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On February 5, 2008, the *New York Times* published a front-page story by Carlotta Gall and myself, *Time Runs Out for an Afghan Held by the U.S.*,^[1] about Abdul Razzaq Hekmati, a 68-year old Afghan detainee who died in Guantánamo on December 30, 2007. In our story, we established that Mr. Hekmati, known to the authorities in Guantánamo as Abdul Razzak, had – contrary to assertions that he was involved in both al-Qaeda and the Taliban – helped free three anti-Taliban commanders from a Taliban jail in 1999, but that no significant effort had been made in Guantánamo to find witnesses who could easily have verified his story, which he had repeated throughout his five-year detention without charge or trial.

In the wake of various right-wing claims that the journalistic integrity of the article was in doubt, following an “Editor’s Note” issued by the *Times*, pointing out that I have described Guantánamo as part of “a cruel and misguided response by the Bush administration to the Sept. 11 attacks,” and that I have an “outspoken position on Guantánamo” and “a point of view,” I think it may be prudent to relate a little of the background to the story, explaining its genesis, and directing readers to other sources to help verify the story reported by Carlotta and myself.

The story of Abdul Razzaq Hekmati had intrigued me while I was researching my book *The Guantánamo Files: The Stories of the 774 Detainees in America’s Illegal Prison*, primarily because he had called Ismail Khan – who was exceedingly well known as the governor of the western Afghan province of Herat – as a witness in his Combatant Status Review Tribunal at Guantánamo. These tribunals were established to review the detainees’ status as “enemy combatants,” and were apparently empowered to call outside witnesses requested by the detainees. In fact, as Carlotta and I reported (based on my research, on statements made last year by Lt. Col. Stephen Abraham, who had served on the tribunals, and on a report compiled by the Seton Hall Law School), no outside witnesses had ever been called to appear at a tribunal.

1. http://www.nytimes.com/2008/02/05/world/asia/05gitmo.html?_r=1&oref=slogin

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In Chapter 18 of *The Guantánamo Files*, I looked specifically at the US authorities' stated inability to locate witnesses requested by the detainees to appear at their tribunals to clear their names. Because Ismail Khan was so famous, I mentioned the request made by a truck driver named Abdul Razzak, who claimed that he had freed Khan from a Taliban jail in 1999, but I had no time to research his story further.

Instead, after also mentioning a few more of the many Afghan detainees who beseeched the authorities to establish contact with officials in Afghanistan who could apparently vouch for them, I focused on the case of Abdullah Mujahid. He had been cleared for release at the time I was writing the book, and was finally released from Guantánamo – only to end up being held without charge or trial in a US-run wing of Kabul's Pol-i-Charki prison – in December 2007.

In Guantánamo, Mujahid persistently maintained that he had been working for the government of Hamid Karzai, and the authorities' alleged inability to find witnesses requested by him was demonstrated as a sham in June 2006, when, in the space of 72 hours, the journalist Declan Walsh located three witnesses whom the authorities claimed to have been unable to contact: one was working in Washington DC, another was working for the Karzai government in Kabul, and the third was working for the provincial government in Gardez. All three were able to verify his story.

When I read that Abdul Razzak had died of colorectal cancer in Guantánamo on December 30, I was determined to see if I could find out anything more about his story, and Googled various variations of his name, and the events he had referred to, until finally, “ismail khan taliban jailbreak 1999” led me to “Dissension Within Taliban Made Daring Escape From Prison Possible”, a *New York Times* article by Carlotta Gall, from January 2002, which matched the account of the jailbreak described by Abdul Razzak in many ways.

Carlotta Gall interviewed the engineer of the prison escape, 21-year-old Hekmatullah Hekmati, who, as she described him, “was only a teenage Taliban intelligence officer, barely old enough to grow a beard, when he decided to help Ismail Khan.” According to Hekmati's account, he had become “disillusioned by the Taliban, whom he saw as power hungry opportunists presenting themselves as religious students, and bad leaders, who were waging a brutal, ethnically motivated war against their countrymen.” He decided that Khan, imprisoned, with 14 others, in the Kandahar prison that held the Taliban's most senior political and military prisoners, might provide a good alternative, having established himself as a “decent administrator” during his tenure as Herat's pre-Taliban governor. “I thought he would work more for his country, if he were freed,” he told Carlotta Gall.

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Having secured a job as an intelligence officer at the prison, through a relative, Hekmati said that he then set about persuading Khan that he was trustworthy. Speaking to Carlotta Gall, Ismail Khan said, "We spoke to Hekmatullah for about a year about the escape. Since he was such a powerful Talib he could easily come to my cell and speak to me. I could not believe he could do it and that I could trust him." To prove that his intentions were sincere, Khan added that he told Hekmati that, "if he wanted to go ahead with the plan he should move his mother and brothers and sisters to Iran for safety," and that when he did so he knew that the plan was real.

