

AFGHANISTAN

Human Rights and Protection of Civilians in Armed Conflict

Special Report

Attacks in Mirza Olang, Sari Pul Province: 3 - 5 August 2017



**United Nations Assistance Mission in Afghanistan
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Burial and condolence ceremony for victims of the Mirza Olang killings, held in Sari Pul city on 16 August 2017.

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OVERVIEW

On 3 August 2017, Anti-Government Elements including Taliban and local self-proclaimed *Daesh*/Islamic State affiliated fighters launched an attack against Mirza Olang village in Sayyad district, Sari Pul province, where fighting continued until 5 August. The village, known as ‘the gate to Sayyad’, lies deep in a long valley. Its southern entrance is near to the border of neighbouring Faryab province and is located 20 km south of the Sayyad district administrative centre. Much of the area surrounding the district administrative centre has been under control of Anti-Government Elements for more than one year.

Mirza Olang village is predominantly inhabited by ethnic Hazara, of whom the majority are Shi’a Muslims. In recent years, a number of male residents of the village fought as Pro-Government Militia and Afghan Local Police to defend their village from Anti-Government Elements. Residents reported to UNAMA that they had received warnings from local Anti-Government Elements to cease their resistance, which they shared with local Government officials who reportedly encouraged them ‘not to give in’. Local officials claimed that they warned the Kabul government of the potential for attacks in Sayyad district and impact on civilians if reinforcements were not sent to the area. Taliban publicly stated that the motive for the attack on Mirza Olang was its residents’ ongoing resistance and affiliation with the Government of Afghanistan.

UNAMA’s preliminary findings indicate that between 3 and 5 August 2017, Anti-Government Elements reported by local sources to be from Sari Pul province and neighbouring provinces, killed at least 36 persons, both civilians and persons *hors de combat*, during the attack on Mirza Olang. This includes the deliberate killing of a group of 18 persons, both civilians and Pro-Government Militia, who had been stopped and moved to a nearby location by Anti-Government Elements while trying to escape from the north end of the village. Others, including one woman, were reportedly killed while they tried to escape from other parts of the village.

These killings, corroborated by multiple credible sources, constitute violations of international humanitarian law and may amount to war crimes as they appear to have deliberately targeted both civilians and persons who were *hors de combat* while in the power of an adverse party. In the first case (civilians on the run), the attack would violate the international humanitarian law principle of distinction, which strictly prohibits direct attacks against civilians and civilian objects. In the second case, (the killing of people who are in the power of an adverse party), the attack would constitute murder regardless of whether they are civilians, civilians directly participating in hostilities (“militias”) or parties to the conflict.

In contrast to the Taliban’s statement referring to 28 persons they described as pro-Government fighters killed during combat, information and accounts reviewed by UNAMA indicate that the majority of those killed in Mirza Olang were civilians and persons *hors de combat*, killed after combat had subsided.

While UNAMA has not received information supporting the claims that the attack on the village had a sectarian or ethnic motivation, the allegations of a sectarian dimension to the killings of civilians and *hors de combat* require further investigation by competent authorities. The majority of the killings took place once combat was over and families were escaping. This brutality is consistent with the pattern of attacks and statements associated with persons proclaiming allegiance to *Daesh*/Islamic State, who have claimed responsibility for the deliberate killing of members of the Shi’a community in Afghanistan and elsewhere, including

this incident.¹ UNAMA emphasises that the killing of civilians and persons *hors de combat* can never be justified militarily.

Anti-Government Elements left the bodies of those killed on the ground in several locations for over a day, after which they instructed a group of approximately 10 men to bury the bodies. During an interview with UNAMA, one of these men reported that some of the bodies were in such condition that they could not be moved. Consequently, bodies were covered with dirt and left in two mass graves in the Mirza Olang valley for approximately 10 days. Afghan National Security Forces regained control of the village on 14 August; one day later, the bodies were exhumed and taken to Sari Pul city.

Mandate

In accordance with its mandate under United Nations Security Council resolution 2344 (2017) “to monitor the situation of civilians, to coordinate efforts to ensure their protection, [...] to promote accountability, and to 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 party,” UNAMA undertook its own fact-finding into the attacks on Mirza Olang village. This report contains UNAMA’s findings and offers recommendations in furtherance of that mandate.

