarov himself admitted, however, these laws are difficult to implement for a number of reasons, including the government's lack of resources and the unwillingness of some local government authorities to implement the laws.¹³¹

Mr. Tabarov conceded that the government has in fact distributed very little assistance to returnees thus far. However, he added that since May 5, 1995, each family has received one lump sum of up to 800 Tajik roubles (the head of a family received 400 and each additional family member received 100, the total not to exceed 800).¹³² In addition, the government has instituted a plan to provide long-term loans to returnees. Under this plan, each family may borrow up to 5,000 Tajik roubles under a twenty year repayment plan. In fact, Mr. Tabarov told Human Rights Watch/Helsinki that by early 1996, the government had already extended to 7,020 families an average of 8,450 rubles each in long-term loans. Furthermore, the government had expended a total of 1,627,888 roubles to 82,337 families under the compensation program.

Refugee assistance laws provide refugees recourse to the courts if they are not provided their newly legislated rights. According to Mr. Tabarov, a local branch of the Ministry of Labor operates in each administrative district of Tajikistan specifically to resolve problems refugees encounter in attaining their rights under the laws.¹³³ If a former employer fails to meet his obligations under the law and is brought to court, the court may order the employer to rehire the refugee plaintiff. Mr. Tabarov also stated that there have already been many such cases,¹³⁴ but added that the Ministry of Labor often must deal with uncooperative heads of district administrations, many of whom were armed leaders during the civil war. Mr. Tabarov explained, for example, that the government had problems in the Kabodian and Shahrtuz areas returning occupied housing and land to their original owners. Unfortunately, he conceded, "it is very difficult to take back land from one who is already cultivating it." His office has concluded that the government should pass additional laws setting aside land for house construction and providing building materials as a means of circumventing the thorny issues of land confiscation. Notably, however, there is no indication that the government has the will or the means to take such measures.

In reality, unfortunately, this laudable legal regime has been impossible to implement. Mr. Tabarov, one of the chief government officials responsible for coordinating assistance to refugees, freely concedes that the government cannot meet the standards set forth under these laws. Given the rapid deterioration of the Tajik economy, the old jobs

¹²⁹This book records proof of employment for the purpose of calculating one's pension and is often the document necessary for securing a job. Human Rights Watch/Helsinki interview with Teymour Tabarov, director of the Department of Refugee Affairs of the Ministry of Labor, December 4, 1995.

¹³⁰Human Rights Watch/Helsinki interview with Teymour Tabarov, director of the Department of Refugee Affairs of the Ministry of Labor, December 4, 1995.

¹³¹Human Rights Watch/Helsinki interview with Teymour Tabarov, director of the Department of Refugee Affairs of the Ministry of Labor, December 4, 1995.

¹³²During the month of December 1995, one US dollar purchased approximately 290 Tajik roubles.

¹³³According to Mr. Tabarov, this local Ministry of Labor official is supposed to be present at every repatriation.

¹³⁴Human Rights Watch/Helsinki was unable independently to confirm that such cases had been brought.

formerly held by refugees are usually impossible to recover for any of a number of reasons — the job has been given to someone else, or the job has been eliminated or is otherwise no longer available. In addition, Mr. Tabarov explained that those refugees who had positions of greater responsibility would, generally, be harder to rehire, explaining that such positions cannot be expected to remain open: “A factory needs a leader.” More telling, however, is Mr. Tabarov’s observation that, in general, “When a refugee returns, we want stability; if we cause trouble by raising any issue, stability is at risk.”

APPENDIX I: Conditions in the Refugee Camps

Sherkat Camp (Teloquan, Takhar Province)

Sherkat camp is located on the grounds of an abandoned cotton factory on the outskirts of Teloquan. Tajik refugees in Sherkat live in simple mud structures abutting the walls of the cotton factory compound and in the old factory building itself. There is no electricity in the camp.¹³⁵ According to the head of the women's branch of the Sherkat camp committee on propaganda, about 3,600 refugees are associated with the camp. Of these, 1,800 to 1,900 live in the camp itself, with some 1,800 others living elsewhere in the town of Teloquan.

