

AFGHANISTAN

Human Rights and Protection of Civilians in Armed Conflict

Special Report

Attack on a Peaceful Demonstration in Kabul, 23 July 2016



BACKGROUND

1. A decision announced on 30 April 2016 by the Afghan Government to route the Hindu Kush crossing of a trans-regional electricity line¹ through the Salang Pass in Parwan Province instead of Bamyan Province, was considered discriminatory by inhabitants of that province or persons hailing from it. Bamyan's population is predominantly ethnic Hazara, who are mostly Shia Muslim. "Jonbesh-e-Roshnayi" (hereinafter, the 'Enlightening Movement') was started in early May 2016 by Hazara political leaders after the Government decision. In May, following smaller demonstrations, Hazaras associated with the Enlightening Movement organized a large-scale and mostly peaceful demonstration in Kabul. In response, the Government proposed that a sub-line be extended to Bamyan. Some Hazara leaders were inclined to accept this proposal, while others called for continued protest. Enlightening Movement leaders have stated that the movement is about more than just the routing of this electricity line, and emphasize that this is only the latest example of what they perceive as systematic discrimination against the Hazara community.
2. On 23 July, the Enlightening Movement organized a large-scale demonstration in Kabul, during which two suicide bombers detonated explosives against a crowd of demonstrators, killing at least 85 civilians and injuring 413. Almost all of these civilian casualties were Hazara and overwhelmingly men.
3. A website affiliated with the so called Islamic State (widely known by the Arabic acronym *Daesh* that uses the former name of Islamic State in Iraq and the Levant (ISIL) and referred to hereinafter as ISIL/*Daesh*) carried a claim of responsibility for the attack, with a series of anti-Shia statements and linking the attack with reports of Hazaras fighting in Syria, see Annex 1. The Taliban joined the widespread condemnation of the incident, stating on its website that it was not involved. The United Nations Envoy to Afghanistan also condemned the attack, see Annex 2.
4. On 24 July, amidst much public anger and recrimination, the President of Afghanistan, Ashraf Ghani, asked the Municipality of Kabul to rename the site as Martyrs' Square and, on 25 July, he established a 13-member Truth Finding and Investigative Committee to investigate the attack. One Enlightening Movement leader and two other prominent Hazara figures declined an invitation to join the Committee, citing the previous failure of similar bodies. Enlightening Movement leaders called instead for an international, independent investigation.
5. On 26 July the Attorney-General, Mohammad Farid Hamidi, as designated Chair of the Committee, requested the United Nations Assistance Mission in Afghanistan (UNAMA) to appoint an expert to support its work. In line with United Nations established practice regarding such bodies, UNAMA declined to directly engage in the process but offered to provide technical guidance such as sharing international standards and best practices for the conduct of fact-finding and inquiry as per its assistance mandate to Afghanistan. The Government did not take up this offer.

¹ Commonly referred to with the acronym TUTAP: Turkmenistan, Uzbekistan, Tajikistan and Pakistan, the participating countries in the regional electrical power-sharing initiative.

6. In accordance with its mandate under United Nations Security Council resolution 2274 (2016) to “monitor the situation of civilians, to coordinate efforts to ensure their protection, to promote accountability, and assist in the full implementation of the fundamental freedoms and human rights provisions of the Afghan Constitution and international treaties to which Afghanistan is a State Party²”, UNAMA conducted its own investigations into the human rights, international humanitarian law, and protection of civilians concerns arising from the incident on 23 July. This report contains UNAMA’s findings and offers recommendations in furtherance of that mandate.

Methodology

7. From 23 July to 30 September, UNAMA gathered information from sources in the Government, (Ministry of Public Health, Afghan Security Forces), and 13 local hospitals. Additionally, UNAMA conducted in-person interviews with multiple witnesses and victims, and other members of the Hazara community, including the Enlightening Movement. Both the Enlightening Movement and Government of Afghanistan were briefed on the preliminary findings of this report and were given the opportunity to provide any additional evidence that they wished to be considered prior to its publication. In preparing its findings, UNAMA applied the standard methodology for United Nations human rights investigations.³ Such investigations are not designed to satisfy the evidential standards for criminal proceedings nor to replace the Government’s own investigation, but rather, intend to highlight issues of concern pertaining to human rights for the relevant authorities to address and fully investigate and to raise awareness of demonstration organizers.

