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PROTECTION OF CIVILIANS IN ARMED CONFLICT



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Annual Report on Protection of Civilians in Armed Conflict 2010



UNAMA



AIHRC

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Mandate

The 2010 Annual Report on the Protection of Civilians in Armed Conflict in Afghanistan prepared by the Human Rights Unit of the United Nations Assistance Mission in Afghanistan (UNAMA Human Rights) with the Afghanistan Independent Human Rights Commission (AIHRC) covers the period 01 January to 31 December 2010.

The Afghanistan Independent Human Rights Commission (AIHRC) is enshrined as a national human rights institution under Article 58 of the Constitution of Afghanistan. The AIHRC is mandated under the Law on the Structure, Duties and Mandate of the AIHRC (May 2005) to: monitor the situation of human rights in the country; promote and protect human rights; monitor the situation of and people's access to their fundamental human rights and freedoms; investigate and verify cases of human rights violations; and take measures for the improvement and promotion of human rights in Afghanistan.

The 2010 Annual Report is compiled in pursuance of the AIHRC's mandate to monitor human rights in Afghanistan and UNAMA's mandate under United Nations Security Council Resolution 1917 (2010) to *"monitor the situation of civilians, to coordinate efforts to ensure their protection, to promote accountability and to assist in full implementation of the fundamental freedoms and human rights provisions of the Afghan Constitution and international treaties to which Afghanistan is State party, in particular those regarding the full enjoyment by women of their human rights."*

The Afghanistan Independent Human Rights Commission and UNAMA Human Rights undertake a range of activities aimed at minimizing the impact of the conflict on civilians including: independent and impartial monitoring of incidents involving loss of life or injury to civilians; advocacy activities to strengthen protection of civilians affected by the armed conflict; and, initiatives to promote respect for international humanitarian and human rights law and the Constitution of Afghanistan among all parties to the conflict.

Methodology

UNAMA Human Rights and the Afghanistan Independent Human Rights Commission (AIHRC) investigate reports of civilian casualties by conducting on-site investigations wherever possible and consulting a broad range of sources and types of information that are evaluated for their credibility and reliability. In undertaking investigation and analysis of each incident, UNAMA Human Rights and the AIHRC use best efforts to corroborate and cross-check information inputs from as wide a range of sources as possible including accounts of eyewitnesses and directly affected persons, military actors (including Afghan Government and international military forces), local village/district and provincial authorities, religious and community leaders, as well as information obtained through direct site visits, physical examination of items and evidence gathered at sites of incidents, visits to hospitals and medical facilities, still and video images, reports of UN Department of Safety and Security and other UN agencies, secondary source accounts, media reports, and information collected by NGOs and other third parties.

Wherever possible, investigations are based on the primary testimony of victims and/or witnesses of the incident and on-site investigations. On some occasions, primarily due to security-related constraints affecting access, this form of investigation is not possible. In such instances, UNAMA Human Rights and the AIHRC rely on a range of techniques to gain information through reliable networks, again through as wide a range of sources as possible that are evaluated for credibility and reliability.

Where UNAMA Human Rights and the AIHRC are not satisfied with information concerning an incident, it will not be reported. In some instances, investigations may take several weeks before conclusions can be drawn. This may mean that conclusions on civilian casualties from an incident may be revised as more information becomes available and is incorporated in the analysis. Where information is unclear, conclusions will not be drawn until more satisfactory evidence is obtained, or the case will be closed without conclusion and will not be included in the statistical reporting.

In some incidents the non-combatant status of the reported victims cannot be conclusively established or is disputed. In such cases, UNAMA Human Rights and the AIHRC are guided by the applicable standards of international humanitarian law and do not presume fighting-age males are either civilians or fighters. Rather, such claims are assessed on the facts available on the incident in question. If the status of one or more victim(s) remains uncertain, such deaths are not included in the overall number of civilian casualties.

The AIHRC established an electronic database in 2008 to support its analysis and reporting on protection of civilians in armed conflict and UNAMA Human Rights established its database in 2009. The databases are designed to facilitate the systematic, uniform and effective collection and analysis of information, including disaggregation by age and gender. Due to limitations associated with the operating environment, such as the joint nature of some operations and the inability of primary sources in many incidents to precisely identify or distinguish between diverse military actors/insurgents or where no party claims responsibility for an incident, UNAMA Human Rights and AIHRC attribute responsibility for particular incidents to either Pro-Government Forces or Anti-Government Elements. UNAMA Human Rights and the AIHRC do not claim that the statistics presented in this report are complete; it may be that given limitations associated with the operating environment, the AIHRC and UNAMA Human Rights are under-reporting civilian casualties.