Methodology

From 5 – 16 August, UNAMA conducted fact-finding into the attack in Mirza Olang. The primary sources of information for this report are first-hand accounts provided to the UNAMA human rights team during a fact-finding mission in Sari Pul city and Sayyad district on Thursday 10 August. UNAMA interviewed 40 displaced persons from Mirza Olang village, including multiple eyewitnesses, and met with government and security officials at the district and provincial levels. UNAMA also conducted at least 25 in-depth interviews, mainly by telephone, with individuals displaced from Mirza Olang, security officials and government authorities. Most telephone interviews were with local elders and persons with family or official connections to the village. The ages of the persons interviewed ranged from eight to 90 years, and included a balance of males and females.

UNAMA consulted with the Afghan Independent Human Rights Commission at the national and local level throughout. Media and other reports were used as a basis to formulate questions but were not relied upon as a source of information. Satellite imagery was used for geographic analysis.

UNAMA contacted multiple sources to confirm the identity and status of each of the 36 deceased victims, and analysed each individual on the basis of participation or non-participation in the armed conflict. UNAMA also compared its findings with hospital records for the bodies taken to Sari Pul city on 15 August. Those persons confirmed as killed or injured who would be very unlikely to be members of the Pro-Government Militia or Afghan Local Police, and whom sources consistently stated were civilians (women, young children and males over the age of 60) were considered to be civilian. UNAMA also classified males between ages 18-55 as civilians, when multiple independent sources confirmed the civilian status of these men.

¹ Available at: https://twitter.com/Terror_Monitor/status/897176678438289408

In some cases, UNAMA could not verify the civilian status of some adult males according to its usual methodology, which requires three independent source types.² Accordingly, this report does not provide final verified civilian casualty figures.³ Despite all efforts to reach absolute accuracy, UNAMA does not claim that the statistics presented in this report are complete and acknowledges possible underreporting of civilian casualties given limitations inherent in the operating environment.

UNAMA does not purport to have the capacity to make a legal determination of whether war crimes, as defined under international law, took place, nor does UNAMA seek to be an alternative for the criminal justice system. The protection of civilians monitoring conducted by UNAMA uses internationally accepted human rights monitoring methodologies to provide credible and reliable information on issues related to the protection of civilians.

UNAMA presents the findings of this Special report to encourage the Government to meet its obligations as the primary duty-bearer, to take further concrete actions to protect civilians from harm, and ensure accountability for those responsible for violations of international and Afghan law.

Legal frameworks

UNAMA takes the position that the armed conflict in Afghanistan is a non-international armed conflict between the armed forces supporting the Government of Afghanistan and non-State armed opposition groups. Article 3 common to the four Geneva Conventions of 1949, applicable in non-international armed conflict, explicitly prohibits violence to life and person, including murder, mutilation, cruel treatment and torture, taking hostages, as well as outrages against personal dignity and extrajudicial executions, at any time and in any place with respect to persons taking no active part in hostilities, including civilians and persons *hors de combat* while in the power of an adverse party.

Murder is equally prohibited by Article 4 of the Second Additional Protocol to the Geneva Conventions and by customary international humanitarian law applicable to non-international armed conflict. Direct attacks against civilians or civilians objects, including attacks against civilians on the run, are also prohibited by customary international humanitarian law applicable in non-international armed conflict, most notably in line with the principle of distinction, which states that parties to the conflict must at all times distinguish between civilians and combatants. Attacks may only be directed against combatants. Attacks must not be directed against civilians.

Notwithstanding the protection under international humanitarian law of civilians from attack under international humanitarian law, UNAMA emphasises that persons protected from attack also include those with *hors de combat* status, and this protection applies to both civilians and parties to the conflict, provided that they were under the control of an adverse party at the time in which they were killed.

The Rome Statute of the International Criminal Court includes war crimes in non-international armed conflict as serious violations of Common Article 3 and other laws and customs applicable in armed conflict not of an international character, the latter of which includes

² For more information, see Methodology section of UNAMA's midyear and annual protection of civilians in armed conflict reports, available at: <https://unama.unmissions.org/protection-of-civilians-reports>.

³ UNAMA expects the final civilian casualty figures from this attack to be published in the Protection of Civilians in Armed Conflict Annual Report 2017, due for public release in early 2018.

intentionally directing attacks against the civilian population as such, or against individual civilians not taking direct part in hostilities. The prohibition of murder, i.e. wilful killing of civilians and persons *hors de combat* is also a norm of customary international law applicable in both international and non-international armed conflicts.⁴

Parties are obligated to take all possible measures to prevent the dead from being despoiled and to dispose of the dead decently pursuant to Additional Protocol II to the 1949 Geneva Conventions and customary international law.⁵

CASUALTIES

UNAMA verified the identities of 36 people killed and two injured during the attacks on Mirza Olang village between 3 and 5 August. Of the 36 killed, local sources confirmed that the deceased included at least seven Pro-Government Militia, one Afghan Local Police and one Afghan National Army soldier.

