



General Assembly

Distr.
GENERAL

A/HRC/11/NI/6
2 June 2009

Original: ENGLISH

HUMAN RIGHTS COUNCIL
Eleventh session
Agenda item 3

PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT

Information submitted by the Afghanistan Independent Human Rights Commission*

Note by the Secretariat

The Secretariat of the Human Rights Council hereby transmits the communication submitted by the Afghanistan Independent Human Rights Commission,** reproduced below in accordance with rule 7(b) of the rules of procedures described in the annex to Council resolution 5/1, according to which participation of national human rights institutions is to be based on arrangements and practices agreed upon by the Commission on Human Rights, including resolution 2005/74 of 20 April 2005.

* National human rights institution with “A” status accreditation from the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.

** Reproduced in the annex as received, in the language of submission only.

ANNEX

Insurgent Abuses against Afghan Civilians

I.	INTRODUCTION.....	4
II.	MANDATE AND METHODOLOGY.....	10
III.	FROM INTIMIDATION TO MURDER: INSURGENT ABUSES AGAINST CIVILIANS.....	12
	<i>A. THE INTIMIDATION BEGINS: “NIGHT LETTERS” AND VERBAL THREATS</i>	<i>12</i>
	<i>B. VIOLENCE ESCALATES: ABDUCTIONS AND DESTRUCTION</i>	<i>16</i>
	<i>C. THE ULTIMATE PUNISHMENT: MURDER, MUTILATION, AND MAIMING</i>	<i>18</i>
	1. Shooting of Civilians.....	19
	2. Beheadings, Hangings, and Mutilation.....	21
	3. Suicide Attacks.....	25
IV.	OTHER UNLAWFUL METHODS OF WARFARE: INDISCRIMINATE ROCKET ATTACKS AND THE IMPROPER USE OF MILITARY UNIFORMS	28
V.	FAR REACHING CONSEQUENCES OF INSURGENT ABUSE	30
	<i>A. UNEMPLOYMENT</i>	<i>31</i>
	<i>B. HEALTH SERVICES.....</i>	<i>31</i>
	<i>C. EDUCATION</i>	<i>32</i>
	<i>D. HUMANITARIAN SUPPLIES AND COMPENSATION.....</i>	<i>33</i>
VI.	PERCEPTIONS OF THE GOVERNMENT’S SECURITY FAILURES.....	35
VII.	CONCLUSION	36
VIII.	RECOMMENDATIONS	37

EXECUTIVE SUMMARY

Ordinary citizens increasingly feel the impact of Afghanistan's ongoing armed conflict. Both Anti government elements (AGEs) and other parties involved in the conflict are responsible for violence that affects the civilian population. This report documents how, in their attempts to weaken the Afghan Government, the Taliban and other AGEs are systematically terrorizing the civilian population with "night letters," kidnappings, executions (often by beheading) and other crimes.

In their campaign to undermine support for the Government the Taliban fail to differentiate between military objectives and civilians, targeting civilians intentionally. Their targets include doctors, teachers, students, tribe elders, Ulema Council members, civilian government employees, suppliers and day laborers of public-interest reconstruction projects as well as former police and military personnel. For instance, the simple act of being a civil servant or being friendly with government officials is frequently seen as enough to justify an attack.

In an attempt to further weaken public support for the government, insurgents have also targeted schools, medical services, humanitarian aid and commercial supply lines. These attacks have a severe impact far beyond their immediate victims and the effects of these abuses on Afghan society as a whole will be described, with a focus on the specific areas of social economy, education and health care.

This report focuses on serious violations of Islamic principles, domestic and international law caused by the Taliban from 2006 to mid 2008. The actions documented are in direct contravention to Islamic Shari'a, Afghan domestic and international law. All three sources provide clear strictures about the protection of civilians during armed conflict, which are set out in the report. A panel of respected Islamic scholars has provided a religious interpretation of these breaches, using the principles of Islamic Shari'a. While the Taliban claim to observe Islamic principles, which they consider above the strictures of domestic and international humanitarian law, this claim will be largely disproved.

Alerted by reports from around the country, the Afghanistan Independent Human Rights Commission (AIHRC) conducted a detailed investigation into the allegations of a campaign of terror carried out by insurgents. The team interviewed over 100 victims and witnesses, tribal elders, community representatives and local government officials on the ground, in order to gain an authentic and exact image of abuses against civilians perpetrated by AGEs. The information gathered by AIHRC includes testimonies from the most insecure regions of the country including as the east, south and southeast.

Beyond its specifically informative content, AIHRC makes clear recommendations to all parties in the armed conflict in Afghanistan at the end of this report.

I. INTRODUCTION

A Campaign of Intimidation and Murder

AIHRC has carried out numerous investigations and issued public reports on violations of human rights and international humanitarian law (the laws of war) by Afghan government forces as well as by international military forces. In an effort to provide a balanced and more complete picture of the victims and perpetrators of human rights abuses in Afghanistan, this report focuses on a specific issue of concern regarding abuses by insurgents. It documents numerous violations, which have occurred primarily in 2007 and 2008, and are all related to a targeted campaign of murder and intimidation. The report reveals that the insurgents are methodically issuing written and verbal threats against civilians. If unheeded, these escalate to brutal violence. There is no clear delineation, however, between where intimidation ends and violence begins. Violent acts of targeted assassination are often employed as a form of intimidation. This report shows that while civilians are the victims of insurgent abuses, they are also frustrated with the inability and/or unwillingness for the Afghan government to provide better security for them where possible.

AIHRC does not take a position on the reasons why insurgents are engaged in an armed conflict with the Afghan government and international military forces. However, it is AIHRC's mandate to investigate alleged abuses of human rights and international humanitarian law occurring within the conflict, regardless of whether Afghan government forces, international military forces or insurgents are responsible. Indeed, civilians with no apparent links to the conflict regularly tell AIHRC that they feel trapped between the fear of being attacked by AGE if they do not cooperate with the insurgents and being attacked by Afghan and international forces if they do cooperate.

In an attempt to weaken the Afghan government, insurgents in Afghanistan are systematically terrorizing the civilian population with "night letters," kidnappings, executions (often by beheading) and other crimes. Their targets include doctors, teachers, students, government aligned elders, Ulema Council members, civilian government employees, suppliers and day laborers of public-interest reconstruction work and military bases, as well as former police and military personnel. Others, such as unassociated relatives of civil servants, have also been targeted. (See, *From Intimidation to Murder*, below.) In an attempt to further weaken public support for the government, insurgents have also begun violent campaigns of intimidation against schools, medical services, humanitarian aid and commercial supply lines. (See, *Far Reaching Consequences of Insurgent Abuses*, below.)

Such abuses by insurgent are part of an overall strategy to coerce entire communities into not cooperating in any way with the government, the international community or international military forces. Insurgents take the view that nearly all displays of government strength and support, no matter how insignificant, are legitimate military targets. The simple act of being a civil servant or being friendly with government officials is enough to justify an attack.

The violations cause severe hardships for the entire civilian population, and not just the immediate victims. Attacks against government civilian officials and institutions have increasingly chipped away at the government's ability to provide services to hundreds and thousands of people. Attacks on teachers and schools are preventing children from being

educated. The blockage of medical supplies to villages and the suicide attacks, such as the one at a hospital in Khost, prevent entire communities from receiving medical care. Aid workers who provide humanitarian assistance to those vulnerable and affected by conflict have also been targeted. This has caused the aid providing organizations to stop their work in some parts of Afghanistan. In a recent example of such attacks, on 13 August 2008, four employees of the NGO IRC (including three female international staff) were ambushed and killed in Logar province while traveling to Kabul.

In a country suffering from high levels of poverty and unemployment, threats and murders of people labeled by insurgents as “collaborators” and “spies” is striking such fear into people that they abandon their jobs and sometimes leave their homes. In one story heard by AIHRC, insurgents executed eight day laborers who were traveling home for Eid after completing their work at an American base. It is often the poorest people of Afghanistan who are being threatened, kidnapped, and executed because they work on government or international construction or development projects. AIHRC considers that day workers and suppliers who are employed by military entities may not be targeted unless, at the time of being targeted, they are directly participating in hostilities. It is therefore absolutely prohibited to intentionally target such workers when they are off duty, including when they are traveling to and from places of employment.

The insurgents also show little deference for ensuring the safety of civilians when they attack military targets. Several people who AIHRC heard from reported that their houses were destroyed and relatives, including young children, were injured by insurgent rockets intended to hit a nearby military base. With similar disregard, suicide bombers frequently detonate themselves in overwhelmingly civilian areas and are often disguised as civilians when attacking military targets. This perfidious tactic quickly erodes the fundamental principle of war that a combatant should distinguish himself from a civilian. Insurgents, in violation of international standards, have also disguised themselves with their enemies’ uniforms when carrying out attacks.

Finally, this report documents insurgents executing people they have detained. While international law permits parties to the conflict to legitimately detain certain individuals, there is a strict prohibition on extrajudicial executions and torturing detainees.

Changing Insurgent Tactics

The abuses described above need to be seen in the context of changing insurgent tactics and the increasing persistence and number of insurgent attacks on the civilian population. In November 2001, international military forces defeated the Taliban. But in recent years the Taliban, Hizb-e Islami, the Hakkani network and other anti-government armed groups have re-organized themselves to carry out attacks on the Afghan government, international military forces and civilians. While there were moments of calm after 2001, the period from 2006 onwards saw a dramatic increase in insurgency attacks. Human Rights Watch estimates that insurgent attacks left 1,000 civilians dead and wounded in 2006. The organization counted 189 bomb attacks (including suicide bombers) that killed nearly 500 civilians. Shootings, assassinations, or ambushes killed another 177 civilians. Human Rights Watch also reported that bombing and arson attacks on Afghan schools doubled, from 91 reported attacks in 2005 to 190 attacks in

2006. Suicide bombings increased six to seven-fold between 2005 and 2006.¹ Figures for 2007 show continued increases. The UN Assistance Mission in Afghanistan (UNAMA) reported over 1500 civilian casualties, killed as direct result of the armed conflict, in 2007. According to the UN 700 of these casualties were caused by AGEs, 629 by pro-Government forces and the rest by other or unknown causes such as border clashes or land mines. The civilian casualty figures recorded by the UN and AIHRC show an over 20% increase in first eight months of the year 2008, compared to the same period in 2007. IEDs, suicide attacks and executions by AGEs have resulted in more than 600 casualties in these eight months.

The insurgents are actively seeking out and finding new ways to weaken public support for the government, increase their own support and undermine counter-insurgency activities by the Afghan and international military forces. Taliban strategy and tactics are constantly evolving. Since the Taliban began to reorganize itself after the U.S. invasion, its fighters have moved further inside the country to infiltrate communities and ensure a deeper presence and influence. Ideal target communities for infiltration and intimidation appear to be locations where the government is not strong, but where the people are not fully cooperative with the insurgents either. The strength of the insurgency and its ability to recruit fighters is fed by, amongst other factors, their brutal intimidation of the population, local mistrust and a lack of confidence in government institutions, development, and security as well as peoples' anger with the international military forces for air strikes, night raids, and detentions that negatively affect civilians.