That food distribution in Sherkat is not an exact science was readily apparent from the fact that camp leaders could offer only approximate food assistance figures. According to these camp leaders, each person receives, per month, five kilograms of wheat, a half a kilogram of oil, and two kilograms of rice.¹³⁶ The camp leaders added that in some months the refugees would receive food in excess of these amounts. Furthermore, they stated that the refugees had recently received fourteen kilograms of firewood per person, in a one-time distribution, adding that there might be another distribution of wood later in the winter.

Despite the opposition leaders' assistance figures, Human Rights Watch/Helsinki heard numerous complaints about insufficient and erratic assistance. For example, one family claimed that they had received only seven kilograms of wood per person, which they had already burned through by the time Human Rights Watch/Helsinki interviewed them on December 15, 1995. This family also complained that there was no milk in the camp for infants, who must eat whatever food supplies adults in the camp receive.¹³⁷ Other refugees complained about a paucity of sugar. Several refugees did confirm, however, that each person received about five kilograms of wheat per month. Some refugees complained of other material deprivations apart from food, such as the absence of soap, and about economic stratification among refugees in the camp. There are "those who have" and "those who do not," one woman told Human Rights Watch/Helsinki, noting that those few refugees able to obtain work with the opposition fared better than others. One man told Human Rights Watch/Helsinki that his family had not seen an egg in four years, despite the presence of chickens and ducks in front of the homes of their neighbors.¹³⁸ There were no sheep or cows among the Sherkat residents. Many of the families we spoke to complained that there was little employment and that there was nothing to do for most of the men in the camp.

¹³⁵Human Rights Watch/Helsinki interviews in Sherkat, December 15, 1995.

¹³⁶According to refugees interviewed by Human Rights Watch/Helsinki, the food is provided by "Arab brothers," a reference to the Arab NGOs. Human Rights Watch/Helsinki interview in Sherkat, December 15, 1995.

¹³⁷This family had an infant who was suffering from blood in his stool. They had received some medication from the clinic which did not improve the condition. They believed that the blood was the result of a medical condition that would improve if they had better food, and listed for Human Rights Watch/Helsinki all the regular elements of their diet in Tajikistan that they largely have not had in the camps: meat, vitamins, potatoes, apples, pomegranates. The father complained, "We have only bread and tea. Once a year, we receive meat. We have no money to purchase fruit. We have had no fruit for some two to three months. I am telling you the truth. When we get fruit, we always give it to the children."

¹³⁸During a final interview with Messrs. Borhani and Hakhnazar, Mr. Borhani deliberately noted that any inequality of living standards among the refugees merely reflected the inequality of possessions among the refugees fleeing to Afghanistan.

Medical services in Sherkat are provided by a small clinic, which was staffed by one Tajik doctor and one nurse. The camp's medical committee noted that Médecins Sans Frontières/Belgium (MSF) nurses sometimes come to the clinic to assist the Tajik staff. The nurse at the clinic in Sherkat informed Human Rights Watch/Helsinki that although malaria infection is widespread among the camp population, only one person had died of malaria in 1995. The chloroquine the clinic received from MSF was purportedly sufficient. Only one child had died in 1995, when the Russian border forces shelled Teloquan in April 1995. However, some ten to twenty children had died in the three camps since 1993 of various causes. Cholera had killed four refugees in Sherkat in 1994, but had not caused any deaths in 1995.¹³⁹

The clinic doctor noted that the children in particular have many material needs that affected their health, offering as an example their plastic shoes which he felt were inadequate for the winter. The doctor also explained that chronic diseases among the children are exacerbated during the winter. In addition, there are no special dietary adjustments for the children; they must eat what adults eat. This doctor said that he was also affiliated with MSF, noting that MSF was not happy that he was seeing Afghan patients in addition to Tajiks.¹⁴⁰ MSF and UNICEF provide vaccines, and the MSF doctor visits the clinic at Sherkat.