Legal Responsibilities of the Parties to the Conflict

UNAMA Human Rights and the Afghanistan Independent Human Rights Commission (AIHRC) take the position that the armed conflict in Afghanistan is a non-international armed conflict involving the Government of Afghanistan and international military forces (Pro-Government Forces) engaged in hostilities with Anti-Government Elements. The Anti-Government Elements encompass individuals and armed groups of diverse backgrounds, motivations and command structures including those characterized as the Taliban, the Haqqani network, Hezb-e-Islami and al-Qaida affiliates such as the Islamic Movement of Uzbekistan, Islamic Jihad Union, Lashkari Tayyiba and Jaysh Muhammad.

All parties to the non-international armed conflict in Afghanistan have responsibilities under international law to protect persons not directly participating in hostilities and to minimize the impact of their actions on the civilian population and civilian infrastructure. Article 3 common to the four *Geneva Conventions of 1949* establishes minimum standards that parties to an armed conflict should observe in non-international armed conflict. Common Article 3 extends humanitarian law into situations occurring in the territory of a sovereign State and binds not only State actors but also non-State actors involved in the conflict.

Customary rules of international humanitarian law also apply to the warring parties in Afghanistan. International judicial bodies have stated that several rules in the Geneva Conventions and the Additional Protocols are part of customary international law.¹ The most relevant principles are the following:

- ❖ Distinction: “[the Parties]...shall at all times distinguish between the civilian population and combatants” and “between civilian objects and military objectives.”²
- ❖ Proportionality: “an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.”³
- ❖ Precautions in attack: “In the conduct of military operations, constant care shall be taken to spare the civilian population, civilians and civilian objects” and that all feasible precautions must be taken with the “view to avoiding, and in any event to minimizing, incidental loss or civilian life, injury to civilians and damage to civilian objects.”⁴

In addition to international humanitarian law, other bodies of law apply in Afghanistan. Insurgents, once they are *hors de combat* (“outside of combat”), could be subject to prosecution under the criminal laws of the country concerned. International human rights standards to which the State is a party or which form part of customary international law continue to apply in situations of armed conflict. The government’s military forces and members of international military forces are also accountable for violations of

¹ The International Committee of the Red Cross (ICRC) has concluded that several rules of the four *Geneva Conventions and Additional Protocol I* have acquired the force of customary international law and that most of these rules apply in both international and non-international armed conflicts (ICRC, *Customary International Humanitarian Law*, ed. Jean-Marie Henckaerts and Louise Doswald-Beck (CU P/ICRC, Cambridge 2005) {ICRC Study}.

² Additional Protocol 1, article 48. See further article 51 (2) where civilians “shall not be the object of attack,” and article 52 (2) where “attacks shall be limited strictly to military objectives.”

³ Additional Protocol 1, article 51(5)(b). See further article 57 on Precautions in Attacks.

⁴ Additional Protocol 1, article 57 (1) and 2(a)(ii).

international humanitarian and human rights law and the national laws of their home states.

All nations contributing to the international forces present in Afghanistan, including contingents of ISAF, US Forces Afghanistan, members of the Operation Enduring Freedom coalition, or forces which fall outside these chains of command are signatories to the four *Geneva Conventions of 1949*. While not all troop contributing countries are signatories to *Additional Protocol I of 1977*, these forces are still bound by those rules of international humanitarian law that are part of customary international law.

The primary responsibility for the protection of the civilian population during armed conflict rests with the Government of Afghanistan. All parties to the armed conflict, however, have responsibilities under international law to protect civilians as noted above. Afghanistan is a signatory to the four *Geneva Conventions of 1949* and is also bound by those rules of international humanitarian law which form part of customary international law. Afghanistan is a signatory to among others, the *International Convention on Civil and Political Rights* which obligates the Afghan government to provide basic protections to all persons within the territory or jurisdiction of the State.⁵

The Government of Afghanistan has an obligation and a responsibility to ensure law and order throughout the territory of Afghanistan. It has the right and duty to enforce the laws of the country subject to the international laws it has accepted or which are binding on it.

⁵ Afghanistan is a State party to the following human rights treaties and conventions: International Covenant on Civil and Political Rights ratified on 24 April 1983; International Covenant on Economic, Social and Cultural Rights ratified on 24 April 1983; International Covenant on the Elimination of all Forms of Racial Discrimination ratified on 5 August 1983; Convention on the Elimination of all Forms of Discrimination against Women ratified on 5 March 1983; Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment ratified on 26 June, 1987; Convention on the Rights of the Child ratified on 27 April 1994; Optional Protocol of the Convention of the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography ratified on 19 October 2002; and, Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict ratified on 24 September 2003. Source: http://www.aihrc.org.af/English/Eng_pages/X_pages/conventions_af_z_party.html.

