

Taliban suicide attack and UK ISAF firing upon Afghan civilians 03 December 2006, Kandahar

The purpose of this report into the incidents in Kandahar on 03 December is to better understand the tragic events and to provide recommendations to concerned parties with a view to preventing such events in the future.

In 2006, the Taliban has claimed responsibility for the majority of suicide and other forms of deadly attacks across the southern region of Afghanistan. Scores of innocent Afghan men, women and children have been displaced, terrorized, injured and killed as the Taliban target the Afghan government and NATO/ISAF with scant regard for civilian lives. Military operations by the Afghan government and NATO/ISAF have also taken lives and contributed to an atmosphere of fear. This report urges everyone to take note of the increase in civilian deaths and injuries and the impact of violence on the population of Afghanistan and to take all possible measures to prevent harm to civilians.

On 03 December 2006, a 27-vehicle UK ISAF convoy was attacked by vehicle-borne suicide bomb in the western part of Kandahar city. Two civilians were killed, and three British soldiers and at least eleven Afghans were injured. Immediately after the attack, the ISAF convoy split up and made its way out of the area in two directions. As the vehicles were moving, bullets were fired from the convoys towards civilian vehicles at different locations in the city, reportedly killing two people and injuring up to fourteen individuals. The exact number of fatalities and injuries from both the incidents remains uncertain and needs further verification.

On 14 and 17 December 2006, NATO/ISAF confirmed that the UK had completed a formal military enquiry into the events of 03 December and the UK Task force shared their findings with the United Nations Assistance Mission in Afghanistan (UNAMA). According to their investigation, immediately after the suicide bomber had rammed his vehicle into a UK ISAF land rover, civilians fled the area. Two males, seen running towards an injured UK military officer “with purpose,” were assessed as a clear threat and shot. They also confirmed that as the ISAF convoy split and moved towards the designated meeting points, a further three moving vehicles were fired at by ISAF when they refused to heed warning shots and signs. The UK enquiry concluded that all UK ISAF personnel involved in the shooting had acted in a proportionate and reasonable manner when faced with perceived threats to their safety and that there were no grounds for any criminal or disciplinary actions against any UK ISAF personnel.

UNAMA verification of the suicide attack and subsequent shooting of Afghan civilians in Kandahar city has found significant grounds for concern. UNAMA welcomes the UK ISAF investigation and sharing of their findings. However the impact of the suicide attack and ISAF’s reaction on 03 December raises some key issues, namely:

- Violation of the principles of international humanitarian law committed by the suicide attacker(s);

- Community perception of a lack of restraint and care demonstrated by ISAF through this incident; and deterioration of NATO/ISAF's 'popularity' following the killing of civilians in this and other incidents and the possible fuelling of anti-international community sentiment by agitators;
- Discrepancy between the NATO/ISAF explanation and other information received by UNAMA regarding the number of fatalities and wounded caused by UK ISAF;
- The slow pace of investigation by the Afghan government into this and previous suicide attacks;
- Increased risk to civilians due to frequent insurgent attacks with disregard for the civilian population.
- Increasing number of incidents in which NATO/ISAF has fired at civilians who have strayed too close to traveling convoys;

Recommendations and suggestions

UNAMA urges the Afghan Government:

- To initiate a prompt investigation into the suicide attack, ascertain the identities of the perpetrators and exert every effort to arrest those involved in the planning and implementation of the suicide attack in line with international human rights standards;
- To instruct the Afghan National Police to undertake a thorough investigation into the identity of those killed and injured by UK ISAF shooting and make public the findings;
- To take prompt and appropriate action to provide redress to the families of civilians killed and to those injured in military conflict.

UNAMA urges the NATO/ISAF Command:

- To take all measures needed to mitigate and limit occurrences such as those on 03 December 2006 and to limit the risk to civilians from the movement of international military personnel when in urban areas; including through a review of NATO/ISAF Standard Operating Procedures on the escalation of the use of force following attacks on convoys in order to minimize civilian damage;
- To review their procedures to make sure that civilian life is protected in all circumstances even in situations of extreme stress;
- To create a mechanism for compensation of civilian victims of NATO/ISAF military actions;
- To request the British and other NATO governments to establish a discretionary fund at the disposal of national Task Forces to initiate immediate reparations, in a form appropriate and acceptable to the victim/family of the victim in the event of accidental or negligent actions by NATO/ISAF military forces;
- To strengthen their links with the Afghan Independent Human Rights Commission (AIHRC) based in Kandahar and other provincial capitals in order to ensure that claims by civilians are promptly submitted to a focal point in NATO/ISAF and dealt with in a timely manner. This would ensure that civilians harmed in NATO/ISAF actions can claim swift redress;

- To make public their findings following the UK Task Force military investigation into the incident and to ensure that any future incidents are investigated in a prompt manner and all findings are shared with the Afghan government.

The United Nations Assistance Mission in Afghanistan will:

- Continue monitoring violations of international humanitarian and human rights law, subject to the safety of UN personnel involved in monitoring and safe passage and access to areas of conflict;
- Continue to issue public statements highlighting the need for all parties in conflict to respect international humanitarian and human rights law. The Taliban has claimed responsibility for most if not all suicide bombing attacks in Kandahar this year. State and non-state entities, including the Taliban, involved in armed conflict are required to abide by Common Article 3 of the Geneva Conventions;
- Support efforts to calm the population in Kandahar following the attacks and to urge accountability for abuses committed by all sides to the conflict.

Details of the incident on 03 December 2006
Kandahar city, Kandahar province

On 03 December 2006, a 27-vehicle UK ISAF convoy was attacked by vehicle-borne suicide bomb in the western part of Kandahar city. Two civilians were killed, three British soldiers and up to eleven Afghans were injured. The suicide attack did not distinguish between its intended target – the ISAF/NATO convoy – and the civilian population. The incident took place in a crowded area of the city where a high number of civilian casualties was inevitable.

