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From: Jon Stephenson  
To: DAVIES GEOFF, MR  
Subject: Re: / UNCLASSIFIED

Sent: Fri, 27 Jun 2014 11:33:42 GMT

Hi again, Geoff,

You will see that, in the questions I sent earlier, I have referred to the name of the village that was raided as "Tirgiran" (there are alternative spellings, including "Tergeran").

Multiple sources and documents make it clear to me that the raid which the NZDF referred to as occurring in the Tala wa Barfak district of Baghlan is in fact referring to the village of Tirgiran (which is in Tala wa Barfak district). However, it would be helpful if the NZDF could confirm that this is the village referred to in its press release.

Again, I want to be fair with all this; so, if Wayne Mapp in his Q+A interview and the NZDF in its media release were somehow referring to the New Zealand SAS being involved in another raid in another village of Tala wa Barfak on that night and *not* to Tirgiran, this is your opportunity to say so.

Also, please note that it would be helpful to have your response by late Sunday. That is, two full days from the time I sent my questions. I am very keen to give the NZDF perspective on this issue. The sooner I get your response, the more time I have to do that.

Also, you are welcome to send a statement that addresses the main questions, but one which is concise enough to be published or broadcast in full. I'm happy to discuss this with you if you wish.

You are welcome to contact me any time in the weekend if you have any follow-up questions. My number is: **PSR(IC)3**

Regards,

Jon.

On Fri, Jun 27, 2014 at 4:50 PM, DAVIES GEOFF, MR <**PSR(IC)3**>  
wrote:

Got it Jon.

And just clarifying: the Q+A programme was April 2011, right? Not 2010, because the raid was 22 Aug 2010?

Rgds Geoff

**From:** Jon Stephenson [PSR(IC)3]  
**Sent:** Friday, 27 June 2014 4:35 p.m.  
**To:** DAVIES GEOFF, MR  
**Subject:**

Hi Geoff,

Thanks for taking the time to discuss this request with me. I am sending you the NZDF media release that followed an interview given on TVNZ's Q+A programme in April 2010.

That document makes certain claims that I am questioning -- namely, that nine insurgents were killed in a raid on a village in Baghlan province in which the NZSAS were involved on 22 August, and that allegations of civilian casualties occurring during that raid were unfounded.

In fairness, it is important that I have extensive information, including documentation, photos, video footage, and statements from witnesses who were injured, as well as statements made by former SAS personnel and by senior serving Afghan security officials.

My questions are:

- (1) Does the defence force stand by its attached statement?
- (2) Specifically, does it stand by the statement that nine insurgents were killed?
- (3) If so, can it confirm that the SAS was responsible for those nine deaths, or can it rule out being involved directly in the nine alleged deaths?
- (4) Can the defence force comment on the ISAF media release that refers to the possibility that due to a gun sight malfunction of US helicopters, cannon rounds fell short and hit two houses that were not a target, but where civilians may have been hiding?
- (5) Given its involvement in this raid, what steps has the defence force taken to ensure that the allegations of civilian casualties have been carefully checked?

(6) Is it correct that Prime Minister John Key personally approved New Zealanders involvement in the raid on Tirgiran.

Please get back to me when you can.

Regards,

Jon.

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# NEWS RELEASE

ISAF Joint Command - Afghanistan



2010-08-CA-326  
For Immediate Release

## **Joint assessment team confirms possibility of civilian casualties in Baghlan**

**KABUL, Afghanistan (Aug. 29)** – In response to Baghlan provincial governor's concerns about civilian casualties, a joint assessment team composed of representatives from the ministries of interior and defense, and International Security Assistance Force officials, conducted a full assessment of an operation on Aug. 22 in Talah wa Barfak district, Baghlan province.

The team determined that several rounds from coalition helicopters fell short, missing the intended target and instead striking two buildings, which may have resulted in civilian casualties. Insurgents were using the building as a base of operations; however, it was not the intended target.

The team discovered the accidental short rounds during an examination of the air weapons team video. The assessment determined a gun site malfunction was the cause of the errant rounds.

"We regret any possible civilian loss of life or injury. Our first objective is to protect the people of Afghanistan, and in this case we may have failed," said U.S. Air Force Brig. Gen. Timothy M. Zadalis, ISAF Joint Command director of plans and projects and team lead. "Our thoughts and concerns are with the family and friends of those civilians who may have been injured or killed."

During their assessment, the team received operational briefings, met with the provincial governor and chief of police and reviewed weapons-system video.

Initial reports from the ground operation indicated 13 insurgents were killed, with no civilian casualties, however close examination of the weapons system video showed the errant rounds striking the unintended buildings.

"This is exactly why we send assessment teams to look into all civilian casualty allegations," said Zadalis. "We want to be sure we understand exactly what happened, review all information available and set the record straight."

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## Media Release

20 April 2011

### **NZ DEFENCE FORCE OPERATIONS IN BAMYAN PROVINCE ON 22 AUGUST 2010**

On 22 August 2010 New Zealand Defence Force (NZDF) elements, operating as part of a Coalition Force in Bamyan province, Afghanistan conducted an operation against an insurgent group.

NZDF Special Operations Forces combined with Afghan National Security Forces and other coalition elements undertook the operation.

The operation was conducted as part of the wider ISAF mission to improve the security of the Afghan people and to protect the NZ PRT (Provincial Reconstruction Team) in Bamyan province. The operation was approved by both the Afghan Government and the International Security Assistance Force (ISAF).