Ameirabad Camp (near Khanabad, Konduz Province)

Ameirabad camp is located about five kilometers off the road between Konduz City and Teloquan near the town of Khanabad, on a plateau above a river. The camp, which comprises mud huts and dirt roads, is built on land provided by a local Afghan commander. According to Mr. Muslihudin, the Ameirabad camp leader, there are 6,500 Tajik refugees in the camp, including more than 400 new arrivals in 1995. Camp residents receive food assistance from the Iranian Red Crescent, which camp leaders claim provides each person, per month, ten kilograms of wheat, three kilograms of rice, a half a kilogram of oil, seventy grams of tea, four hundred grams of sugar, and ten kilograms of wood. In addition, every two persons receives one bar of soap. Mr. Muslihudin claimed that the medical services in the camp are much better than that available in Tajikistan and better than what the neighboring Afghans receive.¹⁴¹

The residents in Ameirabad camp were, in general, frank about their needs. As in Sherkat, there was somewhat less food and its distribution more erratic than described by the camp leaders. Some refugees complained that the amount of wheat one receives is less than what is apportioned to them because some of it is skimmed off in the distribution and bread-baking processes. As one refugee put it: "[The amount of wheat which we receive,] if we make bread ourselves, is enough; however, it gets 'lost.'"¹⁴² There were also allegations that there was insufficient food for the children.¹⁴³ As for meat, fruit and vegetables, most of the refugees Human Rights Watch/Helsinki spoke with merely said that they were waiting for the religious festival Eid-i-Korbon. A group of women stated that they received anywhere from one to four kilograms of sugar only once per year. As in Sherkat camp, the women Human Rights Watch/Helsinki spoke to said that there was no milk for the children. One woman told Human Rights Watch/Helsinki that, if one has money, it is possible to buy dry milk and other items.¹⁴⁴ Refugees noted that last year each refugee received about 1,500 to 3,000 afghanis. This year, each person received 5,800.

¹³⁹Human Rights Watch/Helsinki interview in Sherkat, December 15, 1995.

¹⁴⁰Another Tajik refugee doctor, who had returned to Dushanbe in September 1995, had also seen both Tajik and Afghan patients; the latter paid for his services. Human Rights Watch/Helsinki interview in Sherkat, December 3, 1995.

¹⁴¹Human Rights Watch/Helsinki interview in Ameirabad, December 16, 1995.

¹⁴²Human Rights Watch/Helsinki interview in Ameirabad, December 16, 1995.

¹⁴³Human Rights Watch/Helsinki interview in Ameirabad, December 16, 1995.

¹⁴⁴Human Rights Watch/Helsinki interview in Ameirabad, December 16, 1995.

As in Sherkat camp, there was evidence of sharp economic stratification in the camps. As one woman said: "If you are a mullah, you can find a job here."¹⁴⁵ Another woman complained more generally that "some people eat; some people don't."¹⁴⁶ Most of the refugees are unemployed.

The refugees generally seemed to believe that the camp clinic was sufficient. The clinic's Dr. Mohammed Latif had a harsher assessment. There is insufficient cough medicine, he said, and no heat for the hospital and homes. Women are anemic. In the summer malaria and typhoid are problems. The doctor explained further that the impact of these diseases is compounded by problems resulting from the river water and the water table which generally are contaminated. Because of malaria problems in Teloquan, the clinic vaccinated the residents of Ameirabad camp. According to Dr. Latif, eighty refugees had died in Ameirabad in 1995, including twenty-eight deaths from typhoid and malaria. Dr. Latif noted that MSF had come to the camp two months before, and had said that they would come again. However, MSF had not returned since that visit. Dr. Latif added that the opposition leadership had not permitted MSF to enter the camp in 1994, but that in 1995 they had changed their policy and granted MSF permission to visit the camp. He believed in part that the Arabs NGOs did not want MSF to have access to the camp, making it difficult for the opposition leadership to bring in MSF. There have also been problems with scabies. Dr. Latif told Human Rights Watch/Helsinki that the UNHCR had agreed to examine this problem.¹⁴⁷

Bogh-i-Sherkat Camp (Konduz City, Konduz Province)

Bogh-i-Sherkat camp was built in August 1993 on the outskirts of Konduz City. According to camp authorities, Bogh-i-Sherkat comprises some 2,000 mud huts. Each family receives 4 sohteks¹⁴⁸ of land to cultivate. However, several refugees explained that the absence of an irrigation system impedes their ability to work the land.