The insurgents have varied their tactics and the size of their fighter groups to better combat the international forces' strong military capability. Suicide bombers, rarely seen in Afghanistan until 2005, are now frequently used and with decreasing "failure" rates. Insurgents have fought off communication intercepts by only infrequently using mobile and satellite telephones and by pressurizing mobile phone companies into switching off antennas located in areas of insurgent operations during nighttime. A police official in Khost informed AIHRC, "AGEs have changed the way of their operations. For instance, [in 2006] they carried out many suicide attacks in Khost province, but [in 2007] they use Improvised Explosive Devices (IEDs) and road side bombs."²

The Taliban have developed and distributed rules and manuals instructing commanders and their fighters how to behave, who to target, and how to conduct attacks.³ In 2008, insurgents demanded that mobile telephone companies shut down their service in the evenings to avoid intercepts. When the phone companies initially refused, the insurgents destroyed towers from each of the four main companies.⁴ The internet and other multimedia sources, such as DVDs, are

¹ Human Rights Watch, *The Human Cost: The Consequences of Insurgent Attacks in Afghanistan*, April 2007, pgs. 3-4.

² AIHRC interview with ANP official, [name withheld], Khost, 28 January 2008.

³ See, Signandsights.com, "a new layeha for the mujahideen," 29 November 2006 (available at <http://www.signandsight.com/features/1071.html>); and Telegraph.co.uk, "How to be a jihadi: Taliban's training secrets," 20 August 2007, available at

<http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2007/08/16/wtaliban116.xml>

⁴ See, for example, UNAMA reports and <http://www.wakht.com/en/002927.php>

used to showcase insurgent abuses, interviews, and other information and are now widely distributed by the insurgents to spread information and propaganda.

An emergent tactic is that of insurgents using Afghan National Army (ANA) and Afghan National Police (ANP) uniforms to disguise themselves during operations. In one such case, insurgents arrived at a check post in two ANP style vehicles, one disguised as an ANP officer and another as an international official. The men then conned 16 ANP officers at the post into the vehicle and later killed them in Malang Kariz area in Kandahar province.⁵ Insurgents also used police uniforms in their widely publicized attack on the Serena Hotel in Kabul in January 2008.⁶

Over the course of the research, government officials often drew attention to the cyclical nature of the conflict and the role regional politics plays. Since the beginning of the conflict, insurgent attacks have always increased at the beginning of the spring season (around the middle of March). The number of attacks tends to drop by late autumn, as the cold weather sets in. Government officials who spoke to AIHRC in the southern, southeastern, and eastern regions noted a reduction of attacks against civilians and combatants in the winter months. However since the conflict began, the overall number of attacks from each year has been rising past the number of attacks from the previous year.⁷ The decrease of attacks during the winter months may be caused by the difficulty insurgents have in carrying out operations in cold weather and supplying themselves through the snow topped mountains as well as the need to rest and recruit after a long season of fighting. Reportedly many insurgent fighters return to camps for training and only a limited number remain, concentrated in a few places they have to hide and carry out attacks from.

Local government officials informed AIHRC that the rate of insurgent violence in Afghanistan is also affected by the situation in its neighbor, Pakistan. The eastern border that Afghanistan shares with Pakistan is widely regarded as a passage route for insurgents who fight against both the Pakistan and Afghanistan governments. According to officials, the rise in battles between the Pakistan government and insurgents in 2007, especially in Waziristan, drew fighters from Afghanistan into Pakistan. The result, they said, was a lull in local violence and insecurity on the Afghanistan side of the border during the winter months while the violence in Pakistan continued. In reverse, a series of peace-deals struck on the Pakistani side in the first half of 2008 led to a noticeable spike of incidents in the bordering areas Afghanistan.

Taliban forces are responsible for many, but not all, of the unlawful attacks documented in this report. Taliban involvement is often indicated by a Taliban spokesman contacting the media and claiming responsibility for an attack. In some cases, an attack follows warnings issued by the Taliban in “night-letters.” In some cases the Taliban also appears to have claimed responsibility for attacks they had not committed. It can be assumed the Taliban is taking advantage of such

⁵ AIHRC interview with government official [name withheld], Kandahar, 2 February 2008.

⁶ Msnbc.com, “Kabul attacker wore police uniform; toll at 8: Pakistan-based militant thought to have masterminded luxury hotel assault,” 15 January 2008, (available at <http://www.msnbc.msn.com/id/22647590/>).

⁷ See graph in Antonio Giustozzi, *Koran, Kalashnikov, and Laptop: The Neo-Taliban Insurgency in Afghanistan* (Columbia University Press: New York), 2008, p. 115.

“common crimes” to opportunistically further its desire to strike fear and assert control in communities.

The insurgency is not monolithic organization. Tensions exist between and within different groups. Hizb-e Islami, once a rival group of the Taliban prior to 2001, began cooperating with the Taliban in late 2002 against the government and its international supporters, but then pulled away in 2006. Several high-level Taliban commanders and their followers have splintered into nascent militant groups. Nevertheless, the Taliban remains the strongest of the insurgency groups in terms of numbers, activities, and organization. The Taliban’s leadership is composed primarily of pre-2001 Taliban members, though allegedly foreign fighters play an increasingly important role in the insurgency. The exact number of Taliban fighters is unknown. Estimates vary considerably but sustained fighting, occasionally occurring large group sizes on the battlefield, and heavy losses indicates a relatively high number of fighters and a substantial recruitment pool.

Legal standards

The abuses documented in this report are contrary to Islamic law, domestic law, and international law.

Islamic Law safeguards the security of civilians, provided they do not take part in combat. The Muslim fighter must differentiate between combatants and noncombatants while fighting the enemy. Every (Muslim) combatant has two duties: The first is to differentiate between the combatants and noncombatants and to only target the combatants. The second is to differentiate between military and nonmilitary target and to only target military ones. Every Muslim fighter, under any circumstances, is bound to target only his fighting enemy. A Hadith of the Prophet Mohammad (PBUH) has certified this matter:

‘At the end of one of the wars against infidels in which the Prophet (PBUH) had participated, he saw that a group of people has gathered. He sent a man to know the reason. The person came back and told Prophet (PBUH) the reason for the gathering is the death of a woman. The Prophet (PBUH) said: Why was she killed, as she surely was unable to participate in the fighting?’⁸

An example of the requirement to guarantee the safety of the civilian population has also been referenced by Shaibani, listing a few of the deeds which are banned during war:

“Whenever the Prophet of God Mohammad (PBUH) sent a group of fighter into battle, he would personally instruct their commander: Have the fear of God, go in the name of God and on the way of God to fight with those who deny God, but do no fraud or disloyalty. You (the fighters) have no right to mutilate or kill the children and those not fighting.”⁹

We have another example of civilian protection being implemented in Islamic history, in the Success of Makka. There the Prophet said: “Whoever goes to Abusufian’s house is safe, and

⁸ Asar-ul-harb P 472 Qastulani V 5 P 152

⁹ Dr. S. Mustafa Mohaqiqdamad, IHL – Islamic Perspectives, p.32

whoever goes to Masjidul-haram is protected and whoever goes to his own house and closes the door is also safe.”¹⁰ As one of the bases for Islamic Law is the Hadith (The Sayings of Prophet Mohammad PBUH), the prohibition of the murder of civilians according to the above Hadith carries significant weight.

Afghan domestic law also imposes a legal obligation on combatants not to commit any war crime while fighting. The recently ratified military panel code foresees penalties for those members of Government forces who wrongly use their power and kill or wound anyone. AGEs who cause any civilian casualties are criminals according to panel code.

International humanitarian law has been accepted throughout the world and, through such wide acceptance, much of it has developed into customary international law. Afghanistan has long accepted this body of law, based primarily on the Geneva Conventions.¹¹ The Organization of Islamic Conferences has invoked international humanitarian law and human rights standards in connection with the Soviet occupation of Afghanistan and civil conflict in the 1990s.¹² Taliban insurgents, too, have sought the protection of the same laws they violate. Taliban officials routinely condemn the US-led military operations in late 2001 for having violated both human rights law and the laws of war.¹³

The international laws of war prohibit the intentional killing of civilians. A civilian is regarded as anyone who is not (*de facto* or officially) a member of the armed forces engaged in a conflict. The protections that the laws of war give to civilians cease, however, when, and only for as long as, civilians take a “direct part in hostilities.” Although there is no consistent legal definition of the term “direct part in hostilities,” it is clear that civilians are not to be attacked when they are not planning, preparing, or carrying out hostilities. In turn, whereas insurgents regard anyone who is working with the government or international forces as a legitimate target, international law prohibits the cases documented by AIHRC of murders of day laborers and suppliers hired by the military while they were off-duty. The intentional killing of *former* police and military personnel is equally prohibited, as they would be classified as civilians.

Moreover, while it may be permissible to target material and objects used for military purposes, such as construction materials for military buildings or roads that can be used militarily, it is not permissible to intentionally target the truck drivers or road workers who carry out these activities. This is analogous to the often cited example that parties to an armed conflict are allowed to intentionally target a munitions factory, but are prohibited from intentionally targeting the factory workers.

¹⁰ Rasooli Mahalati, *The Life Story of Hazrat Mohammad PBUH*, p.539

¹¹ Afghanistan ratified the Geneva Conventions in September 1956, though it has so far not acceded to the Two Additional Protocols.

¹² Human Rights Watch, *The Human Cost: The Consequences of Insurgent Attacks in Afghanistan*, April 2007, p. 82.

¹³ Human Rights Watch, *The Human Cost: The Consequences of Insurgent Attacks in Afghanistan*, April 2007, p. 82.

II. MANDATE AND METHODOLOGY

A. MANDATE OF THE AFGHANISTAN INDEPENDENT HUMAN RIGHTS COMMISSION

The 2004 Constitution of Afghanistan grants the Afghanistan Independent Human Rights Commission (AIHRC) the mandate of, “monitoring the observation of human rights in Afghanistan, to promote their advancement and protection ...” Any person, whose fundamental rights have been violated, can file a complaint to the Commission. The Commission can refer cases of violation of human rights to the legal authorities, and assist in defending the rights of the complainant.”¹⁴

The 2005 Law on the Structure, Duties and Authorities of the Afghanistan Independent Human Rights Commission in conjunction with the Afghan Constitution sets out the full set of responsibilities of the Commission. In addition to investigating human rights abuses, the AIHRC is responsible for engaging in the planning of legal reform, transitional justice, studying effective ways of harmonizing international human rights instruments with Afghan culture and national traditions, and providing guidance and advice to the President of Afghanistan on how to address human rights violations and abuses.¹⁵

The Commission was first conceived of in the Bonn Agreement in 2001 after the fall of the Taliban. Section III (C) (6) of the Agreement stated that the Afghan Interim Administration should, “with the assistance of the United Nations, establish an independent Human Rights Commission, whose responsibilities will include human rights monitoring, investigation of violations of human rights, and development of domestic human rights institutions.” The AIHRC was formally established by decree in June 2002 and given a permanent place in Afghan governance by its incorporation into the 2004 Afghan Constitution.¹⁶ AIHRC operates in accordance with the Paris Principles on independent human rights commissions.

B. METHODOLOGY

This report focuses on war-related crimes committed by armed anti-government elements (AGEs) primarily in 2007 and 2008. The term “AGE” used in this report refers primarily to Taliban forces, but also includes other anti-government groups. The term AGE is used interchangeably with “insurgents” in this report.

The AIHRC is dedicated to conducting independent and objective investigations, reports, and advocacy. The AIHRC has focused on a wide variety of issues without regard to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

¹⁴ *Afghan National Constitution*, Art. 58 (available at <http://www.ag-afghanistan.de/constitution.pdf>).

¹⁵ *Law on the Structure, Duties and Mandate of the AIHRC*, 14 May 2005 (available at http://www.aihrc.org.af/law_of_aihrc.pdf).