Of the remaining 27 deceased persons, UNAMA has sufficient grounds to conclude that most of the 27 are civilians.⁶

The civilian victims killed during the attacks included one woman, four boys aged 13-17, and 13 men over 60 years of age. The two injured victims were one adult male and a boy.

Some groups of men who were originally considered as missing returned to Sari Pul more than a week after the attack, having hid for several days in remote areas during their escape.

FINDINGS RELATED TO THE ATTACK ON MIRZA OLANG VILLAGE

Killing of persons protected from attack

Based upon information available at the time of release of this report, UNAMA concluded the following:

Anti-Government Elements attacked Mirza Olang village from multiple directions through surrounding mountains on 3 August 2017. Taliban and self-proclaimed *Daesh* fighters fought with Pro-Government Militia and Afghan Local Police for more than one day, attacking check posts surrounding the village. During the fighting some check posts received limited reinforcements from Afghan National Security forces, but in insufficient numbers to repel the attackers.

Fighting continued for more than 24 hours, with the last remaining Afghan Local Police check post overrun by Anti-Government Elements during the early morning hours on Saturday 5 August.

When the fall of the final check-post appeared imminent, Pro-Government Militia fighters alerted residents, who began escaping around 23:00 hrs on Friday 4 August. Shortly after the

⁴ Common Article 3 of the Geneva Conventions prohibits “violence to life and person, in particular murder of all kinds” of civilians and persons *hors de combat*. Violence to Life, ICRC. See ICRC Customary International Humanitarian Law Study, Rule 89. For additional legal definitions and details on international humanitarian law and international criminal law frameworks applied to protection of civilians reporting in Afghanistan, see Legal Frameworks annex to UNAMA’s regular protection of civilians reports, e.g. Afghanistan Midyear Report on Protection of Civilians in Armed Conflict: 2017, p. 62.

⁵ See Protocol II Additional to the Geneva Conventions of 12 August 1949, 8 June 1977, Article 8; ICRC Customary International Humanitarian Law Study, Rules 113, 114, 115.

⁶ See Methodology section.

fall of the final check post, the remaining Pro-Government Militia fighters retreated; some escaped with their families.

Between 23:00 on Friday 4 August and 05:00 hours on Saturday 5 August, many of the more than 450 families in the village began to flee the area, most of them via the dirt road or footpaths leading north out of the valley towards the Sayyad District Administrative Centre. Some families were transported in Government and private vehicles sent from Sari Pul city, while many others escaped on foot.

Anti-Government Elements described by witnesses as under the command of a local, Sari Pul based self-proclaimed *Daesh* commander, took control of the last check post located in the north of the village. At approximately 05:00 hours on 5 August, some of these fighters stopped a group of people fleeing from the village. The group included Pro-Government Militia fighters, together with their families and other civilians. Multiple, credible witnesses consistently reported to UNAMA that the Anti-Government Elements separated the women and children from the group and sent them to a local house. Those interviewed by UNAMA stated that Anti-Government Elements moved the group of males, which included many civilians, to a nearby location where they were killed by gunshots. These persons were in the power of the Anti-Government Elements at the time they were killed, and therefore, even those who were not civilians were protected from attack as *hors de combat*.

Civilians, including one woman and four children were also killed during ground fighting. This included indiscriminate shooting at groups of people which clearly included civilians.

Negotiations mediated by local elders with Taliban for release of the residents who had remained in the village took place in the following days. By 10 August, it was reported that all of the residents of Mirza Olang had left the village, with most staying in Sari Pul city, finding shelter in mosques or with families.

The Government dispatched military forces to retake the area and on 14 August announced the completion of these operations on social media. According to the Government, the clearance operations took more time due to precautions taken because of the likelihood that Anti-Government Elements emplaced IEDs prior to leaving the village.

Multiple credible sources, including eyewitnesses, confirmed the location of 18 bodies of persons believed to have been killed in a group by Anti-Government Elements under the command of a local, self-proclaimed *Daesh*/Islamic State commander. UNAMA received consistent accounts that the bodies were left in a location near the village and a group of approximately ten locals were instructed to bury them, but ordered not to move the bodies outside the village area. Some of the bodies were in such condition that they could not be moved to a different location for burial and, therefore, the locals covered these bodies with dirt.