According to camp officials, 14,995 people live in Bogh-i-Sherkat. These officials also noted that there were 248 new refugee arrivals at the camp in 1995. In addition, camp officials told Human Rights Watch/Helsinki that the camp population continues to increase with an average of two to three children born every day. Camp officials were forthright about the inconsistency of the food supply, "[The amount refugees receive] depends on how much we receive." In November, they said the refugees in that camp received, per person, ten kilograms of wheat, two kilograms of rice, a half of a kilogram of oil and four hundred grams of sugar. In addition, each person had received three and a half kilograms of wood in November. In early December, "Afghans" gave a cash grant of 5,800 afghanis to each refugee.

¹⁴⁵Human Rights Watch/Helsinki interview in Ameirabad, December 16, 1995.

¹⁴⁶Human Rights Watch/Helsinki interview in Ameirabad, December 16, 1995.

¹⁴⁷Human Rights Watch/Helsinki interview in Ameirabad, December 16, 1995.

¹⁴⁸One sohtek is approximately five meters by five meters.

Similar to the other two refugee camps in this area, food distribution, according to refugees of Bogh-i-Sherkat, was inconsistent.¹⁴⁹ All the refugees interviewed by Human Right Watch/Helsinki received about five kilograms of wheat, or less. In addition, there were other complaints about the food. One family complained that they had received only a half of a kilogram of sugar in the past two years. However, another family added that in addition to an average monthly allotment per person of five kilograms of wheat, two kilograms of rice, a half of a kilogram of oil, and a half of a kilogram of sugar, they received tea, although only once a year. As in the other two camps in the area, the refugees basically went without fruit, vegetables or meat, which had last been distributed during the Eid-i-Korbon. The refugees also complained about firewood shortages, putting into question the camp officials' assertions about wood distribution. One family complained that they had not received wood since the summer, leaving them to forage on their own for wood (primarily gathering bushes several kilometers from the camp). Another family complained that they had not received wood for two months. Other refugees fared significantly better, demonstrating the same economic stratification evident in the other camps. For example, the family of one of the opposition leader's father-in-law owns two cows and two calves and at least eight chickens. Although they also received more or less standard food distributions (five kilograms of wheat, two kilograms of rice, a half of a kilogram of sugar "now and then"), they had received 1,000 afghanis to purchase firewood. In addition, this man's two sons were both employed as drivers for the opposition and received salaries of 60,000 afghanis per month.¹⁵⁰

According to Dr. Akram Shah, the head of the health committee in Bogh-i-Sherkat, the camp has two clinics and one hospital.¹⁵¹ This doctor noted that Bogh-i-Sherkat has had particular difficulty obtaining medicines, noting that the Iranian Red Crescent and MSF provide assistance to Ameirabad and MSF provides assistance in Teloquan, and implying that Bogh-i-Sherkat did not receive comparable assistance. To explain rumors of uneasy relations among the various aid organizations, the doctor noted, "Since the groups are different, no one allows the other to help." He then corrected himself: "If another group wants to help, OK, but no intervention [is permitted]." He did not offer further explication of the term "intervention." The doctor added, "From the beginning, we have contacted MSF and UNHCR to request vaccines, but still we have nothing. We want you [the international organization community] to help us. The water is bad. If the water were good, fewer people would be sick." In 1995, there were sixteen deaths, from malaria and dysentery, among other diseases. In addition, the doctor added, children are frequently born underweight because their mothers eat poorly.