¹⁶ See *Decree of the Presidency of the Interim Administration of Afghanistan on the Establishment of an Afghan Independent Human Rights Commission*, 6 June 2002 (available at <http://www.aihrc.org.af/decreeofp.htm>) and *Afghan National Constitution*, Art. 58 (available at <http://www.ag-afghanistan.de/constitution.pdf>).

In previous reports, the AIHRC has investigated and publicly condemned human rights abuses by Afghan government forces and international military forces. The AIHRC has, for example, released public reports on the use of indiscriminate and excessive force against civilians by US forces in Nangarhar province on 4 March 2007, and the excessive use of force by Afghan security forces on protesters in Sheberghan, Jowzjan province on 28 May 2007. Another report of civilian casualties caused by IMF air strikes, house raids and the proximity of their military bases to civilian houses is going to be published concurrent with the publication of this report. The Commission has conducted research and produced reports on child labor and the general situation of women's rights in Afghanistan, as well as on economic and social rights.¹⁷ In each of these reports the AIHRC provided recommendations aimed at the full respect of human rights and international humanitarian law in Afghanistan.

The AIHRC has regularly gathered information on insurgency abuses and issued condemnatory statements. In addition to this information, AIHRC conducted a four week special field-investigation into insurgency abuses in the southern, southeastern, and eastern regions of Afghanistan. The AIHRC conducted fact-finding field research in Kandahar, Khost, Paktia, Kunar, and Jalalabad provinces. Researchers also spoke to people from Uruzgan, Zabul, and Helmand province. Over 100 testimonies were gathered from people living in a wide range of villages, districts, and cities. The AIHRC thus documented over 50 incidents of concern.

Victims and witnesses of these abuses were the primary source of information for this report. AIHRC also spoke with community elders, NGOs, and local, national, and international government officials. Media reports and other sources corroborate many of the testimonies and have reported on many additional cases. A concern for the safety of people who the AIHRC team spoke with prevents many of their identities from being included in this report. Identities are included only if consent was given and if it will not pose a threat.

The AIHRC faced several challenges in their research. This is not a comprehensive report on all abuses committed by insurgents in all of Afghanistan. The AIHRC focused on areas where insurgents are known to be particularly strong and active. Within the southern, southeastern, and eastern regions the AIHRC worked under the challenges of a harsh winter and continued insecurity, making remote travel away from city centers extremely difficult. Nevertheless, the AIHRC visited numerous districts.

Despite the numerous interviews gathered by the AIHRC, the research was also affected by a climate of fear which made several individuals reluctant to speak about insurgent abuses, thereby demonstrating the deep impact these abuses are having on preventing people from talking about their problems publicly. It must be assumed that the insurgents are committing abuses that are never publicly known.

¹⁷ AIHRC, *Investigation: Use of indiscriminate and excessive force against civilians by US forces following a VBIED attack in Nangarhar province on 4 March 2007* (available at <http://www.aihrc.org.af/Investigatoion.pdf>); *Investigation into the shooting of demonstrators in Sheberghan on 28 May 2007* (available at http://www.aihrc.org.af/rep_sheberghan_incident_18_july_2007.htm); *An Overview on Situation of Child Labor in Afghanistan Research Report* (available at http://www.aihrc.org.af/rep_child_labour_2006.pdf); *Evaluation report on General Situation of Women in Afghanistan*; and *Report on Economic and Social Rights* (available at http://www.aihrc.org.af/rep_economic_socail_may_2006.htm).

The research and drafting of this report was completed in coordination with One World Research trainers. In accordance with the Security Council resolution mandate, UNAMA provided logistical and operational support to AIHRC researchers.

III. FROM INTIMIDATION TO MURDER: INSURGENT ABUSES AGAINST CIVILIANS

The AIHRC has documented cases of widespread and systematic intimidation, abductions, shootings, beheadings, hangings, mutilations, perfidious suicide attacks, and indiscriminate rockets attacks by insurgents against civilians around the country and especially in the southern, southeastern, eastern and central regions of Afghanistan over the past two years. Media reports and other sources have corroborated many of the testimonies included in this report and have reported on many additional cases in these and other regions.

The insurgents argue that in their fight against the Afghan government and international forces, anyone associated with their enemy is a legitimate target, including civilians. As a result, insurgents have sought out for punishment doctors, teachers, students, government aligned elders, Ulema Council members, civilian government employees, suppliers and day laborers of public-interest reconstruction work and military bases, and former police and military personnel. Others have also been targeted, including unassociated relatives of persons alleged to have “collaborated” with the Government or international presence. The Taliban has gone so far as to issue death threats instructing family members not to attend burials and memorial services for people who insurgents have killed.

In many cases the violence follows a simple pattern: intimidation followed by execution and other forms of violence. There is often no clear delineation, however, between where intimidation ends and violence begins. The insurgents specifically use targeted assassinations as a form of intimidation, to impact on the [population far beyond the individual victim(s)]. The threatening letter placed on the grave of Sayed Hussein in Khost province demonstrates this connection between intimidation and murder. Sayed was an elder who was said to have had good relations with the local government and was killed in a mosque during prayers. The letter on his grave, which was signed “From Mujahidin of Islamic Emirate,” read:

Respected countrymen, you should know better because we have informed you many times not to spy. Don’t show the Mujahideen’s mines and arms to the infidels and their mercenaries. Yet some people still did this and the result is what you see here for yourself.¹⁸

A. *THE INTIMIDATION BEGINS: “NIGHT LETTERS” AND VERBAL THREATS*

Insurgents generally begin their campaigns of intimidation by issuing individuals with warnings and threats to cease any links with the government or international forces. They also issue

¹⁸AIHRC interview with government officials, [names withheld], Khost, 29 January 2008. (The night letter is on file at AIHRC.)

collective threats against entire communities. In addition to the example given above, the warnings have, for example, demanded that Ulema Council members resign their posts, and that day laborers cease working at the bases of international forces. The threats have promised death if the warnings are not followed. AIHRC documented cases of intimidation in numerous districts in Khost, Paktia, Paktika, Kandahar, Zabul, Kunar, Helmad, and Nangahar.

Warnings most often come in the form of “night letters” placed at a person’s door. In some cases they are found at mosques—a technique used to ensure the threat quickly ripples throughout the community. The insurgents have also abducted people and on release told them to return to their village and spread their warnings. Phone calls have been another method used. Verbal threats, either through direct contact or over the phone, are somewhat less common than “night letters,” but frequently tend to be more “tailored” to their target and thus even more intimidating for their recipients. In one case documented by AIHRC in Khost province in 2007, intimidation came in the form of insurgents blowing off house doors of over two-dozen civilians who were viewed by the insurgents as being aligned with the government.¹⁹ The insurgents have also used intimidation to impose a ban on villagers from traveling to government controlled areas for their daily needs and instruct them to instead travel to Pakistan or insurgent controlled areas. These travel bans were mostly reported in areas along the Afghan and Pakistan border, but were also reported to AIHRC in Helmand.

A man from Zabul told AIHRC on 13 February 2008:

In Zabul province almost everybody who works for, or maintains links in any way, with the government has been issued night letters or phone call threats.

In addition, the Taliban distributed a publication in most of the villages in Zabul. The publication contains religious decrees that make it permissible to kill people who are working for the government. It states that: “Everybody who works for the infidel government even as a messenger deserves death.” The publication further imposes a ban on people not to attend religious burial services of those who work for the government.²⁰

A man from Yaqubi district of Khost province described the content of night letters delivered to his mosque in a nearby village:

So many times night letters were issued. Almost in every Juma [Friday] prayer in our mosque I saw printed night letters sticking on the walls. Their main message was: “Anyone who reports any pending suicide bomber attacks will face death. Do not maintain links with the government as well as with the international forces.”²¹

¹⁹ AIHRC interview with 42-year-old man, [name withheld], Khost, 29 January 2008; AIHRC interview with government officials, [names withheld], Khost, 29 January 2008.

²⁰ AIHRC interview with 59-year-old man, [name withheld], Kandahar, 13 February 2008.

²¹ AIHRC interview with 45-year-old man, [name withheld], Khost, 6 February 2008.

A government employee in Gardez told AIHRC that a community leader was issued night letters after he had assisted the police in carrying dead policemen who had been killed in clashes with insurgents in Paktia. A man from Khost told his story to AIHRC about how he was threatened with night letters for bringing goods from Pakistan into Afghanistan:

I have three vehicles for carrying goods. Before the autumn this year [2007], I used to transport goods from Waziristan and back to Afghanistan. Around five months ago the Taliban issued some night letters in a border area banning those from carrying goods and using the road to Waziristan. My nephew saw the letters. According to him, the night letters contained the drivers' names carrying goods on this road, and it included my name. Because of that I stopped working on that road and parked my vehicles at home. This was my only means of subsistence.²²

AIHRC was shown several night letters written in Pashtu. Below are two examples, which have been translated into English:

Night Letter 1: Dated 17-07-1386 (9 October 2007), distributed in Kunar Province

Announcement

As all dear Afghan citizens know, a military invasion happened and our national dignity has been disrespected and stepped on. Allah and his messenger Mohammad and the book of Allah (Quran), women, Ulemas and tribal elders have been disrespected.

Therefore, is it not legal to conquer the invaders?

The Mujahedin announce again: Don't cooperate with the government, don't spy, [and] don't be recruited to the military or police. If you do not obey... [Illegible]

²² AIHRC interview with 45-year-old man, [name withheld], Khost, 2 February 2008.

Night Letter 2: Undated, distributed late 2007 in Kandahar city

Islamic Emirate of Afghanistan

To X., as per previous announcements that have been give to the people not to work for this puppet government and forbidding people and their relatives to work with any NGOs. If you do not obey and follow this, you will face the consequences and punishment based on the decree of the Ulema Council [a reference to a Taliban Ulema Council].

Therefore you are requested to forbid your family members, such as your sister who is working for XXXX [withheld], from going to such offices. Otherwise the consequences would be the same as those faced by your friend Y in [location withheld], based on the degree of the Ulema Council.

X! We have given you a lot of time, it is enough now. You with Y were having affairs with women and drinking alcohol as well, but you didn't learn your lesson after the shooting of Y.

Now you are continuously doing the same work. You are going to the governor and to Americans every day. We have followed you and you are going and spying.

One Friday you were with your children and your brother riding in an SUV vehicle with a black government license plate and because of the children we didn't do anything. This is your last chance.