FINDINGS

Security preparations for 23 July demonstration

8. Prior to the 23 July demonstration, Enlightening Movement leaders had several planning meetings with Afghan Security Forces⁴. Enlightening Movement leaders initially sought to use ten routes from all sides of Kabul to converge on Pashtunistan Square, and explained that they intended to camp in the square until their demand of having the electrical transmission line routed through Bamyán Province was met. Afghan Security Forces explained that demonstrators must follow the Law on Assemblies, Strikes and Demonstrations (2003) which prohibits demonstrations before sunrise or after sunset, and stipulates that all routes must be agreed in advance. Afghan Security Forces also cautioned that they could not adequately protect demonstrators if so many routes were used, and therefore advised that the proposed approach was not possible. Afghan Security Forces suggested the demonstrators follow one route, starting in Mazari Mosque and continuing to Kote

² This would include seven human rights treaties with Optional Protocols as well as the four Geneva Conventions with Additional Protocols and the Rome Statute of the International Criminal Court.

³ For a detailed explanation of the methodology used by UNAMA for verification of Protection of Civilians (PoC) incidents, see methodology and legal sections of UNAMA PoC reports, e.g. Afghanistan Midyear Report 2016 Protection of Civilians in Armed Conflict, July 2016, available at:

http://unama.unmissions.org/sites/default/files/protection_of_civilians_in_armed_conflict_midyear_report_2016_final_rev.1-9sept.pdf; See also Office of the High Commissioner for Human Rights, ‘Manual on Human Rights Monitoring’, available at:

<http://ohchr.org/EN/PublicationsResources/Pages/MethodologicalMaterials.aspx>.

⁴ Afghan Security Forces comprises: Afghan National Police (ANP), Afghan National Border Police (ANBP), Afghan National Civil Order Police (ANCOP), Afghan National Army (ANA) and National Directorate of Security (NDS).

Sangi, with the demonstration concluding at Deh Mazang Square. Afghan Security Forces made it clear from the outset that the demonstration would not be allowed any closer to the Presidential Palace than Deh Mazang, and that camping overnight would not be allowed due to security reasons and also because it would disrupt traffic.

9. On 22 July, Afghan Security Forces officials (including NDS and ANP representatives) met with Enlightening Movement leaders. According to Afghan Security officials, they advised them of a credible but non-specific terrorist threat in Kabul. Afghan Security Forces further warned that demonstrators would be an "easy target", because Afghan Security Forces could control vehicles, but they could not control pedestrians in the demonstration area, especially if all ten routes were used.
10. Enlightening Movement leaders told UNAMA that, after that meeting, on the eve of the demonstration, they decided to follow the route proposed by Afghan Security Forces and expressed this agreement to Afghan Security Forces the same evening. According to Afghan Security Forces, this decision was not communicated to them and on the morning of 23 July, Afghan Security Forces were therefore spread throughout Kabul City, covering the ten routes that they had understood the demonstrators were planning to use.

UNAMA discussions with Afghan Security Forces prior to 23 July

11. In line with usual practice, both before the earlier demonstration by the same group on 16 May and before the 23 July demonstration, UNAMA contacted interlocutors within Afghan Security Forces to enquire as to what crowd control methods would be used, bearing in mind their obligations to respect the rights of demonstrators to exercise their freedom of expression and peaceful assembly. UNAMA also emphasized that Afghan Security Forces have a responsibility to protect demonstrators in line with the principles and standards applicable to the proper management of public assemblies including on the use of force, which must always comply with the principles of necessity and proportionality.⁵
12. Prior to the 23 July demonstration, UNAMA also enquired about security plans. Afghan Security Forces informed UNAMA that there was an operation coordination centre established in the Kabul Police compound, which included the Kabul Chief of Police, ANA Division 111 Commander, Chief of the NDS for Kabul, and the ANP head of Counter Terrorism Division for Kabul. Forces on the ground were expected to include ANP forces from the surrounding districts and an ANP Quick Reaction Force (specially trained in management of demonstrations). The ANA Division 111 and NDS Quick Reaction Force were not to be deployed but were on standby in case of need.

