

AFGHANISTAN

Human Rights and Protection of Civilians in Armed Conflict

Special Report

Attacks on Mirza Olang Village, Sari Pul Province

3 - 5 August 2017



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INTRODUCTION

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 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 Shia 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. 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 did not find evidence so far indicating an ethnic or sectarian motive behind the attack on the village.

UNAMA’s preliminary findings indicate that between 3 and 5 August 2017, Anti-Government Elements killed at least 36 persons, both civilians and Pro-Government Militia, during the attack on Mirza Olang. UNAMA received multiple, credible accounts (including from one survivor found amongst a group of bodies a day later) alleging that Anti-Government Elements deliberately killed civilians. This includes the wilful killing of a group of 18 persons, both civilians and Pro-Government Militia, who had been stopped by Anti-Government Elements while trying to escape from the north end of the village around 05:00 hrs on Saturday 5 August. Others, including one woman, were reportedly killed while they tried to escape.

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

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 there has not been evidence suggesting that the attacks on the village had a sectarian or ethnic primary motivation, at a time when most civilians and persons *hors de combat* were on the run, the killings served no military purpose. Moreover, considering the element of cruelty to the killings - the majority of which occurred once combat was over and families were escaping - sectarian hatred may have been a factor at that stage. This type of sectarian violence 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 for this incident.¹

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 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

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

Mirza Olang valley for approximately 10 days. Afghan Government forces regained control of the village on 15 August at which point 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 conducted its own investigations 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 investigated reports of killings in Mirza Olang. The primary sources of information for this report are first-hand accounts provided to the UNAMA human rights team during an investigation mission in Sari Pul city and Sayyad district on Thursday 10 August. UNAMA interviewed more than 36 displaced persons from Mirza Olang village, including multiple eyewitnesses, together with government and security officials at the district and provincial levels. UNAMA consulted closely with the Afghan Independent Human Rights Commission at the national and local level throughout its investigations.

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. 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 of each of the 36 individual victims, as well as the participation or non-involvement of each individual in the armed conflict. UNAMA also compared its findings with hospital records for the bodies returned to Sari Pul city through 15 August. Nonetheless, 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 has not established the civilian or fighter status for every one of the 36 killed. Those persons confirmed as killed or injured who would be very unlikely to be members of the Pro-Government Militia or Afghan Local Police (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.

Notwithstanding the explicit protection of civilians from attack, UNAMA emphasizes 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.

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

² For more information, see methodology section of UNAMA’s midyear and annual 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.

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 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 IHL applicable to non-international armed conflict. On the other hand, direct attacks against civilians or civilians objects, including attacks against civilians on the run, are also prohibited by Customary IHL applicable in non-international armed conflict, most notably 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.

War crimes in non-international armed conflict are defined in the Statute of the International Criminal Court as serious violations of Common Article 3 and other laws and customs applicable in armed conflict not of an international character (War crimes include – with respect to those not participating in hostilities – violence to life and person, including murder, and deliberately directing attacks against the civilian population as such, or individual civilians not taking part in hostilities). The explicit prohibition of murder, i.e. wilful killing of civilians and persons *hors de combat*, is 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 found sufficient ground to conclude that most of the 27 are civilians.⁶

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*. Rule 89. 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.

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

Between 00:00 and 05:00 hours on Saturday 5 August, many of the estimated 462 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 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 the Anti-Government Elements separated the women and children from the group, sending them to a local home. 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 likely protected from attack as *hors de combat*.

Pro-Government Militia and civilians, including one woman and four children, were also killed during ground fighting and deliberate shootings, mainly targeted at people believed to be part of the Pro-Government Militia, as well as indiscriminate shooting at groups of people which clearly included civilians.

Negotiations mediated by local elders with Taliban for release of the remaining villagers took place in the following days. By 10 August, 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, the Government of Afghanistan announced completion of the operations, with photographs, including dead Anti-Government Elements, disseminated on social media. According to the Government, the clearance operations took longer than hoped due to 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, therefore, the locals covered these bodies with dirt.

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

Afghan National Security Forces carried this exhumation and others 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 the eight bodies together reported 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 in condition preventing transport. Those two bodies were buried according to Islamic rites in the area, and 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 on 16 August, while the residents of Mirza Olang attended the funerals in Sari Pul city.

Other human rights abuses

Sectarian violence: Sectarian hatred may have been a factor in the deliberate killing of civilians and persons *hors de combat*, as indicated by the statement issued by *Daesh*/Islamic State on 14 August.

UNAMA also received multiple, credible reports from women that Anti-Government Elements (especially those self-identifying as *Daesh*) made anti-Shi'a statements (calling the Hazara residents 'half-Muslims'). UNAMA could not verify allegations concerning the intentional destruction or burning of the local Shi'a Hussainia mosque by Anti-Government Elements.

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.

Conflict related sexual violence and other abuses concerning women: UNAMA could not verify allegations of large numbers of females abducted or taken as 'hostages'. Similarly, no reports of sexual violence were confirmed. 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 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).

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.

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

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 and private citizens provided initial transportation, food and shelter to the displaced when they 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 investigation 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 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.

Taliban and self-identified *Daesh* cooperation and coordination 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 security forces. 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.”⁸

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.”⁹

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 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.¹⁰

CONCLUSIONS

During 3 – 5 August 2016 in Mirza Olang village, persons taking no active part in hostilities, including civilians and members of pro-government armed forces, some of whom may have been *hors*

⁸ <https://www.nytimes.com/2017/08/06/world/asia/taliban-islamic-state-attack-afghanistan.html>

⁹ Available at: https://twitter.com/Terror_Monitor/status/897176678438289408

¹⁰ https://unama.unmissions.org/sites/default/files/protection_of_civilians_in_armed_conflict_midyear_report_2017_july_2017.pdf.

de combat at the time, were deliberately killed by Anti-Government Elements. The intentional killing of such persons who are taking no active part in hostilities constitutes serious violations of international humanitarian law and may amount to war crimes.

On 15 August, bodies were exhumed or recovered from mass grave sites and other locations without any forensic or related investigative procedures conducted. This absence of such procedures may impact future capacity to ensure accountability. 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.

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 intentional killings of persons protected from attack and statements of sectarian hatred 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

- Conduct prompt, impartial and transparent investigations of the killings in Mirza Olang, and aimed at ensuring 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.
- Strengthen efforts to protect all ethnic and religious communities, and mitigate ethnic, tribal and sectarian tensions among Afghans, and fully implement the obligation to prohibit by law any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence. UNAMA also recommends 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.¹¹
- Ensure that Afghan National Security Forces fully utilise existing forensic capacity in their investigations.

¹¹ UN document A/70/674