Sakhi camp (near Mazar-i-Sharif in Balkh province)

Sakhi camp is located approximately forty-five kilometers outside Mazar-i-Sharif, near Afghanistan's border with Tajikistan. The camp, which is situated on over 200 acres of arid land, comprises low mud huts and dirt roads. Balkh province is not under the jurisdiction of the Kabul national government; it is run by General Dustom, and the local administration is responsible for the security of the refugees in Sakhi camp. Unlike in the Konduz and Takhar provinces, the UNHCR has been able to administer the Sakhi camp and work closely with the Tajik camp leadership. Food distribution, such as assistance from the World Food Programme, and access to medical care, provided through a clinic supervised by Médecins Sans Frontières\Belgium, have overall been better in Sakhi than in the other Tajik refugee camps.

According to the UNHCR, 27,500 refugees fled to the Mazar area following the original hostilities in Tajikistan. As of January 1996, 13,255 refugees have returned through the UNHCR repatriation program; an estimated

¹⁴⁹Human Rights Watch/Helsinki interview in Bogh-i-Sherkat, December 17, 1995.

¹⁵⁰One refugee also complained that "the rich commanders [even] have televisions." Human Rights Watch/Helsinki interview in Bogh-i-Sherkat, December 17, 1995.

¹⁵¹Human Rights Watch/Helsinki did not visit these medical facilities. According to Dr. Akram Shah, one cannot enter the hospital without receiving permission from the NGO that administers the hospital. He did not name the NGO or explain how one could go about requesting this permission. Human Rights Watch/Helsinki interview in Bogh-i-Sherkat, December 17, 1995.

7,000 remain in the camp and in neighboring areas, many of whom have successfully integrated into the local economy. However, those residing in the camp have difficulty securing jobs which would help the family economy.

The relationship between the UNHCR and the camp leadership has not always been cooperative. Recent cuts in assistance (see "Balkh province"), deemed necessary by UNHCR Afghanistan as a means to encourage repatriation to Tajikistan, has been considered by some refugees as a coercive method to force them refugees to return. The discrepancy lies in the fact that the UNHCR is of the general opinion that repatriation for these individuals is currently safe, whereas the refugees believe it is not. Several groups of refugee representatives have been sent to Tajikistan under UNHCR auspices to evaluate conditions of return, and many refugees interviewed by Human Rights Watch/Helsinki still believed conditions for return were not propitious. They noted that they received news from Tajikistan by listening to news on the radios, and know there is still tension in the country, including the murders and "disappearances" of leading journalists and diplomats in the capital and elsewhere.

UNHCR's action has created a sense of hostility and mistrust among some refugees who even accuse the UNHCR of being pro-government inasmuch as their policy falls in line with the Tajik government's wish to repatriate the refugees as an indication that that peace has come back to the country. For example, Human Rights Watch/Helsinki is alarmed by reports from refugees interviewed that in mid-1994, ninety refugees who had sought to register in the camp were refused by UNHCR administrators. The group was housed by friends in the camp but, lacking registration, received no food or assistance from the UNHCR. It was only in the summer of 1995 that the Tajik camp leaders were able to register half of the group, and that only because of a change in the UNHCR officer on duty at the time. Human Rights Watch/Helsinki was not able to confirm this incident with the UNHCR authorities in the camp.

It is still too soon to evaluate the extent to which the minimal food assistance and the income generation projects administered by the UNHCR are allowing the remaining refugees who do not wish to return yet to Tajikistan to survive in the area. But escalations in violence and tension in Tajikistan and the generally depressed economy there are likely to continue to inhibit refugees in the Sakhi camp from returning home in the near future.

APPENDIX II: Application of International Law to the Tajik Opposition

The Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflict (Protocol II) applies to, among other things, “conflicts . . . which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations.” The Tajik opposition has carried out sustained military operations¹⁵² and claims control over parts of Tajikistan¹⁵³ and accordingly, is bound by Protocol II.