Evolution of the 23 July demonstration ending at Deh Mazang Square

13. On 23 July, the Enlightening Movement demonstrators gathered around 07:30 hrs. at Mazari Mosque. They grew in numbers as they made their way through Mazari Circle to Kote Sangi Circle around 08:30-09:00 hrs. As is often the case in such events, the number of participants estimated by Afghan Security Forces was lower than that of the organizers.

⁵ UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 1990

14. The demonstration reached Deh Mazang Square at around 10:00 hrs. approaching Deh Mazang Square from the Kote Sangi/Kabul University area. As demonstrators were moving towards Asmayi road in the direction of the Presidential Palace they encountered a police road block shortly beyond Deh Mazang Square. After deciding to stay in the square, around 10-12 leaders addressed the crowd using a public address system from an improvised stage at the back of trucks positioned on the south-western and northern sides of the square. Between 13:30 and 13:45 hrs. the demonstrators began to disperse.
15. Afghan Security Forces personnel were stationed at the roadblock on Asmayi Road to the east, and others were stationed on both sides of the Dar Ul-Aman Road (in Police District [PD] 7, police on the eastern side of the road and in PD 3 on the western side) forming a barrier on the south of the square. The Dar Ul-Aman Road was closed from the time the demonstrators arrived until after the incident, although pedestrians were allowed to leave Deh Mazang Square in that direction. Afghan Security Forces surveillance cameras (three in the square and one from TV hill) monitored the area.
16. According to Afghan Security Forces, the road from Kote Sangi to the west was initially blocked before the square by Afghan Security Forces but was opened after Enlightening Movement leaders complained. Sub-roads close to Deh Mazang Square on both sides of the road from Kote Sangi were blocked by PD 5 police on the north side and by PD 13 police on the southern side. Pedestrians wishing to pass through the area were let through, including students from schools in the area who had examinations that day. PD 6 police were patrolling the area on foot. In total, ANP had approximately 60 police officers from the following districts present (PD 3, PD 5, PD 6, PD 7, and PD 13).
17. Enlightening Movement leaders stated that a small sub-road on the northwestern corner of the square was open, as were nearly all other sub-roads on the Afghan Security Forces approved route from Mosalla Baba Mazari to Deh Mazang Square. By midday, the southern Dar Ul-Aman Road was secured by a number of ANP Ranger vehicles some of which then departed, leaving only two behind, according to some witnesses. These witnesses stated that they did not think these two vehicles were sufficient to provide adequate protection.

Detonation of two Body-Borne Improvised Explosive Devices

18. At 14:34 and 14:38 hrs. respectively, two suicide attackers targeted the demonstration. At 14:34 hrs. the first attacker, who was wearing a body-borne improvised explosive device ("BBIED") consisting of powerful explosives and ball bearings, detonated his device among the demonstrators on the south-western side of the square, between a truck with an improvised stage from which demonstration leaders had been speaking and a restaurant on the corner of the square. A few hundred men were concentrated directly in front of the stage under a makeshift tent attached to the truck at the time. Many other demonstration participants and passersby were also in the vicinity at the time. The wide blast radius and the projection of ball bearings explain why victims included demonstration participants as well as non-participants including women and children.

19. At 14:38 hrs. approximately 150 meters west of the square, on the road from Kote Sangi, a second attacker was killed after his own suicide vest, which was later recovered by Afghan Security Forces, only partially detonated. This attacker was killed either by the partial detonation or by Afghan Security Forces shooting. Nobody else was injured as a result of the second explosion. According to Afghan Security Forces, one ANP and one NDS official fired around 15 bullets targeting the second attacker. Surveillance cameras' video footage reviewed by UNAMA did not capture this second explosion and subsequent shooting.
20. Prior to the first explosion, a demonstrator drew attention to the first suicide attacker after he bumped into him and felt the suicide vest ('magazine belt-type'). The demonstrator immediately moved away, shouting warnings to Afghan Security Forces personnel and to other demonstrators. The first explosion occurred immediately after this. The demonstrator who raised the alarm survived by moving behind a road divider in the area. The same witness described the first suicide attacker as wearing a 'khaki colour' uniform.