[Signed by: MMA]

In a telephone conversation in early 2008, the Taliban demand that a community leader in Kandahar support their fighters once they set up their bases in the southern region of Afghanistan. The community leader who received the call told AIHRC:

A man who lives in Pakistan phoned and spoke to me. He said, "We've already set up our bases in Helmand province and next we are going to establish our bases in Kandahar very soon. So, we demand that you assist us." I told him that I am an old man and what could I do? He said that the function of an elder is this and we want your role as an elder, not as someone else! This phone call concerns me. I rejected his demands, and I know very well the consequences of refusing the Taliban's demands.²³

In mid-2007, the Taliban threatened a family who was preparing to hold a memorial service for a former Paktia soldier who was killed in July 2007 by the Taliban— long after he ceased being a soldier. A family member recalled:

At the end of the day of burial, while we were talking about arranging the memorial ceremony, a convoy of Taliban with many armed men [...] stopped just before us [...] and prepared their weapons for shooting [...] and were saying [...] shoot these men as they are family members of [the soldier] and warned the elders

²³ AIHRC interview with 55-year-old man, [name withheld], Kandahar, 13 February 2008.

not to hold a memorial [...] saying, “He [the soldier] was a Christian... he worked with Americans so refrain from arranging his memorial ceremony.”²⁴

Another man from Zabul province received telephone threats in February 2006 from the Taliban demanding that he stops sending his daughters to school. He told AIHRC:

It was April of 2006 when I received a phone call. The caller started talking to me in a manner as if he was familiar with me. I asked, “Who is speaking?” He said, “I’m seriously talking to you and want you to stop your daughters from attending school or you will face severe consequences and the Taliban will deal with you very seriously.” After receiving this warning I disconnected my phone. Since that time, I have stopped my two daughters from attending school.²⁵

If warnings are not heeded, then intimidation is frequently just a prelude to more serious actions by insurgents. A man from Zurmat district in Paktia informed AIHRC of a tribal council member who was first issued night letters, then orally threatened, and then assassinated by the Taliban in February 2007. Similarly, in this case from Kandahar, intimidation forecast deadly results:

Approximately 20 days before his assassination, on an evening when [the tribal council member] was coming back home from one of his villager’s houses, four armed men introducing themselves as Taliban, stopped him, and verbally threatened him, saying, “Why haven’t you stopped working with the government?” According to the tribal council member, one of the armed men was arguing with the others saying, “Let’s shoot him.” But they stopped him saying, “Do not kill him and give him one more chance since he is an old man.”

After being issued night letters with a final threat, one morning he left home and headed to the district in his Corolla with his son driving and his 15 year old grandnephew. After 15 to 20 minutes on their way Taliban armed men opened fire at his car, seriously injuring the tribal elder and his son. The tribal elder died on his way to the hospital.²⁶

In some cases the escalation of threats happens more slowly. Abductions and destruction are both means favored by insurgents to reinforce the seriousness of their threats.

B. VIOLENCE ESCALATES: ABDUCTIONS AND DESTRUCTION

As part of their intimidation campaign, insurgents have abducted civilian government employees, government aligned community elders, and family members of those working for the government. AIHRC also recorded one case of an abduction of a medical doctor in 2008. People who are released have often been told to deliver threatening messages to their community. In

²⁴ AIHRC interview with 27-year-old man, [name withheld], Gardez, 25 February 2008.

²⁵ AIHRC interview with 59-year-old man, [name withheld], Kandahar, February 2008.

²⁶ AIHRC interview 20-year-old man, [name withheld], Gardez, 25 February 2008.

other cases, the abducted are executed. (See, *The Ultimate Punishment: Murder, Mutilation, and Maiming*, below.)²⁷

A man who spoke to AIHRC reported how the Taliban abducted him in early January 2008 and released him after one night. He was an ex-military officer and was released through mediation of tribal elders and by accepting the Taliban's demand for him to stop his wife from teaching at a school and to deliver a ransom.

A man who transported construction stones was kidnapped in Kandahar in September 2007. He spent almost three months in the Taliban's custody and saw over ten other abducted men while in captivity. In his interview with AIHRC he recalled:

It was around 9:00 am. I was standing in front of my house when four armed men traveling in a white Corolla stopped [...] and said that I was called to come to the district court.... Finally they forced me to get into their car. After we drove roughly for two kilometers, they blindfolded me and tied up my hands with my turban. It was around 1:00 pm when the vehicle stopped and they took me to a room where they tied up my legs too... I knew that the abductors were Taliban because they were talking about how their two Taliban friends were missing and accused me of killing them.

After two hours stay, they again put me into a car and took me after three hours drive to a place, which I did not know. They were threatening me and saying, "We will either kill you or take you to Waziristan and put you in jail. Where are our Taliban? You have killed them."

It was around 1:00pm the next day when we [stopped]. The Taliban tied up my hands and legs with some cloth but no blindfold this time and took me to a room and locked the door. In the room there were around 16 other prisoners. All of them were workers transporting construction stone to Lashkargah. I heard of their release after Eid Al Adhaa.

I remained in Taliban custody in that room for nearly three months. The only reason I was abducted by them, I think, may be that my brother works as a prosecutor. Finally, some of tribal elders mediated and negotiated with the Taliban and after three months I was released."²⁸

Utilizing a different tactic, in June 2007 insurgents carried a systematic and coordinated campaign or terror against elders in several different villages in a district in Khost near the border with Pakistan.²⁹ In the late evening hours of the same night, doors were blown off scores

²⁷ AIHRC also documented a case where ransom, and not political gains, was the primary motivation behind the abduction.

²⁸ AIHRC interview with 68-year-old man, [name withheld], Kandahar, 12 February 2008.

²⁹ AIHRC also documented the case of 85-year-old man who had his door blasted off his house in late 2007 in Khost. It appears he was targeted because he signed personal reference letters for new recruits to the ANA and ANP. AIHRC interview with 85-year-old man, [name withheld], Khost, 29 January 2008.

of houses. Government officials, who AIHRC spoke with, said 29 people were targeted for having good relations to the government and cooperating with its policies. The professions of some of the people targeted included tribal elders, farmers, teachers, a retired colonel, and a member of the *Arbakai* (locally organized community or tribe-based defense forces). Night letters followed the explosions in some villages and instilled further fear in the communities.³⁰

One tribal elder who had the door blown off his house informed AIHRC:

It was 1:00 am. I was asleep in my room when an explosion woke me up. Then I heard more explosions in my village about every 10 minutes. There were a total of 13 explosions that took place that night in my village.

At first, I thought that it was international forces because these forces came six months ago to our village to conduct house searches. When the explosions ended I stepped outside to see what actually happened and to find out whether my neighbors were harmed. When I got out of my house, first I saw nobody around and then I met my neighbor and asked him if any of his family were injured. He said that his house door had also been blown up like mine but luckily they were all fine.³¹

C. THE ULTIMATE PUNISHMENT: MURDER, MUTILATION, AND MAIMING

Insurgents intentionally kill civil servants, Ulema Council members, community elders, members of the clergy, civilian suppliers and day laborers of development projects and military bases, ripping them away from their families forever. AIHRC documented cases of defenseless individuals who were intentionally shot while traveling on a road, beheaded or hanged; mutilated while in the captivity; or killed and wounded by IED and suicide bomb attacks. It is often impossible to determine if a killing was committed in retribution for a person not heeding a previous threat or, alternatively, if it was used to send a message to a community. In many cases it is both; and, regardless, the end result is the same. Life is lost and communities live in fear of it happening again if they do not cooperate with the insurgents.

The abuses target people who international humanitarian law protects. Insurgents duplicitously seek the protection of these laws when it benefits them, while disregarding them and casting them aside as Western, imposed ideas when they launch attacks. Regardless of such double standards, this ignores the fact that the vast majority of the basic protections provided to civilians by international humanitarian law, are also enshrined as clear rules in Islamic Shari'a law (See *Legal Standards*, above).

³⁰ AIHRC interview with two government officials, [name withheld], Khost, 29 January 2008.

³¹ AIHRC interview with 40-year-old man, [name withheld], Khost, 29 January 2008.

1. Shooting of Civilians

In February 2008, Mullah Omar issued a decree denouncing the slaughter of alleged “spies” by Taliban forces. He added that he regretted such murders and that only an Islamic Court has the power to impose a death sentence.³² In some Taliban-controlled areas the insurgents run Islamic courts and AIHRC has documented the case of 16 policemen who were detained by the Taliban and sentenced to death by Taliban judges.³³

In most cases, however, it is difficult to determine for sure whether or not a person was brought before Taliban judges prior to being executed and in many instances this was clearly not the case. Whatever the case may be, under Afghan law neither the Taliban nor any other insurgent groups have the legal right to carry out a death sentence. Under the Afghanistan Constitution of 2004 all death sentences must be approved by the President.³⁴

Below is the story and picture of a 22-year-old man named X who was executed by the Taliban in November 2007 for teaching computers and English at a school in Paktia province. Teachers, schools, and students have been regularly targeted by the insurgents in clear violation of the laws of war.³⁵ A Taliban rule book instructs fighters: “Anyone who works as a teacher for the current puppet regime must receive a warning. If he nevertheless refuses to give up his job, he must be beaten. If the teacher still continues to instruct contrary to the principles of Islam, the district commander or a group leader must kill him.” X was killed in broad daylight in front of his colleagues and students in the school’s courtyard. AIHRC was told:

X and some other teachers were sitting in the teacher’s room. It was about 11:00 am in the morning and five men, armed with AK-47s and wearing simple white hats but not covering their faces, arrived in a white station wagon. They parked their car in front of the school and three of them came out of the car. They went directly to the teacher’s room and started asking the names of each of the teachers. When X told them his name they asked him to follow them. They brought him into the school courtyard where many students were taking their exams.

In the courtyard they searched his pockets and found a mobile phone and some Pakistani Rupees. Then one of the armed shot him eight times in the presence of all the students and a few teachers. He died immediately.

[...] At about 2:00 pm the police found that white car parked in front of a house in the village. The car was covered with a quilt. The police entered the house but they did not find the killers, only two women. While police were searching the house, some people from the hill nearby attacked the police and killed two of them. Two of the killers died in the clash but the other three got away. They found the [victim’s] mobile phone in the pocket of one of the dead killers.

³² <http://dailymailnews.com/200802/04/news/dmtopstory02.html>

³³ AIHRC interview with [name withheld], Kandahar, 13 February 2008.

³⁴ *Afghan National Constitution*, Art. 129.

³⁵ Amnesty International, *All who are not friends, are enemies: Taleban abuses against civilians*, April 2007, p. 17-22; and Human Rights Watch, *Lessons in Terror: Attacks on Education in Afghanistan*, July 2006.

Both of the dead men worked for a strong Taliban commander. Later, the Taliban took responsibility for the incident and claimed that they killed one of the spies for the government and a teacher of English and computers.³⁶

Another teacher, Y, was assassinated in Khost province in April 2007. He was locally well known for “working for his people.” AIHRC was told:

On -- of April 2007 at 5:00pm Y and his friend [a retired military officer] were sitting near a field watching people drilling a well. Two people with covered faces approached them on a motorbike and one of them started shooting their AK-47s at Y and his friend. Y was killed and his friend was injured.

We know that he was killed by the Taliban. He doesn’t have any personal enmity issues. On the other hand, he was a well-known person in this district, and was working for his people. The Taliban don’t like such people.³⁷

During the research for this report, AIHRC documented several cases of insurgents targeting Ulema Council members in Kandahar, Gardez, and Khost. The cases span from 2004 to 2008. In two cases the insurgents killed the members and in another case a member’s son was killed. (See also, “*Night Letters*” and *Verbal Threats*, above.) In other cases, they received night letters and were warned to end their cooperation (whether real or perceived) with the government.

Maulawi Fayaz was the head of the Ulema Council in Kandahar when he was assassinated in 2004 in his office while waiting to sign papers. At Maulawi Fayaz’s funeral a suicide bomber killed and injured people who came to pay their respects.³⁸

Ulema Councils are government paid bodies that are commonly regarded as supporting government policies and provide advice on religious matters to the government upon request. One council member explained to AIHRC: “The AGEs frequently kill and menace the Ulema Council members and threaten all the people to stop working for, or to support, the government.”³⁹

Mawlawi Mohammad Anwar was the head of the Khost Ulema Council when he was murdered in the summer of 2007 in Punkzy area, close to Khost city:

Mawlawi Mohammad Anwar was driving back home [with his son] from the Khost bazaar. It was 3:00 pm when a white corolla overtook him and then slowed down. [...] It stopped in front of the vehicle and some gunmen came out and immediately opened fire on the car. [...] He was killed and [his son] fell unconscious in the seat. The attacker thought [both men] were dead. Later, the

³⁶ AIHRC interview with 53-year-old man, [name withheld], Gardez, 26 February 2008.