While Ismail Khan's son, Mirwais, and several of his cousins organized the escape, Hekmati acted as a go-between, delivering a letter to Khan outlining the plans. In response, Khan said, he "pledged to provide the young man with a lifetime sinecure and arranged for a four-wheel-drive Land Cruiser to be sent to Kandahar for the escape." After discussing plans to free all 15 prisoners, the escape team settled on just three men – Khan, Haji Abdul Zahir, a commander from a famous Afghan family, and his cellmate from Jalalabad, General Qassim – and on the night of March 2, 1999, while the other guards slept, Hekmatullah Hekmati opened their cells and led them to a Land Cruiser parked outside, which had been adorned with the white flag of the Taliban.

After changing into the "black turbans and flowing robes that were the signature dress of the Taliban," the escape party drove off, passing through checkpoints with ease. They later got lost in the desert, and hit an anti-tank mine, which destroyed the vehicle and left both Ismail Khan and Hekmatullah Hekmati with "broken legs and open wounds," but Hekmati's father, who had been driving the Land Cruiser, then "set off for help and after a four-hour walk north reached the front lines of Ismail Khan's own troops, who arranged a rescue."

Although Carlotta Gall did not mention Abdul Razzak by name, it seemed probable to me that he was actually Hekmati's father, named as Abdul Raza Hekmati, who drove the escape vehicle and arranged for the rescue of Ismail Khan and his own son after the Land Cruiser hit the anti-tank mine. The elder Hekmati evidently shared his son's disgust with the direction the Taliban was taking. As Hekmatullah came up with his plans, Carlotta Gall noted, "The only other person he told was his father, who did not try to stop him but advised him to take it very slowly and carefully."

In the various accounts that he gave in Guantánamo, Abdul Razzak credited himself with the motivation to free Ismail Khan, which his son claimed was his own idea, but in other crucial respects the story of the escape, as described by

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Hekmatullah Hekmati, matched Abdul Razzak's account exactly, not only in his various descriptions of himself as the driver of the escape vehicle, but also in his description of the incident with the anti-tank mine. Explaining his role in the escape, Abdul Razzak said, "It was at night time. I brought [the] Land Cruiser ... and I was waiting in a dark place. My son did it, because he was in the intelligence and he was entrusted by the Taliban. He took all three of them out and put them in the car... and then we escaped." The following exchange from one of his military review boards is his take on the incident with the anti-tank mine:

Board Member: What happened to the Land Cruiser he purchased?

Detainee (through translator): Hit a mine and my son's foot was amputated and my hand was broken. It was destroyed.

After discovering this story, I contacted Carlotta Gall, who remembered that a friend of Hekmatullah's had told her that his father had been arrested and sent to Guantánamo, and that she had spoken about it to Haji Zahir, who was outraged and said that he would talk to the Americans about it. With the truth established that Abdul Razzak was indeed Hekmatullah Hekmati's father, the story then took shape.

I provided Carlotta with information from his Combatant Status Review Tribunal (CSRT) and his Administrative Review Boards (ARB) at Guantánamo, from the statements of Lt. Col. Stephen Abraham, and from the report by the Seton Hall Law School, and Carlotta tied the whole thing together, talking to key figures and securing poignant quotes from representatives of the US and Afghan governments, and from those who knew Mr. Hekmati.

I was particularly impressed with the comments made by Haji Zahir, who explained, "What he did was very important for all Afghan people who were against the Taliban," adding, "He was not a man to take to Guantánamo. He was a man to give a house to and support." Haji Zahir was even more significant than the final version of the article indicated. His father, Haji Abdul Qadir, not only served as vice-president for six months in Hamid Karzai's first government, but was assassinated in July 2002, and his uncle was Abdul Haq, a celebrated anti-Taliban commander who was killed by the Taliban in October 2001. Ironically, the void left by the death of Abdul Haq, who was described in an obituary in the *Guardian* as "one of the few homegrown political figures who could have restored unity to his benighted and wartorn country" raised the profile of another anti-Taliban Pashtun who had, until that point, struggled to establish himself in the south of the country. That man was

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none other than Hamid Karzai.

This was not Haji Zahir's only claim to fame. During the largely disastrous Tora Bora campaign in late November and early December 2001, when Osama bin Laden, Ayman al-Zawahiri and many other senior figures in al-Qaeda and the Taliban escaped unscathed into Pakistan's largely autonomous border provinces – leaving numerous foot soldiers and fleeing civilians to be captured and sent to Guantánamo – Zahir was widely regarded as the only trustworthy commander out of the three Afghan commanders chosen to lead the US Special Forces' proxy Afghan armies in the battle against bin Laden's men.

The other two commanders – the thuggish Hazrat Ali and the urbane smuggler Haji Zaman Ghamsharik – are discussed in Chapter 4 of my book. Haji Zahir never made the final cut, but I noted in my first draft that he, and the 600 men he brought with him, were to prove themselves able fighters in the battle for Tora Bora, and I also quoted some perceptive comments that he made after the operation, when he explained to John F. Burns of the *New York Times* that he had pleaded with the Americans to block the trails to Pakistan. “The Americans would not listen,” he said, “even when I told them that one word with me was worth more than \$1 million of their high technology. Their attitude was, ‘We must kill the enemy, but we must remain absolutely safe.’ This is crazy.”