Protocol II, Article 18(1) provides that “[r]elief societies located in the territory of the High Contracting Party, such as Red Cross . . . organizations, may offer their services for the performance of their traditional functions in relation to the victims of the armed conflict.” Arguably, the UNHCR and relief NGOs based outside of the Islamic Republic of Afghanistan may be excluded from those relief societies contemplated in Article 18(1) by the limiting phrase “located in the territory of the High Contracting Party,” which would in this case be Afghanistan. However, Protocol II further provides in Article 18(2) that “relief actions for the civilian population which are of an exclusively humanitarian and impartial nature . . . shall be undertaken” where the “civilian population is suffering undue hardship owing to a lack of the supplies essential for its survival such as foodstuffs and medical supplies[.]” The only limitation to such assistance set forth in Protocol II, Article 18(2) is that such relief actions are subject to the consent of the High Contracting Party. The relevant High Contracting Party in this case would be the Islamic Republic of Afghanistan, which has not undertaken any measures to prevent United Nations access to the Tajik refugees in its territory. As consent under Article 18(2) need not be express or even public, such behavior on the part of the Islamic Republic of Afghanistan arguably constitutes consent.

In addition, under Protocol II, Article 5(1)(b)-(c), persons “deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained . . . shall be provided with food and drinking water and be afforded safeguards as regards health and hygiene and protection against the rigours of the climate” and “shall be allowed to receive individual or collective relief[.]” To the extent that the Tajik opposition is detaining Tajik refugees who wish to repatriate and forcing them to return to their refugee camps, ostensibly for their own protection, such persons are arguably deprived of their liberty, and the Tajik opposition is obligated to permit such persons to receive relief assistance.

Finally, under Article 12 of the International Covenant on Civil and Political Rights, “[e]veryone shall be free to leave any country, including his own” and “[n]o one shall be arbitrarily deprived of the right to enter his own country.” The Tajik opposition does not comprise a state and is not a signatory to that document; nevertheless, Human Rights Watch/Helsinki urges that the Tajik opposition, as the primary organized political entity governing the lives of the Tajik refugees, to adhere to the fundamental principle of voluntary repatriation. In this context, the Tajik opposition should lift its currently enforced “ban” on repatriation. Although the Tajik opposition may genuinely and in good faith believe that the human rights atmosphere in Tajikistan is such that returnees may face hardships, the fundamental tenets of voluntary repatriation dictate that the individual refugees be permitted to make their own decisions freely and with full information. Furthermore, in this latter context of providing refugees with complete and balanced information regarding the country of origin, the Tajik opposition should grant the UNHCR full access to the refugee camps in Konduz and Takhar. As an independent and neutral agency, the UNHCR in Tajikistan is uniquely capable of providing the information the Tajik refugees require in order to make a decision whether or not to return.

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¹⁵²Indeed, the Reuters New Service has referred to the ongoing fighting in Tavildara and Gharm as part of a “three-year civil war.” “Tajik Talks in Peril as Clashes, Tension Mount,” Reuters News Service, January 31, 1996; “Tajik Peace Talks in Jeopardy after Clashes,” Reuters News Service, January 31, 1996.

¹⁵³On February 22, 1996, Mr. Nuri claimed on Radio Voice of Free Tajikistan that the Tajik opposition holds 70 percent of Tajikistan. Cited in OMRI Daily Digest, No. 39, Part I, Feb. 23, 1996.

This report was written by Milbert Shin, Orville Schell Fellow with Human Rights Watch/Helsinki, and edited by Rachel Denber, research associate with Human Rights Watch/Helsinki, Jeri Laber, special advisor with Human Rights Watch/Helsinki, and Cynthia Brown, program director with Human Rights Watch. The report is based on a mission to Tajikistan and Afghanistan in December 1995 conducted by Milbert Shin and Guissou Jahangiri-Jeannot, who was the Dushanbe representative of Human Rights Watch/Helsinki at the time of the mission. Anne Kuper, associate with Human Rights Watch/Helsinki, provided production assistance.

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