³⁷ AIHRC interview with 45-year-old man, [name withheld], Khost, 30 January 2008.

³⁸ AIHRC interview with 38-year-old man, [name withheld], Kandahar, 12 February 2008.

³⁹ AIHRC interview with 60-year-old man, [name withheld], Kandahar, 12 February 2008.

Taliban spokesman Qari Yusuf took the responsibility for the killing of Mawlawi Anwar on BBC.⁴⁰

In October 2007, insurgents killed a group of eight men, the majority of whom were day laborers at an international forces base in Kunar. They were driving home to their families two days before Eid al Fitr when they were attacked. Prior to the incident, insurgents had issued some night letters in Kunar warning the people of working with the international forces. A relative of one of the men killed told AIHRC:

...Two days before the end of Ramadam, when they were coming home after working in a military base as a day laborer were captured by the Taliban and all of them were killed. The next morning we heard news of the assassination of eight workers by the Taliban on the radio by the government.⁴¹

Z, a former soldier who had served in a tribal battalion in Paktia for only three months at the beginning of Afghanistan's political transitional period from January 2002 to 2004 was assassinated on -- July 2007 by insurgents in Zurmat district of Paktia. According to a relative:

Six armed Taliban in a corolla stopped near his house. They had their faces blindfolded. [...] The all started grabbing Z to put him into their vehicle. He was resisting. [...] Then they started shooting at him and killed him. Z's daughter rushed to the site screaming and said to the Taliban, "Why did you kill my father, now kill me as well."⁴²

The recent case of shooting which AIHRC documented is the assassination of the Kandahar court judge Mr. Haji Abdullah and his son Abdurrashid. They both were shot dead on 23rd August 2008 in Kandahar, in front of their house. Government officials claim that the judge and his son were killed by two Taliban fighters riding motorbike.

2. Beheadings, Hangings, and Mutilation

In addition to the cases of shootings documented above, insurgents have employed the gruesome tactics of beheading, hanging, and mutilating people who have allegedly collaborated with the Afghan government or with international forces. Beheadings are one of the most terrorizing forms of death employed by the Taliban. The brutality and disrespect that beheadings, hangings, and mutilations show for the human body, sends a shocking sense of fear throughout entire communities.

Particular target of such attacks have been civilian workers, such as truck drivers or construction laborers, whose work is seen to assist international forces. In areas with a substantial insurgent presence, such as in Uruzgan and Helmand province, those accused of collaboration have been beheaded, hanged, and their bodies have been put on public display. But even in Government

⁴⁰ AIHRC interview with [name withheld], Khost, 31 January 2008.

⁴¹ AIHRC interview with [name withheld], Kunar, 26 February 2008.

⁴² AIHRC interview with 27-year-old man, [name withheld], Gardez, 25 February 2008.

controlled territories there have been several cases of civilian vehicles being ambushed and their passengers being beheaded or mutilated on the spot.

In Islamic Law there are several acts forbidden to the Muslim fighter during war.

“During the war, Muslim fighters are forbidden from committing the following:

1. Cruel deeds and killings. The Prophet (PBUH) has said on this regard “God advises mercy in every thing. Thus, if necessary to kill, kill with justice”.
2. [the killing of civilians]....
3. Beheading captives...
4. Mutilation of human and animals.
- ...
16. Burning of captive human beings and animals aiming to kill...”⁴³

Extrajudicial executions have also been used against military personnel to spread the message about what happens to people, military or civilian, if they work with the government. Many of the protections that the laws of war provide to civilians do not apply to government personnel engaged in the conflict. However, there is an unshakable rule of international law that a person under the enemy’s control, whether civilian or military, cannot be murdered. This rule is based on the notion that if an enemy is under control then he does not pose a threat and therefore there is no reason to kill him. Killing combatants in captivity without any trial contradicts the true ethos of Islam. “According to the saying of Surkhosy, even a responsible commander can not kill a captive and it is only the president who can decide whether to kill the captive or not...”⁴⁴

Despite this steadfast prohibition on the killing and mutilation of people who are in the custody of insurgents, regardless of whether they are civilians or not, AIHRC documented the case of a newly recruited Afghan National Army member who was beheaded by the Taliban in early 2008:

S joined the ANA after he had been assigned by district authorities to patrol and guard a road under construction in the Khia Paro area. It was reported on the BBC Radio News that the on the following day he, his cousin T, and another soldier were kidnapped by the Taliban while they were on the way to work. A month later news radio announced that the Taliban beheaded all four of them and dropped their bodies in the Pul-e Gurdish area.⁴⁵

But beheadings have also occurred in cases, where civilian victims only had the remotest of connections to the Government or international community. The following case concerns four brothers beheaded by the Taliban in December 2007 in Uruzgan. The names of the four brothers were J, a teenager working as a laborer; K, a 25-year-old man who was a day laborer; L, a 50-year-old man former government soldier; and M, a young man who was formerly a government soldier and at the time of his murder was a farmer. Three of the brothers were married and had children.⁴⁶ What follows is the story of the killing of the four brothers:

⁴³ The Muslim conduct of state, being a treatise to siyar,...Mohammad Hamidullah P 232 by Dr. S. Mohaqqiqdamad)

⁴⁴ The Muslim conduct of state, being a treatise to siyar,...Mohammad Hamidullah P 246 by Dr. S. Mohaqqiqdamad)

⁴⁵ AIHRC interview with 25-year-old man, [name withheld], Kunar, 25 February 2008.

⁴⁶ AIHRC interview with 28-year-old, [name withheld], Kandahar, 13 February 2008.

In December 2007, the Taliban took over a small village in the Dehrawood district of Uruzgan and told two of the brothers to leave their homes. The two brothers and their families fled. But when they arrived in the new village they were kidnapped and brought back to their old village. After being brought back, two further brothers living in different villages in Helmand were also kidnapped. One was captured while working on the roof of his home. The other was captured while watering his farm. With the brothers held away from their relatives, the next day Taliban members came to the house and told the remaining family members that they had one hour to leave the village. They rented a car and fled.

On their way out of the village, the family came across the beheaded bodies of the four brothers on the side of the road. The bodies showed signs of gruesome torture. A group of Taliban was with them. AIHRC was told that their hands had been tied behind their back. M's body had had his abdomen ripped open with a knife and the fingers of L were also cut off.

A relative tried to get off the vehicle and pick their bodies up but one of the Taliban came forward and he put his Kalashnikov to his chest and said, "Don't get out of the vehicle or you will be dead just like them." The family requested that the mother be allowed to take her sons' bodies for burial but it was no use. The Taliban refused to allow their mother to take her sons bodies and bury them. According to her "the only thing I could do was see my four dead sons and cry".

The bodies remained there and the family continued on. According to the family they will never go back to "that place that became a hell for us." After seeing the bodies, one of the relatives suffered mental trauma and is still unable to sleep without medication.⁴⁷

Uruzgan province, where several other beheadings and hangings were reported, is one of the most insecure areas of Afghanistan. It is a place where the Taliban has been gaining increasing control. These vicious crimes do not, however, only occur in Uruzgan. The AIHRC also received reports of beheadings in Zabul, Kandahar, Helmand, Ghazni, Nuristan and other provinces in 2005, 2006, 2007 and 2008.⁴⁸

For example, in November 2007, the BBC reported other cases of beheadings and a hanging:

Police in Afghanistan say that Taliban insurgents beheaded a man and a woman on accusations of spying for international forces. According to reports another woman and two men who were captured on the same day by the Taliban have been released. The five people were captured from Karabagh District of Ghazni province south of Kabul. Earlier, the Taliban announced that a 15-year-old child had been hanged on accusations of spying for American forces in southern Afghanistan.⁴⁹

⁴⁷ AIHRC interview with 28-year-old man, [name withheld], Kandahar, 13 February 2008.

⁴⁸ AIHRC interview with 59-year-old, [name withheld], Kandahar, 13 February 2008.

⁴⁹ BBC News, "Taliban beheaded two people on accusations of spying," 3 November 2007 (available at www.bbc.co.uk/persian/afghanistan/story/2007/11/071103_v-taleban-hanging.shtml), translated by AIHRC.

In July 2008, the pictures of two executed women wearing burqas were released by Associated Press. The execution of these women had been filmed and made available to the national and international media. The movie clip shows the two women as they are shot in the head and later beheaded. The beheaded bodies were left on public display at the execution spot as a warning to the local population. Taliban fighters, who executed the women, claimed that they were both executed for allegedly running a prostitution ring catering to US soldiers and other foreign contractors at a US base in Ghazni city. However, it is clear that the women had not been given the chance to defend themselves against these charges before a court or judge.⁵⁰

In a different incident, reported in a *DW-WORLD.DE* Dari language news release, three people were hanged in southern Afghanistan by insurgents in February 2007. A policeman who was interviewed by reporters said one of the persons killed was a policeman who had surrendered to insurgents. According to the release, the people were accused for being spies for American and NATO forces. Taliban spokesman Yousaf Ahmadi confirmed the report.⁵¹

In some incidents insurgents have used mutilation to send a message to their victims. The 2007 AIHRC report “*Violations of International Humanitarian Law in Afghanistan, Practices of Concern and Example Cases*” documented, amongst other cases, the mutilation of two truck drivers who were supplying food to NATO/ ISAF forces in the Kamdesh district of Nuristan on 17 March 2007. The report described the case in disturbing detail:

The trucks were traveling to Asadabad in Kunar province when at around 1:45 pm their way was blocked by a group of men in military-type uniform with black hats, who were armed with Kalashnikov rifles and rocket launchers. One of the drivers managed to escape but the other two drivers along with two conductors were captured by the antigovernment elements and immediately beaten and tied up. They were then robbed of all their personal items and some of the attackers shot holes into the gas tanks of the vehicles and set the three trucks on fire. All were completely burnt.

While the vehicles were burning the two drivers were forced to their knees and both had their left ear cut off with a knife. One victim explained that the other man’s ear was still hanging from his head but that his own ear was severed entirely. After this assault the attackers told the victims to run away but then started firing at the ground in close proximity to their feet with the intention of further terrorizing them. They forced them to change direction several times and only ceased scaring them after around another ten minutes of shooting and threats. Eventually the men were allowed to run far enough to hide behind a large rock, though by then they were severely panicked and crying and two of them fainted a number of times. When they finally moved back to the road and flagged down a vehicle the insurgents reappeared and opened fire on the vehicle, causing it to crash into a wall. Only when the victims then returned to the site of the original attack

⁵⁰ (AP Photos/Rahmatullah Naikzad)

⁵¹ dw-world.de, “Taliban hangs three on allegations of spying” (available <http://www2.dw-world.de/dari/Afghanistan/1.214088.1.html>), 16 February 2007, translated by AIHRC.

they were rescued by NATO/ ISAF forces that had been alerted by the smoke coming from the truck and arranged for medical treatment.⁵²

In a more recent incident in August 2008, Taliban mutilated a school teacher in Severy district of Zabul province. The head of Zabul Education department informed the media that the teacher of a recently inaugurated school was first beaten by Taliban forces and later had both of his ears cut off. He added that 12 other tribal elders who had participated in inauguration ceremony of the school were also beaten.⁵³

3. Suicide Attacks

Suicide attacks have been on a sharp rise in 2006, 2007 and 2008.⁵⁴ On several occasions insurgents have used suicide attacks to intentionally target and kill civilians. In many other cases bombers have killed and injured numerous civilian bystanders while trying to attack military targets.