GLOSSARY

AGEs: Anti-Government Elements. These encompass all individuals and armed groups currently involved in armed conflict against the Government of Afghanistan and/or international military forces. They include those who identify as “Taliban” as well as individuals and groups motivated by a range of objectives and assuming a variety of labels including the Haqqani network, Hezb-e-Islami and al-Qaida affiliates such as the Islamic Movement of Uzbekistan, Islamic Jihad Union, Lashkari Tayyiba and Jaysh Muhammad.

Aerial Attack: Firing ordinance from aircraft or air assets, including close air support (support to units and troops in contact under immediate threat), and from fixed wing air assets.

ANA: Afghan National Army.

ANP: Afghan National Police.

ANSF: Afghan National Security Forces; a blanket term that includes Afghan Border Police, ANA, ANP and the National Directorate of Security.

ALP: Afghan Local Police.

ANAP: Afghan National Auxiliary Police.

AP3: Afghan Public Protection Program.

APRP: Afghan Peace and Reintegration Program.

AIHRC: Afghanistan Independent Human Rights Commission.

BBIED: Body-Borne Improvised Explosive Device; see IED.

BDA: Battle Damage Assessment.

Casualties: May be of two classifications:

- **Direct:** Casualties resulting directly from armed conflict – including those arising from military operations conducted by Pro-Government Forces (Afghan Government Forces and/or International Military Forces) such as force protection incidents, air raids, search and arrest operations, counter insurgency or counter-terrorism operations. It also includes casualties arising from the activities of AGEs, such as targeted killings, improvised explosive devices or direct engagement with Pro-Government Forces.
- **Other:** Casualties resulting indirectly from the conflict including casualties caused by explosive remnants of war deaths in prison, deaths from probable underlying medical conditions that occurred during military operations, or where access to medical care was denied or not available. It also includes deaths arising from incidents where responsibility cannot be determined with any degree of certainty, such as deaths or injuries arising from cross-fire. Finally, it includes casualties caused by inter/intra-tribal or ethnic conflict.

Children: According to the *Convention on the Rights of the Child*, a “child” is defined as any person under the age of 18 (0-17 inclusive). Injury figures for children are likely to be under-reported due to the fact that age information for injured individuals is often not readily available or reported.

Civilian/Non-Combatant: Any person who is not taking a direct part in hostilities. It includes all civilians and public servants who are not used for a military purpose in terms of fighting the conflict and encompasses teachers, health clinic workers and others involved in public service delivery, as well as political figures or office holders. It also includes soldiers or any person who are *hors de combat* (“outside of combat”), whether from injury or surrender or who have ceased to take a direct part in hostilities. It includes civilian police personnel who are not being used as combatants or in counter insurgency operations and not taking a direct part in hostilities including when they are off-duty.

COM-ISAF: Commander of International Security Assistance Force in Afghanistan/ISAF.

EOF Incidents: Escalation of Force incidents also referred to as “force protection” incidents: Situations where civilians fail to pay attention to warnings from military personnel when approaching or overtaking military convoys or fail to follow instructions at check points. Escalation of force incidents also occur when individuals are perceived as too close to military bases or installations and fail to observe warnings from military personnel.

IHL: International Humanitarian Law.

IDP: Internally Displaced Person.

ICRC: International Committee of the Red Cross.

IED: Improvised Explosive Device. A bomb constructed and deployed in ways other than in conventional military action. IEDs can take the form of suicide bombs, such as Body-Borne IEDs (BBIEDs) and also include Remote-Controlled IEDs (RCIEDs), Vehicle-Borne IEDs (VBIEDs) and pressure-plated IEDs.

Incidents: Events where civilian casualties result from armed conflict. Reports of casualties arising from criminal activities are not included in the civilian casualty reports of the AIHRC and UNAMA Human Rights.

IM Forces: “International Military Forces” includes all foreign soldiers forming part of ISAF and US Forces Afghanistan (including Operation Enduring Freedom) who are under the command of the Commander of ISAF (COM-ISAF). The term also encompasses those forces not operating under the Commander of ISAF, including certain Special Forces.

Injuries: Include physical injuries of differing severity. The degree of severity of injury is not recorded in the databases of the AIHRC and UNAMA Human Rights. Injuries do not include cases of shock or psychological trauma.

IMU: Islamic Movement of Uzbekistan.

ISAF: International Security Assistance Force in Afghanistan. ISAF has a peace-enforcement mandate under Chapter VII of the UN Charter. It is deployed under the authority of the UN Security Council. In August 2003, on request of the UN and the Government of Afghanistan, NATO took command of ISAF. The ISAF force currently comprises at least 131,730 troops from 48 troop contributing countries organized in six regional commands plus ISAF Headquarters in Kabul. Since November 2008, the Commander of ISAF serves also as the Commander of US Forces Afghanistan, although the chains of command remain separate.

