



Afghanistan Independent Human Rights Commission

Press release:

Balabolook incident

KABUL, 26 MAY 2009

On 14 Sawre 1388, (4 May 2009) fighting between insurgents and pro-government forces resulted in high civilian casualties in the Balabolook district of Farah Province. The Commission hereby shares its sympathy and presents its condolence to the families of those killed.

This statement briefly summarizes the findings of the Afghanistan Independent Human Rights Commission's weeklong, independent investigation into the incident. A more detailed report on the complete findings will be released in the future. The AIHRC is concerned that (AGE (anti-government elements) actions knowingly or recklessly placed civilian lives and objects at risks. Preliminary findings also raise questions as to whether greater precautions might have been taken in the way that air power was deployed by international forces to respond to the AGE threat.

Methodology of the investigation:

An initial investigation team from the AIHRC regional office in Herat traveled to Farah on 18 Sawr 1388 (8 May 2009). Following this, a three-member team of investigators specifically trained in international humanitarian law was deployed to Farah to fully investigate the incident. In connection to concerns that white phosphors might have been used in Balabolook, the AIHRC, in cooperation with the Forensic Department, deployed two forensic doctors to conduct medical examinations on those injured persons in the Balabolook incident.

The AIHRC investigation team conducted 20 interviews with witnesses including community elders, aid workers who visited the site immediately following the incident, local government officials, and government representatives involved in investigations. They also collected video and photographic evidence from the incident site, and any other available physical information. AIHRC continues to gather evidence from those in the region as well as from other government and military actors involved in their own investigations to supplement its final analysis of the incident.

Summary of the incident:

On 14 Sawr 1388 (4 May 2009) at 12 pm, an estimated 300 armed men affiliated with anti-government elements (AGE) attacked a series of police check posts along a highway. Local officials and residents said the AGE's intent was to gain control of the highway in order to collect an Ushur (Sherai tax) on any traffic from the opium harvest, and to bring the neighboring villages under their control. They used both light and heavy weapons. In response to heavy fire, the police posted on the site requested support from the ANA and IMF, who were immediately involved. Fighting between these pro-government forces and AGE lasted for six hours and ended at 6 pm of the same day, according to witnesses.

At approximately 8 pm, air bombardments on Garani and Ganjabad villages began, according to survivors. There are conflicting reports as to whether AGE were still present in the villages at this time, however, according to one senior Afghan military official two insurgent bodies were seen after the incident. AIHRC continues to investigate the issue.

During the bombardment, three houses where civilians had taken shelter were hit in the air bombardment. Reportedly, most of the civilian casualties resulted from the targeting of these three compounds. According to reports from survivors of the incident, cross-checked with aid workers who arrived soon after on the scene and the records of the government departments (e.g. department of Education on enrolled children), AIHRC believes that as many as 97 persons may have been killed in the air strikes, the vast majority civilians. Available records suggest that 21 were women and 65 were children (31 of whom were girls and 34 boys.) This raises the presumption that as many as 86 civilians were killed. Witnesses and other sources reported that the 11 other adult males reported killed in these three compounds were also civilians.

Additionally, witnesses and government officials reported to AIHRC that anywhere between 25 and 30 insurgents were killed. It is not clear whether they were killed in the initial fighting or in subsequent air strikes.

Follow-Up and Investigation:

The Government of Afghanistan immediately sent a government delegation to the site to investigate. The government announced that more than 140 civilians were killed in this incident; however, the government has yet to produce any detailed report or findings supporting these allegations. The government investigation appears to have been conducted in haste and the AIHRC is concerned that the accuracy of the government delegations' figures has not been rigorously investigated or analyzed.

US Forces-Afghanistan (USFOR-A) conducted their own independent investigation into the incident and released their findings on May 20, 2009. They concluded that 20 to 35 civilians were killed in Balablook incident. A detailed report of the incident by the USFOR-A yet to be made public too.

The Government of Afghanistan provided immediate financial assistance to the victims' families, providing 100,000 Afs to families per each person killed and 50,000 Afs per each wounded person. There are some indications that the rushed verification and identification of victims may have negatively impacted the credibility of these payments.

Conclusion and legal analysis:

AIHRC continues to investigate this incident and to gather any available information from all involved parties and sources. Preliminary investigation suggests that AGE posed an initial threat to the civilian population, and that at least one motivation of pro-government forces was to defend the civilian population from this threat. AIHRC continues to explore whether AGE were still in the villages at the time of the incident, and allegations of human shielding. At a minimum, reports from the villagers suggest that AGE knowingly (if not deliberately) placed civilians at high risk of attack.

Despite that, their response was motivated out of self-defense and defense of the population, AIHRC believes that the level of force used by pro-government forces, particularly in the follow-up air strikes, was disproportionate. Dr. Sima Samar the chairwomen of the AIHRC, said "the AIHRC is concerned of the use of excessive air-power by the Pro-government forces, that consequently causes high number of civilian casualties." The fact that the air strikes were deployed in populated civilian areas is an additional cause for concern. Nader Nadery a Commissioner at the AIHRC commented: "The AGE can not be absolved of their responsibility for knowingly putting civilians in danger by launching attacks from populated areas." further he added, "No military objective can justify the loss of lives of large number of women and children."

AIHRC did not find any evidence that white phosphorus was used in the Balaboolook incident.

Recommendation for International Military Forces:

AIHRC welcomes the immediate and timely acknowledgement of potential civilian casualties in the Balaboolook incident by US Forces, and it is encouraged by US Ambassador Eikenberry's announcement that international forces would carefully review the Rules of Engagement and military tactics with a view to minimizing the risk of civilian casualties in the future.

- International military forces should take further necessary measures to ensure that it is able to distinguish between combatants and civilians in conducting air strikes, and otherwise to refrain from deploying air strikes in populated areas or against civilian objects.
- Minimize the civilian casualties by reducing reliance on air power. Air power should be deployed as a measure of last resort, and only when it can be guaranteed that the potential risk to civilian persons and objects is minimal.
- The international community must develop rules and procedures that facilitate rapid payment of compensation in the event of civilian loss of life and property,

and should work to coordinate such efforts more closely with the Afghan government.

Recommendation for the Government of Islamic Republic of Afghanistan:

- The Government of Afghanistan should take more responsibility in intelligence gathering and in building the capacity of its armed forces to respond to any threats in a way that minimizes the risk to civilian communities.
- To better investigate cases of civilian casualties and to provide credible and accountable follow-up, the Government should train a professional investigation team;
- The Afghan government should review its policy of providing financial assistance to survivors of such incidents. Any assistance should be made only after credible and transparent investigatory findings are available. Where international forces are involved in such incidents, any Afghan government assistance should also be coordinated with assistance by the international community.

Recommendation to Anti-Government Elements:

- AGE should refrain from fighting in residential areas and using civilians as human shields. Such practices are in contradiction to all principals of national and international laws.
- AGE should facilitate and guarantee the safe passage of independent investigators such as the Afghanistan Independent Human Rights Commission, and stop attacking humanitarian aid organizations who are assisting affected areas.
- AGE should refrain from applying illegal taxation and demanding food and other support from the civilian population.

For further information please contact:

Phones: +93 20 2500676

Fax: +93 20 2500677

Email: aihrc@aihrc.org.af

Website: www.aihrc.org.af