Suicide bombings are generally carried out in a perfidious manner. In other words, the attackers use the protections of warfare — such a dressing as a civilian, pretending to surrender, or feigning injury — to gain the trust of their opponent for the purpose of attacking them. Perfidious attacks chip away at the fundamental rule that fighters must distinguish themselves from civilians. The more they are used, the more the parties to the conflict suspects that people dressed as civilians may attack them. The ultimate consequence is that true civilians are mistaken as fighters in disguise.

As suicide attacks are a relatively new tactic of harming or killing the enemy, there is nothing mentioned in Islamic history regarding such attacks. But in view of the way suicide attacks are carried out, most Islamic scholars have condemned them. Below is the translation of a paragraph in a declaration by the Indian Dar-al-ulom of Dewband condemning suicide attacks:

“Suicide attacks, from an Islamic point of view, are not allowed and are abominable. There is no basis in Shari’a and the Muslim religion to legalize them, because suicide attacks come with committing suicide which is *haram* in Islam. Human beings are not the owner of their lives as it is God the Almighty who is the owner of lives. For the certainty of this great fact, the scholars of the Indian Dar-al-ulom of Dewband have passed a declaration in which they declare that suicide attacks, which cause the killing of innocent people, are an act against Islam and humanity. [...] Suicide attacks all over the world, but especially in Afghanistan and Iraq where most of the time such attacks kill civilians, are abominable.”⁵⁵

⁵² AIHRC, *Violations of International Humanitarian Law in Afghanistan Practices of Concern and Example Cases*, (available at http://www.aihrc.org.af/IHL_practices_and_examples_final_Coalition_Vioalatioin.pdf), p. 3-4.

⁵³ Arman Milli daily newspaper, Date, 15/09/2008, S. No 1286

⁵⁴ United Nations Assistance Mission to Afghanistan (UNAMA), *Suicide Attacks in Afghanistan (2001-2007)*, 1 September 2007, p. 42.

⁵⁵ See <http://www.bakhtarnews.com.af/?Lang=D&ContID=5084>

Given this and many similar declarations by Islamic scholars there is no legal basis in Islam for committing suicide attacks against civilians, in an indiscriminate, disproportionate or perfidious manner.

In one case documented by AIHRC, a suicide bomber dressed as a medical doctor detonated himself inside a hospital in February 2007, attempting to kill the Governor of Khost. At the inauguration ceremony of a new hospital emergency room in Khost, a suicide bomber dressed in a white laboratory coat tried to pass hospital guards and U.S. soldiers at the gate of the hospital. With no regard to the damage he would cause to the medical facility or civilians in the area, the man in the lab coat sought out the Governor of Khost who was attending the ceremony. The ceremony was also attended by members of nongovernmental organizations, medical doctors, Provincial Reconstruction Team members, and other government officials. Detonating himself before he could reach the Governor, AIHRC was told that seven people were injured in the attack, including military and police personnel.

The Governor of Khost recalled:

In February 2007 there was an inauguration ceremony in the Khost city hospital. I was invited there to talk. When I finished my talk and was sitting, facing the crowd, I saw some people rushing around. Some people said to me that they had heard a voice saying “*Allah’o Akbar*” and others said there was a suicide bomber but I myself heard nothing. Everyone was moving towards safety but I did not go anywhere.

I was asking the people around me what was happening, but no one answered. Then I saw the American forces struggling with a person who was wearing a white coat like doctors wear. He was showing his clothes under the gown and shouting loudly, “Nothing is with me.” The American soldiers shot him in his legs and the person dropped down. Then there was a huge explosion.

I was so near to death. I saw the suicide attacker’s body parts spread all around me. The attacker was so near to me. [...] He blew himself up just 13 meters from me.⁵⁶

A hospital staff member recalled the same attack:

A man wearing a doctor’s white coat was stopped at the main gate of the hospital by the guards. The attacker attempted to gain entry but an American soldier tried stopping him. By this time all the participants [of the ceremony] had moved to a safe place. Then we heard some firing outside followed by a big explosion. We were called to come out and told that everything was under control.

⁵⁶ AIHRC interview with Khost Governor, Arsala Jamal, Khost, 3 February, 2008.

That was a big and important incident, and at that time I was thinking only about the health condition of Khost's people. If we had been killed in that incident who else would have been there to take care of all these people in need?⁵⁷

After this incident, a man from Pakistan called the Governor. The man complained that he had lost one of the best and most intelligent bombers and that his group still intended to kill the Governor. The telephone call was followed by two unsuccessful assassination attempts in August and October 2007. Both missed their target but killed and wounded people in the surrounding areas.⁵⁸

In September 2006, at a time when suicide bombings were on the rise in Afghanistan, a child dressed in civilian clothes escaped the notice of the guards at a large funeral of the Governor of Paktia and detonated himself in mix of civilians and police. The Governor himself had been killed by a previous suicide bombing on September 10 2006. A man who attended the Governor's funeral and witnessed the bombing told AIHRC what he remembered of this perfidious attack:

On the day of the funeral a lot of people including me and my friends gathered in the Governor's office of Khost [the funeral ceremony took place in Khost as this is where the Governor of Paktia was from]. When we reached there, ANA, National Security, and ANP personnel, as well as other national forces, were guarding the area. Four helicopters brought guests and the corpses of Mr. Taniwal and two of his family members. A few ISAF helicopters were also moving around for security.

Around 1,000 people had gathered. Some of the policemen had made a chain to guard the helicopters. When Governor Taniwal and his family members were buried it was around 1:30pm and the guests went to depart on the helicopters. Some of them were already inside the helicopters and a few others were getting ready to get in.

I saw a boy, who was about 16 years old and wearing normal clothes, running towards the helicopters. I asked my friends why he was running. They said that since this was a rural area the children had not seen helicopters before and he probably wanted to see it from close up. However, when he reached the police chain they asked him to stop but he didn't. Then he exploded the bomb that was tied to his body.

I was just a few meters away from the explosion. I saw many people injured who were bleeding. After the attack I was told that nine policemen had died and more than fifty policemen and other people had injuries. [...] Later I heard more

⁵⁷ AIHRC interview with 42-year-old man, [name withheld], Khost, 1 February, 2008.

⁵⁸ AIHRC interview with Khost Governor, Arsala Jamal, Khost, 3 February 2008.

complete information about the dead and wounded people. Eleven policemen and two other people died, and 60 civilians were injured.⁵⁹

IV. OTHER UNLAWFUL METHODS OF WARFARE: INDISCRIMINATE ROCKET ATTACKS AND THE IMPROPER USE OF MILITARY UNIFORMS

Indiscriminate Rocket Attacks

In the course of researching this report AIHRC has also documented indiscriminate rockets attacks by insurgents in Kunar province. Kunar province is located in a mountainous strategic area where insurgents carry out operations against the government and international forces. The relevant attacks were directed against an American military base during the second half of 2007. However, instead of hitting their targets, the vast majority of the rockets fired landed in an adjacent village, killing seven people and injuring several others as well as destroying houses and property.

A 17-year-old boy from the village told AIHRC:

In the middle of 2007 at 3:00 pm while me, my father, mother, and brothers and sisters were sitting in the yard a rocket suddenly hit our house and exploded. I lost my left leg. My father, my 8-year-old nephew, and my brother's wife were injured. My mother and my 8-year-old sister were killed. My father was teacher but after he was injured in that incident he quit his job and now he's jobless.

My house is near to the American base. It was not the first time this happened. In this area, now and then rockets are fired by the AGEs on the American base. But they never hit the base. They always hit civilian houses that are located nearby.⁶⁰

A man from the same village told a very similar story of what happened to him and his family that day:

In the middle of 2007 at 3:00 pm while I was away from my house, my home was hit by a rocket. It killed my wife and my son. It injured my daughter and my house was destroyed. Since our house is near to the American base, the Americans came and took my daughter to get treatment [...]. She was in Bagram getting treatment for 25 days but she lost her right leg.⁶¹

While the damage caused by the rockets missing their intended target may not have been intended, insurgents are still responsible for choosing to continue lobbing these poorly guided rockets despite the foreseeable consequences. The attacks, although not directed at civilians *per se*, carry the message that the insurgents care little for civilian life. They thus further contribute to the already enormous feelings of fear and constant danger that permeate people's everyday

⁵⁹ AIHRC interview with 40-year-old man, [name withheld], Khost, 31 January 2008.

⁶⁰ AIHRC interview with 17-year-old male, [name withheld], Kunar, 24 February 2008.

⁶¹ AIHRC interview with 40-year-old man, [name withheld], Kunar, 24 February 2008.

lives. Although most villagers denied being harassed by insurgents prior to the rocketing, a farmer from the village told AIHRC that the Taliban had delivered night letters and told the community to leave the area or to fight the Americans.

Rockets fired from a distance may miss their intended target. If the target is in a remote area then a failure to hit it may not harm civilian property and lives. But if a target is near a village or in a civilian area then Islamic Law requires Muslim combatants not to fire on such a target unless it is absolutely necessary.

“In some cases, for example in a siege, one should fire on the enemy from distance only if it is truly necessary. [This is because] most of the time, living inside the siege area, there are not only civilians but also neutral people, Muslim travelers or Muslims in captivity. Also, sometimes the enemy may have hidden themselves behind women and children or Muslims in captivity – in all such cases it is asked of Muslim soldiers that if they at all can they must not harm these civilians.”⁶²

Use of Enemy Uniforms as a Disguise

Another unlawful method of warfare that AIHRC documented in the course of researching this report involves insurgency fighters disguising themselves as Afghan government forces while carrying out attacks. In one incident in Kunar for example, the victim of a Taliban house search describes the insurgents thus:

They brought me out of the room where I saw many other Taliban. They were about 20 people. Some of them had ANA uniforms, some others had US marine uniforms and the rest had no uniforms, but all of them had masks on their faces...⁶³

Similarly, in a previously discussed incident (See, *Introduction – Changing Insurgent Tactics*, above) insurgents abducted and killed several policemen in Kandahar by disguising themselves in ANP uniforms. Insurgents arrived at a check post in two previously captured ANP vehicles, disguised as an ANP officer and one as an international official. The men then conned the 16 ANP policemen at the post into the vehicle and abducted them. All the abducted men were later killed in the Malang Kariz area in Kandahar province and their bodies put on public display in different districts around Kandahar.⁶⁴ Media outlets have also reported this practice of using enemy uniforms as a disguise on several occasions. In early April 2008, for instance, the Associated Press reported that the Taliban leader Naqibullah was captured after being with “a group of militants dressed in police uniforms who ambushed a police convoy north of Helmand province's capital of Lashkar Gah.”⁶⁵ Insurgents also used police uniforms in their widely publicized attack on the Serena Hotel in Kabul in January 2008.⁶⁶

⁶² The Muslim conduct of state, being a treatise to siyar,...Mohammad Hamidullah P 260 by Dr. S. Mohaqiqdamad)

⁶³ AIHRC interview with 25-year-old man, [name withheld], Kunar, 25 February 2008.

⁶⁴ AIHRC interview with government official [name withheld], Kandahar, 2 February 2008.