KLE: Key Leadership Engagement.

LDI: Local Defense Initiative.

LEGAD: Legal Advisor in ISAF.

Mol: Ministry of Interior.

NATO: North Atlantic Treaty Organization. Members of NATO are the main troop contributing countries to ISAF; see ISAF.

NDS: National Directorate of Security, Afghanistan's state intelligence service.

NSC: National Security Council of Afghanistan.

NGO: Non – Governmental Organization.

OHCHR: United Nations Office of the High Commissioner for Human Rights.

OEF: "Operation Enduring Freedom" is the official name used by the US Government for its contribution to the war in Afghanistan and global counter terrorism efforts. Operation Enduring Freedom - Afghanistan, which is a joint US and Afghan operation, is distinct from ISAF, which is an operation of NATO nations including the US and other troop contributing nations. Most US forces operating under OEF since October 2008 have been incorporated into "US Forces Afghanistan" (see below) under the command of General David Petraeus who is also NATO/ISAF Commander.

Pro-Government Forces (PGF):

- **Afghan Government Forces.** All forces that act in all military or paramilitary counter-insurgency operations and are directly or indirectly under the control of the Government of Afghanistan. These forces include, but are not limited to, the ANA, ANP, the Afghan Border Police (ABP) and the NDS.
- **International Military Forces (IM Forces)** and OGA.

RCIED: Remote-Controlled Improvised Explosive Device; see IED.

SVBIED: Suicide Vehicle-Borne Improvised Explosive Device; see IED

SOP: Standard Operations Procedure.

SOF: Special Operations Forces.

TCN: Troop Contributing Nation.

US Forces Afghanistan: or “USFOR-A” is the functioning command and control headquarters for US forces operating in Afghanistan. USFOR-A is commanded by General David Petraeus, who also serves as the NATO/ISAF commander. Under this arrangement, activated in October 2008, troops operating as part of Operation Enduring Freedom were placed under the operational control of USFOR-A. The ISAF and OEF chains of command remain separate and distinct.

USSF: United States Special Forces.

USAID: United States Agency for International Development.

UNDSS: United Nations Department of Security and Safety.

UNAMA: United Nations Assistance Mission in Afghanistan.

UNHCR: United Nations High Commissioner for Refugees.

VBIED: Vehicle-Borne Improvised Explosive Device; see IED.



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Executive Summary

The human cost of the armed conflict in Afghanistan grew in 2010. The Afghanistan Independent Human Rights Commission and UNAMA Human Rights recorded 2,777 civilian deaths in 2010, an increase of 15 per cent compared to 2009. Over the past four years, 8,832 civilians have been killed in the conflict, with civilian deaths increasing each year.⁶ The worsening human impact of the conflict reinforces the urgent need for parties to the conflict to do more to protect Afghan civilians, who, in 2010, were killed and injured in their homes and communities in even greater numbers. UNAMA Human Rights and the Afghanistan Independent Human Rights Commission urge the Anti-Government Elements and Pro-Government Forces to strengthen civilian protection and fully comply with their legal obligations to minimize civilian casualties.

Civilian Deaths

Of the total number of 2,777 civilians killed in 2010, 2,080 deaths (75 per cent of total civilian deaths) were attributed to Anti-Government Elements⁷, up 28 per cent from 2009. Suicide attacks and improvised explosive devices (IEDs) caused the most civilian deaths, totaling 1,141 deaths (55 per cent of civilian deaths attributed to Anti-Government Elements). The most alarming trend in 2010 was the huge number of civilians assassinated by Anti-Government Elements. Four hundred and sixty two civilians were assassinated representing an increase of more than 105 per cent compared to 2009. Half of all civilian assassinations occurred in southern Afghanistan. Helmand province saw a 588 per cent increase in the number of civilians assassinated by Anti-Government Elements and Kandahar province experienced a 248 per cent increase compared to 2009.

Afghan national security and international military forces (Pro-Government Forces) were linked to 440 deaths or 16 per cent of total civilian deaths, a reduction of 26 per cent from 2009. Aerial attacks claimed the largest percentage of civilian deaths caused by Pro-Government Forces in 2010, causing 171 deaths (39 per cent of the total number of civilian deaths attributed to Pro-Government Forces). Notably, there was a 52 per cent decline in civilian deaths from air attacks compared to 2009.⁸ Nine per cent of civilian deaths in 2010 could not be attributed to any party to the conflict.