Unverified allegations and rumours

21. A number of allegations and rumours quickly circulated about the events that UNAMA examined.
22. One rumour was that an IED exploded inside an ice cream cart. Neither witnesses nor Afghan Security Forces could confirm this. Another rumour suggested that there was a third suicide attacker whose BBIED did not detonate and who was taken into Afghan Security Forces custody. This was denied by Afghan Security officials, and no photographic or other evidence is available to support the claim. Some witnesses also reported having heard three explosions - the first large explosion, a small one almost immediately after, and a third explosion a short time later. Afghan Security Forces reported that there was no third explosion and UNAMA found no evidence to support this rumour.
23. On 4 August, UNAMA met with a victim who was wounded during the incident. The man believed that he was shot by police while in the same area where the first explosion occurred, "possibly by a sniper from the top of the ONIX building." Several other witnesses and Afghan Security Forces personnel also confirmed that shooting occurred after the initial explosion, however not necessarily in the same area. According to Afghan Security Forces, the only gunfire that occurred was directed at the second attacker.
24. Some Enlightening Movement leaders told UNAMA that Afghan Security Forces fired at them intentionally. One injured Enlightening Movement leader reported that the hospital he was in had seven victims with gunshot wounds, however, managers at the same hospital denied that any victims with gunshot wounds were registered. Afghan Security Forces refuted allegations that they had shot at demonstrators. They provided photographs of damage to objects and of ball bearings recovered from the scene, which are the size of victims' wounds, as evidence that the ball bearings in the suicide vest detonated by the first attacker caused gunshot-like wounds. The second vest that did not detonate also contained several strips of ball bearings. The victim interviewed by UNAMA who said he had been shot was in the area of the first attacker. His description of the direction he was facing and entry/exit wounds would be consistent with the Afghan Security Forces' theory that the

wound was caused by ball bearings. Afghan Security Forces insist that the only shots they fired were in the vicinity of and directed at the second suicide attacker, and that there were no victims of stray bullets. Afghan Security Forces did not review arms and ammunition used after the incident.

25. While photographs, reviewed by UNAMA, of what victims allege to be gunshot wounds could indeed raise questions about the nature of the projectile that hit them, the three surveillance cameras in Deh Mazang Square did not record audio but only video data, therefore making it more difficult to verify whether any victims were either killed or injured by Afghan Security Forces gunshots. Moreover, without access to forensic medical and ballistic reports, no credible information in support of this could be verified by UNAMA.

Emergency response and treatment

26. Witnesses reported that ambulances did not arrive until at least 20 minutes after the first explosion. In the period immediately after the first blast, some victims were transported in Afghan Security Forces and private vehicles to hospitals. The ANP, including one commander who was on the scene, told UNAMA that the first ambulance arrived within two to three minutes from the nearby ANBP station and that ANP vehicles also began transporting victims to hospitals. This was also confirmed by traffic cameras viewed by UNAMA. Witnesses indicated that ambulances from Kabul hospitals arrived afterward. Afghan Security Forces immediately opened roads that had been blocked and moved one container that had been blocking the road to the Presidential Palace so that emergency vehicles could pass.
27. The lack of pre-deployed first aid providers and ambulances in the area limited the Afghan Security Forces' ability to offer immediate medical assistance so that trauma victims could be helped prior to their transfer to a medical facility.
28. Afghan Security Forces also reported that their personnel, as well as emergency and security vehicles, were attacked by demonstrators throwing stones in the minutes following the attack. Afghan Security Forces report that demonstration leaders were also attacked by other demonstrators and they assisted with their escape from the area. This point is refuted by Enlightening Movement leaders.
29. One Enlightening Movement leader denied that demonstrators hindered emergency vehicles, but stated that they had instead tried to prevent the Afghan Security Forces from approaching the scene and arresting them, and added that there were fears that Afghan Security Forces would try to tamper with the crime scene before forensic evidence could be collected.
30. Enlightening Movement leaders and other victims were mostly of the opinion that the Government had provided adequate healthcare in the public hospitals. They also believed, however, that Government efforts were inadequate with regard to assisting with the overseas transfer of those patients requiring additional treatment. UNAMA was informed by Government of direct support offered by the Office of the President to injured persons for their transfer to India, especially those whose eyes were effected. This process reportedly began immediately after President Ghani visited the hospitalized wounded victims of the attack a day after the incident. The amount reportedly offered (100,000 Afghanis, or approximately US\$ 1,500, each to five injured persons) was turned down by the Enlightening Movement, which instead used