These accounts were confirmed after Afghan National Security Forces, with the help of locals, located and exhumed 18 bodies from one site, and more bodies from other locations on 15 August 2017, after the village and surrounding areas were again under the control of the Afghan Government.

Afghan National Security Forces carried out the exhumations in the presence of local media, a representative from the Afghan Independent Human Rights Commission and locals.⁷ UNAMA also received multiple accounts describing an additional grave with approximately eight bodies, as well as reports of at least four separate, individual graves. The person who buried

⁷ UNAMA telephone interviews with local government officials, representative of the Afghan Independent Human Rights Commission, and witnesses present at the time of exhumation.

the eight bodies in the additional grave reported to UNAMA that they appeared to have been killed in different locations.

On 14 August, the Sari Pul Provincial Governor requested that families wait for media and human rights organisations to be present during the exhumation of bodies. On 15 August, he ordered that the bodies found in and around the village be exhumed and taken to Sari Pul city to be prepared for proper burial, except two bodies that were in a condition that prevented transport. Those two bodies were buried according to Islamic rites in the area, and burial a condolence ceremony was held in Sari Pul city on 16 August for the remaining victims. The exhumation and movement of bodies was reportedly rushed due to reports that Anti-Government Elements were planning another attack. Reportedly, Taliban re-entered the area in the early hours on 16 August, while the residents of Mirza Olang attended the funerals in Sari Pul city. Notwithstanding the security imperative for expedited exhumations, information received by UNAMA suggests that the bodies were recovered from Mirza Olang village without the thorough forensic and related investigative procedures that would be expected for the exhumation of mass or individual grave sites where allegations of crimes exist.

On 15 August, the Attorney General appointed a senior team from the Office of the Attorney General and the Ministry of Interior to investigate the attack.

Other human rights abuses

Beheadings: Allegations were made that some victims had been beheaded. According to all witness accounts and information received by UNAMA from the Sari Pul hospital where most bodies were taken, there was no evidence substantiating these allegations.

Sectarian violence: UNAMA received multiple, credible reports from women and men that Anti-Government Elements (especially those self-identifying as *Daesh*) made anti-Shi'a statements (calling them 'half-Muslims' and 'infidels'). UNAMA also received allegations that the local Shi'a Hussainia mosque was destroyed or burnt by Anti-Government Elements. Those interviewed by UNAMA consistently stated that the mosque was not destroyed or burnt.

Conflict related sexual violence and other abuses concerning women: UNAMA could not verify media allegations of large numbers of females abducted or taken as 'hostages'. Similarly, no reports of sexual violence could be confirmed. During interviews with UNAMA, residents of Mirza Olang village consistently denied the allegations of sexual violence and abduction of women and girls.

UNAMA received consistent accounts that Anti-Government Elements separated women from the men, with many women kept together in one home for some time before being permitted to return to their own homes. In some instances, Anti-Government Elements searched houses, removing the men and leaving the women and children behind. Anti-Government Elements also occupied some homes, and directed women to provide food. Women interviewed by UNAMA stated that they were treated decently for the most part, although some women stated that Anti-Government Elements warned them not to look at them (under penalty of death) and to cover their faces, on the basis that it is "against Islam" for a woman to show her face in public.

Impact on education: Schools closed after the fighting began. According to a report from the Department of Education, two mixed schools (one high school and one primary school) remain closed, affecting approximately 750 students (370 boys and 387 girls).⁸

⁸ At the time of the release of this report, residents of Mirza Olang village remained displaced.

Impact on healthcare: There is one health facility in the area. According to the information received from Department of Public Health, the health centre closed when the fighting started; the health personnel managed to escape unharmed.

Humanitarian assistance for displaced communities and compensation to victims

Of those families registered as residents of Mirza Olang village (more than 450 families), all remain displaced, mainly in Sari Pul city, accommodated in mosques and with residents of the city. Local government officials provided food and shelter to the displaced. Government officials and private citizens provided transportation to from Sayyed district to Sari Pul city, when Mirza Olang residents fled their village, though many walked from the village to Sari Pul city.

Afghan Government delegations, UN agencies and NGOs conducted assessments and delivered assistance in Sari Pul city in the days following the displacement. During UNAMA's fact-finding mission in Sari Pul city, local officials reported that they had requested additional resources from the central Government and the international community in order to sustain the provision of assistance to the displaced persons in Sari Pul, including food, shelter, clothing, and medical treatment. UNAMA received multiple documents detailing the ongoing response of the international community and local organisations. Additional governmental delegations from Kabul were reportedly planned.