⁶ UNAMA Human Rights and the AIHRC documented and included in their analysis and reporting on civilian casualties for the period 01 January to 31 December, 2010 only those incidents of civilian death and injury that their field offices reported and investigated including through on-site visits, interviews with a wide range of affected persons and physical examination of evidence, thoroughly cross checked with a diverse range of credible sources, and verified. UNAMA Human Rights and the AIHRC do not claim that the statistics presented in this report are complete; given limitations in methodology and the operating environment, UNAMA Human Rights and the AIHRC may be under-reporting civilian casualties (see the Methodology section of this report).

⁷ Anti-Government Elements (AGEs) includes armed opposition groups and individuals of diverse backgrounds, motivations and command structures characterized as the Taliban, the Haqqani network, Hezb-e-Islami, and al-Qaeda affiliates such as the Islamic Movement of Uzbekistan, Islamic Jihad Union, Lashkari Taryyiba and Jaysh Muhammad engaged in hostilities with the Government of Afghanistan and its international military partners.

⁸ Although overall civilian deaths from air attacks by Pro-Government Forces decreased in 2010, the number of civilians killed in air strikes increased over the course of 2010: in the first half of 2010, 69 civilians were killed in air attacks while in the second half of 2010, 102 civilians died from air strikes. This is a 48 per cent increase in civilian deaths from air strikes in the second half

The overall rise in civilian deaths in 2010 can be attributed to the increased use of IEDs and targeted assassinations by Anti-Government Elements and intensified military operations particularly in southern Afghanistan. Although the majority of fighting in 2010 occurred in the southern and southeastern regions, the insecurity and volatility of the conflict continued to spread to the northern, eastern and western regions.⁹ All regions, apart from the eastern region experienced major increases in the number of civilians killed compared to 2009. The northern region saw an intensification of fighting throughout year with the number of civilians killed increasing by 76 per cent compared to 2009. Both the southeastern and the southern regions saw a rise in civilian deaths compared to 2009, with a 40 per cent and 21 per cent increase respectively.

Impact on Women and Children

The conflict continued to have a devastating impact on women and children. More women and children were killed and injured than in 2009. Women casualties increased by six per cent and child casualties increased by 21 per cent from 2009. Not only did women and children casualties' increase in 2010, the spread and intensity of the conflict meant that more women and children had even less access to essential services such as health care and education.

In 2010, 40 per cent of female deaths and 44 per cent of child deaths were caused by IED explosions and suicide attacks. These figures represent a 31 per cent increase in female deaths and a 66 per cent increase in child deaths from 2009. Eight children were executed by Anti-Government Elements.

Out of the total civilian deaths linked to Pro-Government Forces, 37 per cent of female deaths and 29 per cent of child deaths were caused by aerial attacks. These figures represent a 62 per cent and 72 per cent decrease respectively from 2009. Eight females and nine children were killed as a result of search and seizure/night raids across the country. More children were killed in the southern region and more women were killed in the southeast than any other region as a result of such operations.

Civilian Injuries

In 2010, conflict related injuries of civilians increased by 22 per cent compared to 2009. In total, 4,343 conflict-related civilian injuries were documented. Anti-Government Elements were linked to 3,366 injuries or 78 per cent of the total number of injures, an increase of 21 per cent compared to 2009. 400 civilian injuries (or nine per cent of the total number of injuries) were attributed to Pro-Government Forces, a decrease of 13 per cent from 2009. 577 civilian injuries (13 per cent of the total number of injuries) were caused by parties that could not be determined.

of 2010 as compared to the first half of 2010. This is linked to significant increases in the use of air assets in combat in the last half of 2010.

⁹ Each region is comprised of the following provinces. Central Region includes Kabul, Panjsher, Kapisa, Logar, Parwan and Wardak. Eastern Region includes Kunar, Laghman, Nangarhar and Nuristan. Western Region includes Badghis, Farah, Ghor and Herat. Northern Region includes Balkh, Faryab, Jawzjan, Samangan and Sari Pul. North East Region includes Badakhshan, Baghlan, Kunduz and Takhar. South East Region includes Ghazni, Khost, Paktika and Paktya. South Region includes Helmand, Kandahar, Nimroz, Uruzgan and Zabul. Central Highland includes Bamyán and Daykundi.

Responsibility for Attacks

In 2010, the Afghanistan Independent Human Rights Commission (AIHRC) and UNAMA Human Rights tracked admissions of responsibility by a party to the conflict for attacks that caused civilian deaths and injuries. These efforts are aimed at improving determinations of accountability for civilian casualties to particular parties and armed groups, and at targeting advocacy on civilian casualties with specific parties. By tracking admissions of responsibility for attacks, the AIHRC and UNAMA Human Rights also highlight the large number of civilian casualties in 2010 for which no party or armed group took responsibility.