Nine insurgents (not 12 as reported) were killed in the operation which targeted an insurgent group in the area where Bamyan province borders neighbouring Baghlan province.

Following the operation allegations of civilian casualties were made. These were investigated by a joint Afghan Ministry of Defence, Ministry of Interior and International Security Assistance Force assessment team, in accordance with ISAF procedures.

The investigation concluded that the allegations of civilian casualties were unfounded.

Ordinarily the NZDF declines to comment on matters of an operational nature as any release of information can put New Zealanders at risk. In this case, clarification of the facts is warranted.

The NZDF will be making no further comment on this operation.

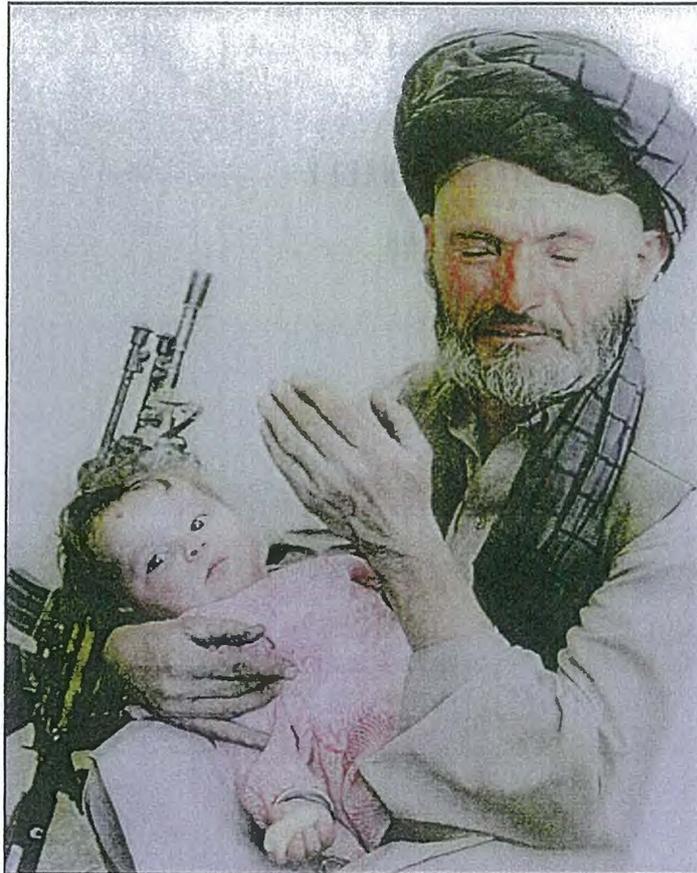
The NZDF point of contact for this release is Commander Phil Bradshaw, Director Defence Communications Group [021 441 493](tel:021441493).

**ENDS**

# AFGHANISTAN

## ANNUAL REPORT 2010

### PROTECTION OF CIVILIANS IN ARMED CONFLICT



Canadian Press via AP Images



United Nations Assistance  
Mission in Afghanistan



Afghanistan Independent  
Human Rights Commission

Kabul, Afghanistan  
March 2011

Mikan and Malazai villages but refuted allegations of civilian casualties. According to ISAF, their investigations show there were no further air strikes in the district following the initial strikes refuting victims' and others' allegations.<sup>43</sup>

#### 2.2.4. 22 August, Tala Wa Barfak district, Baghlan province

International military forces conducted an investigation into an air strike on 22 August in Tala Wa Barfak district in Baghlan province that caused six civilian deaths and four injuries. Reportedly, the strike was not coordinated with Provincial Reconstruction Teams based in Baghlan or with Baghlan authorities. Although the investigation team was sent from Regional Command North on numerous occasions, it received minimal cooperation from district authorities. The team was unable to interview victims, was not shown grave sites and was not able to visit the incident site. Although the district governor presented a list of victims to the investigation team, the official ISAF investigation report has not been shared with district and provincial authorities, the AIHRC or UNAMA Human Rights in spite of requests. According to the district authorities there was no further government follow up.

The AIHRC and UNAMA Human Rights continue to ask COMISAF to ensure that Tactical Directives are fully implemented through, among other means, creation of one central body that monitors, investigates and publicly reports on all incidents of civilian casualties. Such a process would support both appropriate follow up with victims including compensation and disciplinary action against individuals found responsible for any violations.

**Legal Analysis on Use of Deadly Force:** The use of deadly (or lethal) force by military forces against civilians is prohibited under international humanitarian law and international human rights law. When combat operations are being carried out, the warring parties are required to distinguish between civilians as protected persons and those who are directly participating in hostilities, and not attack civilians. Outside the combat zone, the rules of international human rights law apply. Such rules limit the use of deadly force to the following situations:

- (i) self-defense or defense of others against the imminent threat of death or serious injury,
- (ii) to prevent a particularly serious crime involving grave threat to life,
- (iii) to arrest a person presenting such a danger and resisting authority, or
- (iv) to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives.

In any event, intentional deadly use of firearms should only occur when strictly necessary to protect life.

### 3. Escalation of Force

54 Escalation of Force (EoF) incidents were recorded resulting in 45 civilian deaths. An

adjacent house. In Hazar Drakht village, seven civilians, members of the same family, were killed in the first air strike and three other civilians were injured in the second air strike.

<sup>43</sup> UNAMA Human Rights meetings with ISAF HQ, Kabul 20 December 2010.