funds donated by "generous businessmen" supporting the movement to pay for the transfer of 38 injured persons to India.

Securing evidence from the crime scene

31. Enlightening Movement leaders complained that the Government began to clear and clean the crime scene before a scene analysis could be conducted, thereby demonstrating that they were not committed to conducting a proper investigation. Afghan Security Forces stated that they completed a full analysis of the crime scene. They acknowledged that they did clean the streets, but assert that this was only after midnight, following an order to that effect from the National Security Council.
32. At around 16:00 hrs. on 23 July some demonstrators returned to Deh Mazang Square and began preparations to camp there overnight in tents. At this time demonstrators began to block the entry to the square of Government vehicles and people who were not part of the demonstration, reportedly out of concern that evidence could be tampered with.
33. During this time, a few hundred demonstrators remained in the square. General Morad Ali Morad, First Deputy of the Chief of General Staff in the Ministry of Defence, and a prominent Hazara, came to the scene with a Government delegation. He assured demonstrators that the evidence would be secured, but reiterated that the crime scene had to be cleared so proper investigations could be conducted, as well as for other security reasons. He convinced the demonstrators to disperse.

ISIL/Daesh claim of responsibility and Taliban condemnation of the attack

34. On the same day as the attack, the *Amaq* News agency website operated by ISIL/Daesh leadership outside of Afghanistan carried the only known claim of responsibility. The claim, by 'Islamic State - Province of Khurasan' provided the name of two alleged attackers,⁶ used strongly discriminatory anti-Shia language and drew a link with the fact that some Hazaras are fighting in Syria. It also claimed that hand grenades had been used although this is inaccurate. The Taliban condemned the attack on its website the same day, stating that it had no hand in the incident and condemning "all acts of cynicism which seek to divide the nation into ethnic groups and sides and then pushed into war." President Ghani called it an attack "by *Daesh* Group" but there is to date no formal confirmation by Afghan Security Forces that ISIL/Daesh, or a group operating under that name in Afghanistan, is responsible.
35. The fact that this was the first large scale attack claimed by ISIL/Daesh in Kabul led some Enlightening Movement leaders to question the authenticity of the claim of responsibility. Rather, they allege that the Government was behind the attack, although no credible evidence has been provided to substantiate this.

Civilian casualties

36. UNAMA verified casualty figures with local hospitals and demonstration organizers. UNAMA confirmed that at least 85 civilians were killed and 413 injured in the attack. The vast majority of the casualties were Hazaras. Among the 85

⁶ Najeeb Allah Al-Khurasani and Talhat Al-Khurasani, most probably not their real family name, See Annex 2.

killed, there were at least one woman and four children. Of the 413 verified persons injured, there were at least six women and eight children.

37. Nearly all victims were adult males because, at the time when the detonation occurred, the demonstration had begun to come to an end for the day and only males were concentrated in front of the stage. Women and children were not part of the gathering itself but were primarily passersby when they became victims. Casualty figures mounted in the days and weeks following the attack as critically injured persons died in local hospitals and more injured persons sought treatment.