Anti-Government Elements

In 2010, Anti-Government Elements used unlawful means of warfare including asymmetric tactics, in particular IEDs and suicide attacks that appeared to target military objects but violated Afghans' basic right to life, Islamic principles and the international humanitarian law principles of distinction, proportionality and precaution.¹⁰ These tactics caused increased numbers of civilian deaths and injuries, systematically terrorized the civilian population and restricted access to essential services in many areas affected by the conflict. The greatly increased use of larger and more sophisticated IEDs disproportionately harmed civilians. Countrywide, 21 per cent of IED detonations and 46 per cent of suicide attacks resulted in civilian deaths and injuries.

Suicide attacks represented 11 per cent of all deaths attributed to Anti-Government Elements, and eight per cent of the total civilian deaths in 2010, a decrease of 15 per cent from 2009. As the number of suicide attacks remained at the same level in 2009 and 2010 (approximately 140 attacks per year), it appears that suicide attacks caused less civilian deaths in 2010 than in 2009.

Anti-Government Elements were linked to targeted killings of hundreds of civilians. Persons and relatives of persons perceived to be supportive of the Government of Afghanistan and/or international military forces, high-level provincial government officials, such as governors, district governors, *shura* and provincial council members, and religious elders and ordinary civilians such as doctors, teachers, students and construction workers were targeted and killed. Anti-Government Elements killed more civilians on suspicion of spying than for any other apparent reason, which often took the form of extra-judicial executions. Aid workers, international and national NGOs, and development workers were targeted throughout the year either through killings, abductions or other intimidation tactics.

¹⁰ All parties to the conflict in Afghanistan including all Anti-Government Elements have legal obligations under international law to refrain from attacking civilians and comply with the following principles: Distinction: "[the Parties]...shall at all times distinguish between the civilian population and combatants" and "between civilian objects and military objectives." Additional Protocol 1, article 48. See further article 51 (2) where civilians "shall not be the object of attack," and article 52 (2) where "attacks shall be limited strictly to military objectives." Proportionality: "an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated." Additional Protocol 1, article 51(5)(b). Precautions in attack: "In the conduct of military operations, constant care shall be taken to spare the civilian population, civilians and civilian objects" and that all feasible precautions must be taken with the "view to avoiding, and in any event to minimizing, incidental loss or civilian life, injury to civilians and damage to civilian objects." Additional Protocol 1, article 57 (1) and 2(a)(ii).

The social and psychological effects and violations of human rights associated with assassinations are more devastating than a body count would suggest. An individual deciding to join a district *shura*, to campaign for a particular candidate, to take a job with a development organization, or to speak freely about a new Taliban commander in the area, often knows that their decision may have life or death consequences. Assassinations aim to deter individuals from exercising their basic human rights (to life and security) and freedoms of expression, political participation, association, work and education. This suppression of individuals' rights also has political, economic and social consequences as it impedes governance and development efforts. Neither Afghan national security nor international military forces have been able to protect civilians from assassinations.

Abductions of civilians increased by 83 per cent compared to 2009 from 137 to 251 persons abducted in 2010.

Although the publication of the Taliban's updated *Laiha* or Code of Conduct in May 2010 includes provisions aimed at reducing civilian casualties, the AIHRC and UNAMA Human Rights did not observe any concerted effort by the Taliban to implement these orders or to take action against those commanders or members who disobeyed them. UNAMA Human Rights and the AIHRC also documented numerous indiscriminate or disproportionate attacks in 2010 that resulted in civilian casualties for which the Taliban claimed responsibility.

Pro-Government Forces

Although the number of Pro-Government Forces grew by 107,000 in 2010 as did their offensive military operations, civilian casualties (deaths and injuries) linked to Pro-Government Forces decreased by 21 per cent compared to 2009. 840 civilian casualties (or 12 per cent of the total number of civilian deaths and injuries) attributed to Pro-Government Forces were documented. A decrease was recorded in civilian casualties caused by aerial attacks and search and seizure operations/night raids despite an escalation in numbers of air strikes and search and seizure operations/night raids in 2010. An 18 per cent decline in civilian casualties from search and seizure operations/night raids was recorded.

Efforts by international and Afghan military forces to reduce civilian casualties resulted in fewer civilians killed and injured by these forces in 2010 than in previous years. This is welcome particularly in the context of the surge of international forces and increased military operations in 2010.

Civilian casualties from night raids and other tactics were reduced in 2010 primarily because the International Security Assistance Force (ISAF) put in place regulations through several Tactical Directives, Standard Operating Procedures and reinforced counterinsurgency guidelines that restrict the use of force and emphasize civilian protection. Yet concerns remain about full and consistent implementation of Tactical Directives and procedures on the ground and the persistent lack of transparency on investigations and accountability for civilian casualties.