⁶⁵ Associated Press, “2 police killed in Afghan suicide attack,” 1 April 2008 (available at <http://news.yahoo.com/s/ap/afghanistan>).

⁶⁶ Msnbc.com, “Kabul attacker wore police uniform; toll at 8: Pakistan-based militant thought to have masterminded luxury hotel assault,” 15 January 2008, (available at <http://www.msnbc.msn.com/id/22647590/>).

Arguably, the customary international law governing non-international armed conflicts prohibits fighters from cloaking themselves in their enemy's flags or military emblems, insignia or uniform. The tactic is clearly prohibited under Afghan domestic law. As well as a rule of customary international law that pertains to international armed conflicts.⁶⁷

V. FAR REACHING CONSEQUENCES OF INSURGENT ABUSE

The abuses documented in this report have far reaching consequences. Indeed, the intent of each individual attack is usually not only to punish the specific victim, but to punish or intimidate entire communities. Also, the damage caused by attacks on hospitals, doctors, medical and other humanitarian aid targets, civilian supply lines, truck drivers, teachers, and schools reaches far beyond the physical targets and insurgents are fully aware of this. With the number of insurgent attacks continuing to increase and the already extremely serious impact of three decades of war, the cumulative damage affecting the civilian population is mounting.

In 2006, as well as in 2007-2008, AIHRC conducted surveys on the realization of economic, social, and cultural rights in Afghanistan. The 2007-2008 report surveyed 15,566 people living primarily in rural areas throughout Afghanistan (45.2% with women and 54.8% with men). The survey covered 33 of Afghanistan's 34 provinces.⁶⁸ The statistics gathered from that survey, combined with the abuses documented in this report, demonstrate how the insurgents are severely aggravating and exploiting the poor day-to-day living conditions of the Afghan people.

In a country where employment opportunities are limited, when one truck driver is killed for bringing supplies from Pakistan to Afghanistan, other truck drivers may cease their activities. The result is a cutting off of civilian supply lines, unemployment, and lack of family income. Similarly, in a country with a weak health system attacks like the suicide bomb in the Khost hospital emergency room threaten to severely limit the ability of many civilians to access medical care. The intimidation of doctors and the blocking of the transporting of medical supplies have the same effect. With rates of education low, assassinations of teachers limit even further the ability of students to gain an education. When insurgents demand that one student stops going to school, other students stop attending class as well. Attacks against day laborers and the development projects they are working on shatter public service initiatives that are aimed at improving the lives of entire communities and regions.

Islamic Law forbids abuses that impact on entire communities. We have a precedent for this in the 6th Islamic year:

Samama, the head of Yamama tribe, blocked the supply of grain to Makka to compel the citizens of Makka to change their religion to Islam. But when as a result of the lack of food and grain there was famine in Makka, the citizens called on the Muslims to stop the

⁶⁷ Afghanistan Panel Code Article 455 and pg. 217 of ICRC customary law rules.

⁶⁸ AIHRC, *Economic and Social Rights in Afghanistan II*, August 2007 (available at http://www.aihrc.org.af/Rep_ESRII_Eng_Full_Text_30_Aug_2007.pdf), p. 10 and 11. The 2007-2008 ESCR report was not yet released publicly at the time of research.

prohibitions. The Prophet Mohammad (PBUH) wrote to Samama and ordered him not to block [these essential] supplies.⁶⁹

Not only humanitarian supplies but also other social interactions like access to health services⁷⁰, trade,⁷¹ employment and education⁷² are protected by Islamic Law.

A. UNEMPLOYMENT

Many people are in dire need of work and a source of income in Afghanistan. A total of 35.2 percent (3,899 people) of the people interviewed for the 2006 ESCR report were not engaged in any economic activity. Of those who did have an income 60.3 percent (4,252) said that they earn less than 50 Afghanis per day, while only 39.7 percent (2,800) said they were earning more than 50 Afghanis. In the ESCR survey of 2007-2008 the number of people not engaged in any economic activity has increased to 39.5%. It is likely that much of this increase is due to the increasing instability and insecurity around Afghanistan.⁷³

Despite high rates of unemployment in Afghanistan, insurgents often force people to choose between either risking their life for work or making no money. A 35-year-old man who worked on a bridge construction project in Panjwaee District witnessed the bridge get destroyed by an insurgent bomb in late January 2008. Risking the threat of further attacks, he continued to work on the project even after this attack. Explaining his decision, he told AIHRC: “I continued to work on the blood stained bridge until it was completed because I had and have no way of subsistence to live and to support my family.”⁷⁴

Similarly, a 30 year old man who worked for the Provincial Reconstruction Team in Khost Province received four night letters from the Taliban warning him to leave the job. The last letter arrived in March 2007. Shortly afterwards he told AIHRC that he refused to leave: “The letters told us to quit our jobs with the Americans. They wrote down our names in the night letters. But we weren’t in the position to leave our jobs because that was the only source of livelihood for our families.” Two weeks later he and three of his relatives were ambushed by the Taliban near their village. Two of them were injured and the other two were killed.⁷⁵

B. HEALTH SERVICES

Insurgent abuses are weakening the already fragile health system in Afghanistan. The most vulnerable members of society – children, mothers and the elderly – are the worst impacted. AIHRC documented cases in Southern and Southeastern Afghanistan where insurgents directly

⁶⁹ Abn-Aseer, Al-Nehaya V=1 P=247

⁷⁰ “...If God gifts you health, respect it...” Hazrat Ali speech No. 98 Nahjulbalagha by Lahegi

⁷¹ “...Traders are calm people and there is no threat from them. They are peaceful people who do not trouble...” (Islamic government) Hazrat Ali latter No. 53 Nahjulbalagha by Lahegi

⁷² (...before you get indulge in yourselves, extract knowledge from its mines...) Hazrat Speech No. 105 Nahjulbalagha by Lahegi

⁷³ AIHRC, *Economic and Social Rights in Afghanistan II*, August 2007 (available at http://www.aihrc.org.af/Rep_ESRII_Eng_Full_Text_30_Aug_2007.pdf), p. 14, 18, and 19.

The 2007-2008 ESCR report was not yet released publicly at the time of research.

⁷⁴ AIHRC interview with 35-year-old man, [name withheld], Kandahar Province, 13 February 2008.

⁷⁵ AIHRC interview with 30-year-old man, [name withheld], Khost Province, 30 January 2008.

prevented people from going to local clinics and health centers and instructed them instead to go to Pakistan for treatment. A tribal elder living in Kandahar city told AIHRC, “The Taliban warned people in Arghestan District not to go to Kandahar city and other areas controlled by the government. They further instructed people to travel to Pakistan to get their daily life necessities, and included patients having to go to Pakistan.”⁷⁶

But other factors also limit people’s access to a public health services. General insecurity prevents medical professionals from accessing provinces to provide medical services for people in need. For example, polio in Afghanistan is localized to the south and the insecurity in that region impedes polio vaccination from reaching affected children.⁷⁷

Medical staff are regularly threatened, taken hostage and targeted in attacks. Two WHO doctors were killed in a suicide attack on 14th Sep. 2008, while they were traveling in a “UN” marked vehicle towards Spin Boldak town near Pakistan border. A 48-year-old man from Kandahar Province told AIHRC about a doctor from a village who was abducted by the Taliban:

“The Taliban took a doctor from our village into captivity at the end of 2007. For nine days the doctor was with the Taliban. When he was released the Taliban warned him to stop his work and close his private clinic in the village. The doctor is now at his home and does not treat anyone. This winter, up until now, six people in our village have died from diseases because there was no medicine in our village and patients lost their lives before they could be taken to the Kandahar hospital.”⁷⁸

A 19-year-old man in Kunar who the AIHRC spoke to in February 2008 said that the Taliban restricted him from importing medical supplies to his community. He then tried importing wheat, but the Taliban’s restrictions on cross-border commerce forced him to close this business as well.⁷⁹ The 19-year-old also told AIRHC that his brother, who was working as the head of a development committee and traveled in late January 2008 to Pakistan to close their business accounts, had been kidnapped by the Taliban and executed with a single gunshot to his forehead.⁸⁰

C. EDUCATION

The 2006 AIHRC study into the economic, social, and cultural rights of Afghans revealed that 94.4 percent of interviewees stated that education facilities were available. But this figure masks the reality that only 68.5 percent of interviewees said that their primary school-age children are attending school regularly. Of that figure, only 73.6 percent said that their boys go to school regularly and that only 63.3 percent of interviewees said their girls go to school regularly. Conditions worsened in the years 2007-2008. Despite more or less stable availability of education facilities, the new AIHRC survey noted a decrease in attendance of 8% for boys and 10.5% for girls among those who regularly go to school. Again, the decline is arguably linked to

⁷⁶ AIHRC interview with tribe elder, [name withheld], Kandahar Province, February 2008.

⁷⁷ Ministry of Public Health, UNICEF, and WHO Joint Press Release, *September Vaccination Rounds in High Risk Areas, Afghanistan Polio Eradication Initiative*, 24 September 2007 (available at <http://www.moph.gov.af>).

⁷⁸ AIRHC interview with 48-year-old man, [name withheld], Kandahar Province, 13 February 2008.

⁷⁹ AIHRC interview with 19-year-old man, [name withheld], Kunar, 24 February 2008.

⁸⁰ AIHRC interview with 19-year-old man, [name withheld], Kunar, 24 February 2008.

increasing insecurity and in particular to threats and attacks against schools and families who send their children there.⁸¹

When insurgents attack schools, teachers and students, their intent is to destroy the education system in Afghanistan at any cost. In addition to the education related abuses documented in this report, UNICEF has reported numerous attacks such as this one:

On Monday, July 9 2007, two rockets fired by militants struck a primary school in Kunar province, killing one child instantly and injuring three other children. That same night, a school was burnt in Ghor province. In addition, today a suicide bomber hit an Uruzgan province marketplace filled with schoolchildren.⁸²

A 2006 report by Human Rights Watch revealed the widespread nature of insurgent attack on Afghanistan's education system. The organization received reports of at least seventeen assassinations of teachers and education officials in 2005 and 2006; and the report documents more than 204 attacks on teachers, students, and schools between January 2005 and June 21, 2006.⁸³ According to all available information the situation has become significantly worse since then and attacks on schools continued to increase throughout 2007 and 2008.

The impacts of these attacks were widespread then what was reported earlier. The Afghanistan Ministry of Education said to the commission that about 42% of schools in Kandahar and Uruzgan provinces, 49% in Paktika, 69% in Zabul and 59% in Hilmand Province were closed this year due to the increase of insurgent activities in these areas. The ministry reported of the killing of 357 students and teachers during last year, but and a sharp increase is seen this year with the 226 assassinations in the last 7 months of the current year. The number of *Shabnama* (night letters) and intimidations have also increased from 57 case for the last year to the 54 cases in the last seven months.

D. HUMANITARIAN SUPPLIES AND COMPENSATION

In their attempt to undermine the Government the insurgents seem to leave no stone unturned, regardless of the cost to civilians' lives. AIHRC documented a number of cases in which insurgents "confiscated" humanitarian supplies provided to villages by the World Food Program, Provincial Reconstruction Teams (PRTs) or other organizations. There was also a case of insurgents taking away PRT-provided compensation payments for road construction that was taking place on people's land.