CONCLUSIONS

38. Based on the results of its investigation, UNAMA reached the following conclusions:
39. The attack deliberately targeted civilians with the apparent aim of spreading terror amongst the civilian population and was a serious violation of international humanitarian law, which may amount to a war crime. The attack appears to have deliberately targeted persons belonging to a specific ethnic and religious community and the claim of responsibility used language that advocates religious hatred and incitement to violence. Furthermore, as the attack targeted a peaceful demonstration it had a serious negative impact on the demonstrators' rights to freedom of opinion and expression and peaceful assembly.
40. Afghan Security Forces and the demonstration organizers discussed the planning of the demonstration, and during these discussions Afghan Security Forces raised concerns regarding the proposed multiple routes and the existence of credible threats. Afghan Security Forces also noted that pursuant to the Law on Assemblies, Strikes and Demonstrations (2003), they retain the authority to prevent demonstrations when security concerns require it. However, in accordance with the right to peaceful assembly, the government allowed the demonstration to continue with heightened security measures in place. It was also made clear to the organizers that a long term presence in a public space after the demonstration would not be allowed, nor would access to the vicinity of the Presidential Palace.
41. There are contradictory claims by leaders of the demonstration and Afghan Security Forces as to whether the decision by the Enlightening Movement to follow the Afghan Security Forces advice and adopt a single itinerary was shared with sufficient notice to Afghan Security Forces. The demonstration took place without incidents between demonstrators and Afghan Security Forces and ended at the agreed location, where Afghan Security Forces remained in place during what became a static rally with speakers addressing participants. The suicide attack took place in the afternoon, by which time the procession was already over and demonstrators had gathered at one previously agreed upon point – the Deh Mazang Square. Consequently, even if Afghan Security Forces did not receive notice of which routes would be used in a timely manner from organizers, this did not affect the ability of Afghan Security Forces to provide security to the demonstrators in Deh Mazang Square at the time of the attack.
42. Afghan Security Forces established an operation coordination centre for the various units mobilized on 23 July and deployed personnel trained and equipped

for crowd control. They did not have to intervene as the demonstration remained peaceful throughout.

43. The response of the Afghan Security Forces to the two successive explosions, including the shooting of the second attacker, was proportionate and in line with international standards on the use of force.
44. The Afghan Security Forces immediate action to transport victims and open closed roads to ease access to hospitals as well as the subsequent deployment of ambulances was also appropriate.
45. The Government's offer to fund medical care abroad indicates a genuine commitment to care for the victims of this attack.
46. UNAMA considers that the Afghan Security Forces planning, its deployment of forces and vehicles during the demonstration, and the response after the attacks were commensurate with Afghan Security Forces capabilities and resources, and with the information available to them regarding possible threats and their analysis. UNAMA further acknowledges the severity of the threat environment in Kabul, which has seen a 60% increase in civilian casualties from suicide and complex attacks⁷ in the in the first nine months of 2016 compared to the same period in 2015.⁸
47. The Government's attempt to tread carefully, given the grievances underlying the demonstration and the deep distrust of the authorities among parts of the Hazara community, may have resulted in a lighter Afghan Security Forces presence than could be considered necessary in a high-risk environment; however, UNAMA did not find evidence of negligence in Afghan Security Forces planning and behavior;
48. UNAMA could not substantiate a number of allegations and rumours regarding the circumstances of the attacks and its aftermath, such as the alleged presence of an IED in an ice cream cart, injuries to or death of bystanders from the shooting aimed at the second attacker, presence of a third attacker, assault by demonstrators of Enlightening Movement leaders, attempts by Afghan Security Forces to detain persons present at the crime scene, and premature cleaning of the crime scene.
49. There is no information available to UNAMA to cast doubt on the authenticity of the ISIL/*Daesh* claim of responsibility, which was issued by the group's central media agency. Details on the strength of its command structure over groups operating under that name in Afghanistan remain unclear. The skills required for preparing such an attack have long existed in the country and also exist with ISIL/*Daesh* in numerous other countries.
50. Allegations of Government complicity in the attack have not been substantiated.
51. UNAMA notes a number of deficiencies in the way the preliminary investigations

⁷ A Complex Attack is defined as: a deliberate and coordinated attack which includes a suicide device (i.e., body-borne IEDs or suicide vehicle-borne IEDs), more than one attacker and more than one type of device (i.e., body-borne-IEDs and mortars). All three elements must be present for an attack to be considered complex.