Night raids do not cause a large number of civilian casualties but these operations continue to generate anger and resentment across Afghan society. Many communities view Pro-Government Forces as acting with impunity through lack of effective and transparent investigation and prosecution for abuses that occur during night raids. Other

concerns include lack of information regarding the location of persons detained and the inability to receive compensation for loss of life, injury and property destruction. Another side-effect of night raids is the stigmatization of the affected family or clan head in local society as “*not being in control of his own house.*”

In view of the overall intensification of the conflict, Pro-Government Forces cannot afford to downgrade enforcement of Tactical Directives and other measures that regulate the use of force and night raids. Continuous review, analysis and evaluation of Tactical Directives and their implementation on the ground would further strengthen civilian protection by Pro-Government Forces.

Afghan Local Police Program

In August 2010, the Government of Afghanistan launched the Afghan Local Police (ALP) program. Envisioned as a Ministry of Interior-led rural security program to protect communities from Anti-Government Elements through recruitment of local individuals into an armed force with limited security functions, the program currently allows for 15,700 recruits in 61 districts with a ceiling of 30,000 recruits in 100 districts. At the district level, the Afghan Local Police report to the district chief of police. US Special Forces have a mentoring role, without an official supervisory role, by providing training and working with Afghan Local Police units for a limited duration before hand over to conventional forces for further mentoring.

UNAMA Human Rights and the AIHRC observed the establishment and performance of Afghan Local Police in several regions. While recognizing the program has been operational for only a few months and that longer term evaluation is required, concerns have been raised regarding weak oversight, recruitment, vetting and command and control mechanisms, limited training for recruits and the effectiveness of reporting through district police chiefs. These issues were observed in Kunduz and Baghlan provinces, in Khas Uruzgan district in Uruzgan province and in Kirjan district in Dai Kundi province. In other areas, including Pusht Rod district in Herat province, Jaji district in Paktya province and Bermal district in Paktika communities were positive about the ALP in their area.

It is important to note that the ALP’s mandate, obligations and role regarding detention are not clearly defined or instructive on issues of arbitrary detention, handover process of detained persons, conditions of detention and prevention of abuses. AIHRC and UNAMA Human Rights stress that rigorous oversight and monitoring of all elements of the ALP program together with prompt discipline for abusive or criminal acts of ALP members are necessary to ensure the program does not result in reduced protection for civilians and further entrench impunity.

Military Operations in Southern Afghanistan

The surge in both international military forces and offensive operations in 2010 focused on the southern region. Major operations to clear Taliban forces from central Helmand and the districts surrounding Kandahar City were widely viewed as key tests of the counter-insurgency strategy pursued by Pro-Government Forces. The Taliban responded by vigorously contesting attempts to expand government power including through a campaign of assassinations. The south saw 41 per cent of all civilians killed and injured across Afghanistan in 2010.

Throughout 2010, UNAMA Human Rights and AIHRC closely monitored and analyzed civilian protection issues in the south and found they were similar to other regions: IEDs caused more civilian casualties than any other tactic and international forces conducted frequent operations, including raids. However, the civilian casualty trends in Helmand and Kandahar provinces were markedly different. In Helmand, civilian casualties increased dramatically (78 per cent compared to 2009 from armed clashes between the Taliban and Pro-Government Forces and assassinations), while, in Kandahar, deaths and injuries of civilians increased by only 11 per cent (although civilian casualties in Kandahar were already high). The clearance operations by Pro-Government Forces in February 2010 in the central Helmand districts of Marja and Nad Ali were accompanied and followed by intense violence which accounts for a substantial portion of the overall increase in civilian casualties in that province. In contrast, clearance operations in the districts bordering Kandahar City — Arghandab, Dand, Panjwayi, and Zhari — between July and November 2010 did not lead to a similar spike in civilian casualties, although they resulted in large scale property destruction.

In an effort to promote improved security for Afghan civilians in 2011, UNAMA Human Rights and the AIHRC offer the following observations regarding the military operations in Marja and Kandahar. The initial strategic decision by Pro-Government Forces to choose as a main battle ground the densely populated rural environment of Marja, without the necessary Afghan policing and public protection capacities to follow, contributed to increased civilian harm. The decision to establish numerous bases and check posts in a populated area before it had been fully cleared further contributed to a dangerous dynamic in which armed clashes between Pro-Government Forces and the Taliban routinely affected civilians. Taliban assassinations of civilians and the use of civilians as human shields particularly in densely populated areas were not only unlawful tactics but lead to devastating results for the civilian population.

The contrast between Marja and Nad Ali and the districts surrounding Kandahar City may be due in part to lessons learned by Pro-Government Forces in Helmand that resulted in limiting civilian casualties while intensifying operations in Kandahar. Two factors appear to have been relevant in the Kandahar operations: Pro Government Forces engaged in more extensive consultations with communities prior to operations and carried out a series of smaller operations around Kandahar City; and more attacks in the Kandahar operations appear to have been pre-planned (as opposed to responses to Taliban opening fire or attacking). In addition, raids and attacks targeted Taliban fighters more precisely resulting in few civilian casualties.