In one case in Kandahar, a 48-year-old man told AIHRC on 13 February 2008, that two months before insurgents had harassed and kidnapped villagers after the Kandahar PRT distributed 200 kilograms of wheat, two gallons of oil, three blankets and other items each to 300 families over a three day period. He recalled:

⁸¹ AIHRC, *Economic and Social Rights in Afghanistan II*, August 2007 (available at http://www.aihrc.org.af/Rep_ESRII_Eng_Full_Text_30_Aug_2007.pdf), p. 33-35.

⁸² UNICEF, *Statement by Catherine Mbengue, UNICEF Representative to Afghanistan, on the continued attacks on schools and schoolchildren in Afghanistan*, 10 July 2007 (available at http://www.unicef.org/infobycountry/media_40290.html).

⁸³ Human Rights Watch, *Lessons in Terror: Attacks on Education in Afghanistan*, July 2006.

On the afternoon when the distribution trucks left the area some armed Taliban came and took some of the aid. They said to us that the aid was from the non-believers, which is religiously prohibited. On the second day they did not come. But on the third day in the afternoon about 10 armed Taliban arrived in a Toyota vehicle and asked us to collect all the aid and give it to them. We refused. They got angry and chose eight people [including myself]. They told us to get into the vehicle and took us away.

We were kept there for 70 hours. The insurgents were behaving rudely and time and again demanding that they be given the aid. But they did not beat anyone of us. It was about 5:00 pm in the evening of fourth day when the people who were kidnapped heard the loud sound of shelling. The international forces were firing on the Taliban camp. The Taliban fighters, before escaping from the area, released all of us.⁸⁴

A farmer and land owner informed AIHRC of the Taliban coming to take away money given to people in Kandahar by the PRT for a road that was being constructed on their land. The incident occurred in early 2008. The farmer told AIHRC:

The international forces came and made a road in our area. The road passed through a lot of people's personal lands and house walls. People's trees also needed to be destroyed. The international forces said they would pay for the destruction and for the land. I personally lost the walls of my property and some trees. Part of my land was also used for the road. The PRT gave 10,000 Afghanis to my son for all the damages and land that was used for the road. .

Two days after the money was distributed the Taliban came to our village and asked the people who got money and where the money was. It was afternoon and I was in the mosque for prayer. On the way back to my house the Taliban stopped me and said, "Why did you take the money from the foreigners when they were distributing the money? We got information about you all. Now you have to give the money to us."

I told him that we were the ones who had suffered the damages. The Talib said, "If I prove that you have their money I will tie you to a tree." In the meantime, the Maulawi of the mosque was standing with me and he asked the Taliban if he was willing to beat Muslims as well? The Taliban said, "Yes, we also beat Muslims and we are the one who killed Maulawi Fayaz, the head of Ulema Counsel in Kandahar." [See also, *Shootings, Beheadings, Mutilations, and Hangings*, above.]

On that day I didn't give them the money, but lots of other people got their money and [gave it to the Taliban]. The next day, the Taliban came back and said that they wanted all the money that was given by the PRT because they had been asked by their elders to collect all the money from everyone. And so they took all the money from us.⁸⁵

⁸⁴ AIHRC interview with 48-year-old man, [name withheld], Kandahar, 13 February 2008.

⁸⁵ AIHRC interview with [name withheld], Kandahar, 13 February 2008.

VI. PERCEPTIONS OF THE GOVERNMENT'S SECURITY FAILURES

During the research for this report, Afghans voiced a wide spectrum of complaints about the government's failure to provide them with adequate security. Some also aimed their anger at international military forces. Lack of willingness, resources and training as well as abuses of power topped the list of complaints. Corruption and poor communication between different security agencies were also mentioned. People said that besides undermining their security, these problems limited their access to justice and left them outside the protection of the law.

It is difficult to determine in a conflict scenario when government forces are fully to blame for not taking appropriate action to protect their citizens. Nonetheless, it is clear that many Afghans feel that far more could be done to improve their security and combat the abuses documented throughout this report. What follows are various quotes from individuals about the shortcomings of their Government:

We complained to the police about the night letters. Their response was, "We cannot do anything to help." We repeatedly approached the head of the Kandahar provincial council and asked him to assist us with our problems [...] but he can do nothing either [...]

We are not satisfied with the performance of Afghanistan National Army. During night they stay in their check posts and don't dare to move out of their check posts and patrol. The international forces do not patrol in our area either.

*Interview with 35 year old man from Kandahar City
13 February 2008*

My father did not attempt to inform police that he was intimidated because the police are very scared and are not able to move and operate in the villages. They just stay in their compound inside the district center. Furthermore, police cannot be trusted since they are involved in harassing and bribing people.

*Interview with a 20 year old man whose father was first
intimidated, and then assassinated, by the Taliban in
Paktia Province
25 February 2008*

In June 2007, a villager named T killed his nephew in a personal dispute. T's great-nephew approached the district authorities of Zurmat complaining about the incident and asked for police assistance and justice. The authorities said, "We will send police to the village provided that you guarantee our security. If you cannot do this, we will not send police."

*Interview with a 27 year old farmer in Paktia Province
25 February 2008*

My brother was farming in late October when a roadside bomb blast hit a nearby U.S. supply convoy that was being escorted by police. After the explosion, police wearing their uniforms got out of their pickup trucks and started firing indiscriminately. Two police came and fired at my brother but missed him. They were three to four meters away from him. My brother stood and raised his hands, yelling at them, “I am innocent I did not exploded the bomb. I am a professional military officer working for the government. How is it possible for me to do such an action?” Despite all of this, during this argument one of police shot him, putting three bullets in his chest, and killed him.

A community elder phoned the district commissioner, informed him of the incident, and asked for legal action. The district commissioner told the community elder, “Why are you complaining? There was a mine explosion a few months ago that resulted into the killing of district police. Did I complain to you about this?”

*Interview with a 28-year-old man in Paktia Province
26 February 2008*

...The security situation has deteriorated a lot in Zabul. There is no rule of law and police lack professional training. Many of them themselves have been involved in crimes and misuse of their power...

*Interview with a 59-year-old tribal elder from Zabul in Kandahar City
13 February 2008*

VII. CONCLUSION

The Afghanistan Independent Human Rights Commission has serious concerns about increasing harm the ongoing conflict in Afghanistan does to the civilian population. Rising civilian casualties and intimidation of civilian communities take a great toll on ordinary Afghan men, women and children. AIHRC is concerned with the actions of all sides to the conflict – the Afghan Government, international military forces and insurgents. In previous reports, the AIHRC has investigated and publicly condemned human rights and IHL abuses by Afghan Government forces and international military forces; this report is a continuation to the series and looks specifically at the actions of insurgents.

To ensure public support insurgents put pressure on the people of Afghanistan by every means available to them – to coerce the population into supporting them do not shy away systematic intimidation, abduction, mutilation and murder. In this report AIHRC has documented numerous serious violations of international and Afghan law and actions entirely contrary to Islamic *shari’a*. AIHRC appeals to those responsible for such actions to spare Afghan civilians and immediately cease targeting ordinary Afghan not involved in the fighting.

The abuses documented in this report are a part of the overall picture of civilian difficulties in Afghanistan and further aggravate many of the problems facing the Afghan people. Attacks on civilian targets and the resulting fear and insecurity continuously undermine people's enjoyment of their social and economic rights, including the rights to work, health, and education.

In combination with other AIHRC reports focusing on the actions of Afghan and international forces supporting the Government it is very clear that in this ongoing battle it is the ordinary people of Afghanistan who are most vulnerable. Trapped between the Government and the insurgents, they fear for their lives and cannot afford either supporting the Government and International Community or cooperating with insurgents.

AIHRC in its recommendations below, calls on the leadership of the Taliban and other insurgent groups, the Government of Afghanistan, the International Military Forces, the OIC, and on the United Nations to take immediate action to stop the ongoing campaign of murder and intimidation being waged by insurgents. It also appeals to Islamic scholars and clerics, tribe elders and other community leaders to take any action they can to protect their people. AIHRC also reiterates its concern with the actions of all parties and once again emphasizes that the wellbeing of Afghan civilians must be the first priority for all parties to the conflict.

VIII. RECOMMENDATIONS

1) To the leadership of Taliban and other armed anti-government groups

- Issue immediate orders to field commanders and fighters to:
 - Cease all attacks that spread terror and intentionally target civilians in violation of *Shari'a* and international humanitarian law. The leadership should specifically instruct their fighters to cease the spreading of night letters, abductions, shooting, beheading, hanging and mutilation of civilians.
 - Cease all attacks that intentionally target civilian objects in violation of *Shari'a* and international humanitarian law. The leadership should specifically instruct their fighters to cease the destruction, confiscation, or disturbance of civilian objects such as schools, medical and other humanitarian aid, civilian supply lines, and civilian development projects.
 - Cease all perfidious and other attacks that are indiscriminate or result in disproportionate civilian casualties.
 - Cease taking refuge in civilian populated areas, especially after conducting military operations.
 - Cease spreading interpretations of *Shari'a* that inaccurately justify and call for the intimidation and killing of civilians.

2) To the Islamic Republic of Afghanistan

- Hold accountable perpetrators who order and/or carryout serious violations of international humanitarian law such as those documented in this report.

3) To the Islamic Republic of Afghanistan and International Military Forces (ISAF and OEF Coalition Forces)

- Make certain that the Afghan National Army, International Military Forces, and any other security bodies conducting counter-insurgency operations provide the highest degree of civilian protection possible, by ensuring effective cooperation, coordination, and training. Counter-insurgency activities should take place in accordance with international human rights standards and international humanitarian law and anyone who violates any of these laws must be held accountable.
- The Afghan National Army, Afghan National Police, International Military Forces, and any other security bodies conducting counter-insurgency operations should be trained in international human rights standards and international humanitarian law.
- Ensure that all counter-insurgency activities, such as air strikes, house raids, detentions, security patrols, intelligence gathering, military base locations, and infrastructure development projects are undertaken in such a way as to minimize civilian harm. Military bases should not be in locations that place civilians at risk of indiscriminate or disproportionate attacks.

4) To the United Nations and other actors involved in humanitarian assistance and development projects

- Ensure that providers of humanitarian assistance and development projects take into account relevant national, regional, and local politics and perceptions and carry out their work in such a way that minimizes civilian harm.

5) To the Organization of the Islamic Conference (OIC)

- Publicly condemn actions by the Taliban and other insurgents that harm civilians and are contrary to *Shari'a* and international humanitarian law.

6) To Islamic Law Scholars and Clergy

- Publicly condemn actions by the Taliban and other insurgents that are contrary to *Shari'a* and that target civilians.
- Publicly declare that causing collateral harm to civilians' lives and objects are not compatible with [or prohibited] in *Shari'a*.

7) To non-government aligned tribal elders, religious leaders, and other influential figures

- Express concern to the Taliban and other insurgents about the detrimental effects of spreading terror and intentionally target civilians.
- Express concern to the Taliban and other insurgents about the detrimental effects of intentionally targeting civilian objects, such as schools, medical and other humanitarian aid, civilian supply lines, and civilian development projects.
- Express concern to the Taliban and other insurgents about the detrimental effects of perfidious and other attacks that are indiscriminate or result in disproportionate civilian casualties.
- Express concern to the Taliban and other insurgents about the detrimental effects of insurgents taking refuge in civilian populated areas, especially after conducting military operations.
- Express concern to the Taliban and other insurgents about the detrimental effects of spreading interpretations of *Shari'a* that inaccurately justify and call for the intimidation and killing of civilians.
- Call on the Taliban and other insurgents to exercise a high degree of caution in carrying out their attacks in order to minimize damages to civilian's lives and properties.

- - - - -