⁸ In Kabul District from 1 January to 30 September 2016, 1,226 civilian casualties (214 killed 1,012 injured) were recorded as a result of 11 incidents of suicide and complex attacks. During the same period in 2015, 768 civilian casualties (87 killed and 681 injured) were recorded in 16 incidents.

were conducted by the authorities. There is room for further professionalization in forensic work, including how crime scenes are analyzed and secured, and ensuring that the use of firearms is recorded and all evidence is collected, including in hospitals and morgues.

52. Afghan Security Forces efforts to systematically gather and record information on civilian casualties and related harm resulting from the 23 July attack were limited. This may result either from a lack of coordination among the various institutions involved in emergency/crisis response or a lack of explicit direction, resources and training of the personnel assigned to investigate. These limitations may lead to violations of victims' right to truth, thereby potentially preventing the victims from accessing Government or other reparation/redress schemes.
53. There has been insufficient information shared with the public after the Government's announcement of the establishment of a Truth Finding and Investigative Committee; no progress report nor tentative date for the release of a report has been announced.

RECOMMENDATIONS

Protecting the right to peaceful assembly: planning and policing of public assemblies

54. In a complex security environment such as that in Afghanistan, decisions related to the management of demonstrations and other forms of public assembly should take into account the rights to freedom of expression and peaceful assembly, and at the same time should adequately take into consideration the threat faced by large gatherings by adopting the necessary measures to protect the exercise of those rights. While the Law on Assemblies, Strikes and Demonstrations (2003) gives discretionary authority to the Government of Afghanistan to prevent demonstrations from taking place due to circumstances such as heightened insecurity, this authority should continue to be exercised only when sufficient security mitigation measures are not feasible.
55. UNAMA encourages Afghan Security Forces and organizers of demonstrations to continue to engage in meaningful and constructive dialogue, including agreeing on concrete protection plans between demonstration organizers and Afghan Security Forces' leadership. This should include: Government assessment and recommendations/guidance – based on available factual information – regarding where and when the processions/gatherings may safely take place; informing organizers of security measures in place to protect sensitive Government areas (restricted areas) and the general public; and timely exchange of information, including on any new arising threats and/or any new/last minute changes of plan.

Information gathering on loss of lives and injuries

56. UNAMA encourages Afghan Security Forces as well as other relevant public institutions such as the Ministry of Public Health to strengthen the response to mass-casualty incidents as well as other conflict-related incidents in terms of recording the medical condition, cause of injury or death, and identity of each casualty. Maintaining detailed autopsy, injury and post-mortem reports is an

important component of the right to truth for the victims and their families and constitutes the first step toward access to justice and other possible remedies such as reparations or redress.

Preventing violent extremism

57. The claim of responsibility by ISIL/Daesh which used discriminatory anti-Shia language may exacerbate ethnic, tribal, and sectarian tensions. UNAMA encourages the Government to continue to strengthen efforts to protect all ethnic and religious communities, as well as to mitigate ethnic, tribal, and sectarian tensions among Afghans and to fully implement its obligation to prohibit by law any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence. The completion of a national strategy and implementation plan to prevent violent extremism, in line with the United Nations Plan of Action to Prevent Violent Extremism, is also recommended.⁹

Responsibilities of Demonstration Organizers

58. Demonstration organizers have a number of responsibilities. Leaders should never encourage any violence or disregard agreed upon security procedures, as this may create an environment that could result in escalation of tensions and to the use of force by security forces. While the main responsibility to ensure protection of citizens exercising their rights to peaceful assembly and freedom of expression remains with the Government, demonstration organizers are also expected to take all necessary precautionary steps toward contributing to ensuring the safety of participants and bystanders. These steps may include carrying out appropriate planning in consultation with security forces, advising security forces of new arising threats, as well as adopting any self-protection security measures considered prudent by demonstration leaders.