Following the attack, the NATO/ISAF convoy split up, with the main convoy making its way to its designated meeting point in the north of the city. The remaining fleet of vehicles began to drive back towards Kandahar Air Field for emergency medical treatment for the injured soldiers. As ISAF drove through the city, bullets fired from the ISAF vehicles wounded a number of Afghans, including some non-combatants. Victim testimony and information from the police and the local population, including staff at the hospital, indicate that the injured were mostly taxi/motorcycle/truck drivers, and some pedestrians. A few stated that the NATO/ISAF patrol directed pedestrians and vehicles to move aside whilst others stated that NATO/ISAF forces fired indiscriminately as they passed by.

In an effort to verify the exact chronology and actions of all parties to the incident, testimony and information was received from a variety of individuals in Kandahar. However, the exact number of individuals killed and injured by the suicide attack and firing from ISAF remains uncertain as collection of coherent testimony and information has not been comprehensive. Medical staff at Mirwais public hospital in the city said that they received 16 civilians. Of these, seven were injured by bullet wounds and nine by the suicide attack. Two of the sixteen succumbed to their injuries and later died.

According to the Afghan Independent Human Rights Commission's (AIHRC) regional office in Kandahar, 13 civilians were injured by both the suicide attack and ISAF firing. They did not distinguish between those injured by the suicide attack and those subsequently wounded. They also say that three civilians were killed by NATO/ISAF firing, of which two were reported to have been in moving vehicles at the time of the shooting.

It is believed that some were moved to hospitals in Pakistan whilst others were either taken home for burial or treatment.

Following the above incident, the UK military within NATO/ISAF initiated a formal enquiry process to determine whether any individual UK ISAF soldier had violated the rules of engagement and to ascertain whether there were any grounds to initiate criminal proceedings. An After Action Review was also undertaken. It considered whether UK ISAF's standard rules of engagement had been implemented and whether or not any changes were warranted. Following their investigation, NATO/ISAF stated that the soldiers had acted within the rules of engagement, responded to perceived threats in a proportionate and reasonable manner and that the UK military did not intend to take any criminal or disciplinary action against those involved in the event. The After Action Review also concluded that the rules of engagement were sufficient and appropriate and did not need to be revised.

On 14 and 17 December 2006, NATO/ISAF provided their account of the events to UNAMA. While there are no major differences between this and other reports, UNAMA's verification of the events identified some points at variance. These include the number of injured received by the hospital as well as reports of complaints received by Kandahar police from civilians who claim to have been shot at by NATO/ISAF which have not yet been fully investigated by the police.

The UK ISAF Task Force account of the events on 03 December is as follows:

Immediately after the suicide attack, many civilians in the vicinity fled. Several soldiers heard small arms fire and two males were seen to be running towards an injured ISAF soldier “with purpose.” Two or three short bursts were fired by the convoy command and both the men fell. ISAF cannot confirm that the men were killed or injured in this first incident. As the convoy split, an Afghan male riding a motorcycle did not move aside from the path of the ISAF convoy. A warning flare and several warning shots were fired. The motorcycle was then deemed to be a clear threat to the ISAF vehicle and the man was shot once from a 9mm pistol. ISAF does not know whether the man was killed in this second incident.

In the third incident, UK ISAF said that the main convoy was on its way to the pre-arranged rendezvous point when a white estate vehicle approached the convoy from the opposite direction on the wrong side of the carriageway, heading towards the lead ISAF vehicle. The UK ISAF vehicle fired 4 mini flares but the vehicle refused to stop. UK ISAF said that they continued to verbally and physically gesture to the vehicle to stop but the car continued to head towards them. The car was then assessed to be deliberately attempting to ram the ISAF vehicle and one 9mm shot was fired directly at the driver from a distance of 40 - 50 meters. The civilian vehicle left the road. It is not known if the driver of the vehicle was killed or injured.

In a fourth incident UK ISAF reported that a blue pick-up vehicle deliberately drove around an ANP checkpoint, ignored ANP warnings to stop and headed towards the ISAF convoy which had set up a defensive harbor position at its emergency rendezvous point. A warning burst of machine gun fire by ISAF into the ground in front of the vehicle and then a burst into the radiator grille failed to stop the vehicle which was then targeted with heavy machine gun fire.

Update

Public feeling has been running high in Kandahar. Provincial Council and *Wolesi Jirga* members have been vocal in condemning the NATO/ISAF shootings sending a clear message that the incident has led to a further deterioration in relations. In response, NATO/ISAF gave a press briefing to local media in Kandahar answering questions on the incident, which was broadcast on Kandahar TV. Furthermore, NATO/ISAF told UNAMA that they are reviewing their warning systems when travelling in convoys as a mitigating measure; disseminating a ‘radio reel’ which warns civilians to stay clear from convoys and take measures to ensure their own safety. This reel was disseminated on 06 December. A public demonstration was also halted following government intervention and bad weather but public sentiment is negative meaning that agitators could manipulate the political environment should further similar incidents involving NATO/ISAF and civilians take place.

On 17 December 2006, Kandahar provincial police informed UNAMA that they had begun investigations into the background of the civilians who claimed to have been fired at by NATO/ISAF. Preliminary investigations did not find any evidence to suggest that the individuals posed a threat to NATO/ISAF and an examination of the vehicles targeted by NATO/ISAF has not yielded evidence that they contained explosive devices. Disturbingly, Kandahar police report that they have not been granted authorization by the Afghan government to proceed further with the investigation, effectively delaying the investigation process.

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