I think Haji Zahir's significance – added to that of Ismail Khan – reinforces the importance of Abdul Razzaq Hekmati's role in striking a major blow against the Taliban, and I believe that it should make his lonely death, after being falsely imprisoned for five years by an administration that was blithely and cruelly unconcerned with establishing whether or not he had been captured by mistake, count for something more productive than a belated and much-needed epitaph. This epitaph is clearly important for an innocent man who, even in death, had his name blackened by the people who had wrongly imprisoned him in the first place, and who let him die without having had an opportunity to clear his name, but what his story reveals about the many failures of Guantánamo should also resonate in the halls of power in Washington.

To this end I was pleased to note that, in an article in the *Washington Independent* on February 10, Aziz Huq of the Brennan Center for Justice at NYU School of Law cited Mr. Hekmati's case as part of an argument aimed at the Supreme Court, which is currently deciding whether or not the Guantánamo detainees have a constitutional right to habeas corpus. In the article, Aziz Huq asked the highest court in the land “to decide whether the role of the courts is to bless the errors and abuses of the executive – or whether it is the role of the courts, as a co-equal branch, to check error and reject lies.”

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Discussing the failures of the current limited review of cases allowed by 2005's Detainee Treatment Act, Aziz Huq wrote, "There are many reasons why the government might be resisting fuller review. It could be that the government, as a matter of principle, believes it should have the power to lock-up indefinitely anyone it deems is a terrorist-combatant. It could be that it has tortured the detainees to get information. It could be that it would rather let a man die of cancer in Guantánamo than follow its own leads to prove his actual innocence – that he had, in fact, fought against the Taliban."

For further information on Abdul Razzaq Hekmati, I recommend the transcripts of his CSRT, his first round ARB and his second round ARB, which reveal even more of his story, to counter the administration's claims, after his death, that he was "assessed to be an experienced jihadist with command responsibilities," and that he was also "assessed to have had multiple links to anti-coalition forces."

Additional claims, not mentioned in the article, which were introduced in his ARBs – and which almost certainly came from dubious "confessions" made by other detainees – were that he was paid to smuggle 50 Arab family members out of Afghanistan and into Iran, that he was "knowledgeable of an assassination plot against President Karzai the day before it occurred," and, most bizarrely of all, that he told another detainee that "there were still suicide pilots in the United States who could carry out their missions." A final allegation referred to his conduct in Guantánamo, where, it was claimed, he was "currently instructing others on how to resist interrogation tactics."

As mentioned in the Times article, he refuted all the allegations against him, but his reason for denying the claim about his behavior in Guantánamo revealed explicitly how allegations in the prison have often arisen through conflict between the detainees. He explained that this particular false allegation arose because a Tajik detainee, who had lived in an adjacent cell for a month, had "started fighting" with him and had falsely accused him.

Also not mentioned in the article was a specific and rather telling comment about the Taliban's connections with Pakistan. After explaining that he was driven to take part in the jailbreak because of his opposition to the Taliban's "ruthlessness and injustice," he stated his belief that, when Ismail Khan was governor, "the whole area was peaceful and all the money coming through the province was safe," whereas the Taliban "were disbursing money to Pakistan and just wasting money."

He also included additional information about the time that he spent in exile in Iran after the jailbreak (before returning to Afghanistan to be handed over to unquestioning US forces by a personal enemy), when the Taliban offered a substantial reward for his capture. He explained that, because he was protected by

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Burhanuddin Rabbani's governing council (the official anti-Taliban government-in-exile in northern Afghanistan, which was recognized as legitimate by most of the western world, including the United States), he fled to Iran with his family, where he was provided with a house and financial support, and where, in addition, his neighbor was Ismail Khan. "They gave me the house he (Khan) used to live in, and Khan took another house," he explained. "We had a family relationship. They invited us to their house and we invited them to our home. We would eat food and then they would go back home."

The final word on this shameful story – for now, at least – must go to the Guantánamo spokesman, Navy Cmdr. Rick Haupt, who admitted that he "did not know" if Mr. Hekmati "was allowed any final contact" with his family before he died. This seems extremely unlikely, as Mr. Hekmati himself explained, in the last of his fruitless military reviews in 2006, that after nearly four years in US custody he had not received a single letter from his family, and did not even know where they were.

So much for justice.

The transcripts of the hearings are here:

http://www.dod.mil/pubs/foi/detainees/csrt/Set_18_1463-1560.pdf (pp. 55-9)

http://www.dod.mil/pubs/foi/detainees/csrt/ARB_Transcript_Set_9_21017-21351.pdf (pp.272-85)

http://www.dod.mil/pubs/foi/detainees/csrt_arb/ARB_Transcript_2599-2697.pdf (pp. 37-51)



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