Necessity of dialogue between Government and leaders of protest groups

59. UNAMA encourages continuous, constructive, and inclusive dialogue between the Government and any aggrieved group that voices its concerns to the Government through peaceful means. This should cover both the substantive issues at stake and immediate security concerns in relation to public assembly.

Promotion of transparency in governance, in particular, on decision-making process

60. Respect for the rights to participation and information that promote transparency could help prevent situations where groups feel they must take to the streets in protest. Although there appear to be underlying grievances of a broader nature (which are beyond the scope of this report), the decision regarding the electricity transmission line, and perceived lack of consultation and transparency related thereto, seem to have been the main trigger for the demonstration.

Timely Completion of the Government's independent and transparent investigation

61. As the primary duty-bearer responsible for upholding human rights and international humanitarian law, and protecting civilians, the Government should prioritize the completion of its own investigation into the attack on 23 July and should publish its findings at the earliest opportunity. Such findings should include

⁹ UN document A/70/674

an authoritative account of events, including an assessment of the planning, preparedness, and response of Afghan Security Forces, and the affiliation and *modus operandi* of the attackers. The timely publication of the findings of the investigation will be a positive display of respect for the public and, even more so, the right of the victims to truth as well as a prerequisite for launching prosecution.

Ensuring accountability of those responsible for the attack

62. The Government must ensure that individuals responsible for the attack, including financing and planning it, are investigated and prosecuted by a legally constituted tribunal. The Government must also ensure that any court proceedings would be conducted in a prompt, public and transparent manner, with due regard for the rights of both the victims and their relatives and those accused of perpetrating these crimes.

Annex 1. Claim of responsibility by ISIL/Daesh

Islamic State - Province of Khurasan

Urgent: Death [in perdition] of 70 and the injury of approximately 200 rejectionist polytheists from two martyrdom operations in the city of Kabul.

18 Shawwal 1437 [24 July 2016]: With God's, the Lofty and Almighty, assistance, two soldiers of the Caliphate (Najeeb Allah al-Khurasani and Talhat al-Khurasani—May God receive them in paradise) were able to attack with hand grenades a group of rejectionist polytheists in the city of Kabul. They killed and injured a number of them, after which they detonated their explosives' vests in the midst of those remaining. This led to the death [in perdition] of about 70 and the injury of more than 200 apostates. This blessed operation comes in response to their participation with the Nusayris* in the war on the Sunnis in the land of Syria, and in order to purify the land of Khurasan and all other lands of the Muslims of the impurity of their polytheism. Praise be to God, Lord of the Worlds.

*Nusayris is a derogatory term to designate the Shia Alawite community in Syria. President Assad is one of them.

Annex 2. – UN Statement

STATEMENT BY UN ENVOY TADAMICHI YAMAMOTO CONDEMNING THE ATTACK TARGETING CIVILIANS ATTENDING PEACEFUL DEMONSTRATION IN KABUL

KABUL, 23 July 2016 – On behalf of the United Nations in Afghanistan, I condemn in the strongest possible terms today's deadly attack that killed and maimed hundreds of civilians gathered to peacefully demonstrate in Kabul city. Preliminary figures indicate that the attack killed at least 59 civilians and injured 245 others.

Two explosions occurred at Dehmazang square in Kabul city today targeting a peaceful demonstration, causing horrendous levels of civilian harm. One suicide attacker detonated his device among the demonstrators while police reportedly shot and killed a second attacker. This attack is particularly heinous because it targeted civilians as they exercised their rights to freedom of assembly and freedom of expression.

An attack deliberately targeting a large, concentrated group of civilians amounts to a war crime.

This incident is an outrage that cannot be justified. It is an attempt to spread terror amongst civilians and stifle the freedoms that Afghans have sacrificed so much to obtain. The United Nations stands firmly with the people of Afghanistan as they seek to exercise their fundamental human rights.

I reiterate that international humanitarian law prohibits the deliberate targeting of civilians and international human rights law requires the Government and non-state actors to respect and protect the rights to freedom of assembly and freedom of expression. The perpetrators of today's attack must be held accountable.

On behalf of the United Nations in Afghanistan, I express our deep condolences to the families of the victims and wish a speedy recovery for the injured.