Local officials informed UNAMA that some – but not all – eligible families received compensation from the Government.

Collaboration between Taliban and local, self-proclaimed *Daesh*/Islamic State fighters

Officials and eyewitnesses claimed that the attack involved local Taliban with regional Taliban support from nearby provinces, as well as some self-identified local *Daesh*/Islamic State fighters.

Those interviewed by UNAMA noted that cooperation and coordination between Taliban and local, self-identified *Daesh* has been observed for some time in Sayyad district, and is believed to be based upon family and tribal connections. The Governor of Sari Pul convened a press conference on 26 November 2016 where he confirmed the existence of self-identified *Daesh* in the province and instances of the two groups jointly attacking Afghan National Security Forces and Pro-Government Militias. UNAMA has continued to track this trend in recent months. The cooperation appears to be linked to the relationship between the local self-proclaimed *Daesh* commander and the local Taliban commander/shadow provincial governor, who are known to be related.

Taliban spokesperson Zabihullah Mujahid claimed responsibility for the attack but denied the killing of civilians and cooperation of Taliban with *Daesh*/Islamic State during the operation. The spokesperson explained to media that the self-proclaimed *Daesh* commander was not *Daesh*, stating “he is our commander in Sari Pul, a very active commander, and he is under our command, our flag, he has allegiance with us.”⁹

On 14 August, Islamic State – Khorasan Province released a statement via the Amaq News Agency claiming, “According to a field source, Islamic State fighters killed 54 Shi'ites in Mirza Awlanak [sic] village 3 days ago, and attacked neighbouring villages. Meanwhile, Afghan forces are attempting to regain control over the village.”¹⁰

While the local self-proclaimed *Daesh* commander is known amongst the local population to have proclaimed his allegiance to *Daesh*/Islamic State, UNAMA is not aware of any

⁹ <https://www.nytimes.com/2017/08/06/world/asia/taliban-islamic-state-attack-afghanistan.html>

¹⁰ Available at: https://twitter.com/Terror_Monitor/status/897176678438289408

information supporting his links to Islamic State-Khorasan Province, with operations based in Nangarhar, or to the Islamic State in Iraq and the Levant.

For additional information on self-proclaimed *Daesh*/Islamic State fighters in the area, including neighbouring Jawzjan province, and discussion on the potential connections with Islamic State-Khorasan Province and Islamic State in Iraq and the Levant, please see UNAMA's 2017 Protection of Civilians Midyear Report.¹¹

CONCLUSIONS

Between 3 and 5 August 2017 in Mirza Olang village, civilians and persons *hors de combat*, were deliberately killed by Anti-Government Elements. The deliberate killing of civilians and persons who are taking no direct part in hostilities, or are *hors de combat* constitutes serious violations of international humanitarian law and may amount to war crimes. UNAMA urges the Government of Afghanistan to promptly investigate the attacks on Mirza Olang and ensure accountability for the perpetrators.

On 15 August, bodies were exhumed or recovered from mass grave sites and other locations without any forensic or related investigative procedures conducted. Notably, UNAMA received credible accounts that security forces failed to appropriately document the recovery of each victim, in accordance with protocols applied for mass graves. The absence of such procedures may impact future capacity to ensure accountability.

UNAMA acknowledges that operational and safety concerns may have prompted the expedited removal of the bodies. However, UNAMA is aware that Afghan National Security Forces have trained forensics teams, which should have been readily available to travel to the scene, or, at very minimum, provide advice to those on the ground as to the proper way to manage a sensitive crime scene, and such advice should have been carefully followed.

RECOMMENDATIONS

Anti-Government Elements (Taliban)

- Immediately cease the deliberate targeting of all civilians and civilian objects.
- Enforce statements by Taliban leadership that prohibit attacks against civilians; implement directives ordering Taliban members to prevent and avoid civilian casualties.
- Investigate reports of killings of persons protected under international humanitarian law from attack and advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence by any persons under the command of Taliban or its subordinate forces in Mirza Olang, and take all necessary actions to ensure accountability.

Government of Afghanistan

- Ensure that investigations of the attack are prompt, impartial and transparent, and ensure accountability for perpetrators and appropriate redress for the victims.
- Ensure compensation provided for under Afghan laws is offered to all eligible wounded victims and families of those deceased.
- Fully utilise existing forensic capacity in investigations to ensure all potential evidence is preserved and available to support efforts in the pursuit of accountability.

¹¹https://unama.unmissions.org/sites/default/files/protection_of_civilians_in_armed_conflict_midyear_report_2017_july_2017.pdf.