UNAMA Human Rights and the AIHRC observed that the Kandahar operations resulted in the large scale destruction of homes, crops, and irrigation systems. Many houses were destroyed to dispose of IEDs and to improve the defenses of Pro-Government Forces' bases. Military vehicles drove off roads to avoid IEDs but destroyed walls, gardens, and irrigation systems in the process and Pro-Government Forces destroyed buildings used for drying grapes to prevent their use as fortifications. Elders from Zhari and Panjwayi districts interviewed by UNAMA Human Rights and the AIHRC summed up civilians' concerns: *"So far, all of the operation's results are negative, because they are destroying the people's houses, their gardens, and their irrigation systems. As for the future we don't know what brightness it might hold."*; and, *"Imagine that I have a small house and garden. If you destroy those, and in the future, there is peace, then what good is this peace for me?"*

While Pro-Government Forces showed care in avoiding civilian casualties during the Kandahar operations, international humanitarian law norms regarding the definition of military objectives, proportionality and precautions in attack do not appear to have been rigorously applied when civilian property was at risk.

It is significant that clearance operations around Kandahar City led to fewer civilian casualties than those in central Helmand. However, the long-term consequences of these operations for the civilian population will depend on whether Pro-Government Forces establish sustainable security in those areas, and prioritize and fully fund rebuilding of properties. The longer-term result will also depend on whether the parties to the conflict act to prevent civilian casualties in the coming summer and predicted upsurge in combat in Kandahar and avoid replicating spring/summer 2010 in Marja. Few Kandahar residents offered more than cautious optimism about the future. As one elder from Panjwayi district told UNAMA Human Rights and the AIHRC in October 2010, “We want to see ‘one year security’, not ‘six month security’.”

Humanitarian Access

Civilians were severely affected by the conflict, not only through deaths, injuries and the pervasive atmosphere of intimidation but also through displacement, damage and destruction to property, loss of livelihood, lack of freedom of movement and lack of access to essential services such as health care, food and education. According to the United Nations High Commissioner for Refugees, 102,658 persons were displaced due to the conflict in 2010.

The precarious situation of populations in need and displaced persons from insecurity and violence prevented the humanitarian community from accessing these persons and locations, exacerbating the situation of already vulnerable populations. The presence of numerous armed groups also adversely impacted on humanitarian work as the safety of humanitarian workers could not be guaranteed in many areas.

Conclusion

As the process of transition of lead security responsibilities from international military forces to Afghan forces gets underway in 2011, UNAMA Human Rights and the AIHRC emphasize that transition should strengthen protection and security for civilians. At a minimum, transition should not result in a reduction of civilian protection which requires appropriate oversight, training, conduct and accountability on the part of Afghan national security forces including the Afghan Local Police in transition areas. UNAMA Human Rights and the AIHRC also stress that transition should encompass key elements of the broader human security agenda and promote respect for basic human rights in particular women and children's rights.

As parties to the conflict, the Government of Afghanistan, international military forces and Anti-Government Elements have clear responsibilities under international law to protect civilians. The Afghanistan Independent Human Rights Commission and UNAMA Human Rights again call on the parties not to attack civilians, respect Afghan civilians' basic right to life and comply with the international legal principles of distinction, proportionality and precaution that oblige the parties to minimize deaths and injuries of civilians.

RECOMMENDATIONS

To Anti-Government Elements (Taliban and other Anti-Government Armed Groups)

- Immediately cease targeting civilians, including civilian government officials and civilians working for international military forces that are protected against any attacks under Islamic and international law principles, and withdraw orders that permit attacks and killings of civilians.
- Implement, and enforce codes of conduct or directives that prohibit attacks on civilians and hold accountable those members of Anti-Government Elements who kill and injure civilians.
- Prevent civilian casualties by complying with international humanitarian law, including the principles of proportionality, distinction and precaution.
- Investigate and publicly report on all incidents of civilian casualties involving Anti-Government Elements and establish a secure focal point for sharing information on civilian casualties.
- Immediately cease all acts of killing and intimidation prohibited under the Constitution and national laws of Afghanistan, and international humanitarian and international human rights law including assassination, execution, abduction, intimidation, mutilation and beheading of civilians.
- Ensure civilians can fully exercise their right to freedom of movement and have access to basic services including health and education.
- Immediately cease setting up illegal check points that restrict civilians' freedom of movement.
- Immediately cease using civilians as human shields to protect fighters from attack.
- Immediately cease attacking schools, medical facilities and mosques which are protected places under international humanitarian law.

To the International Military Forces

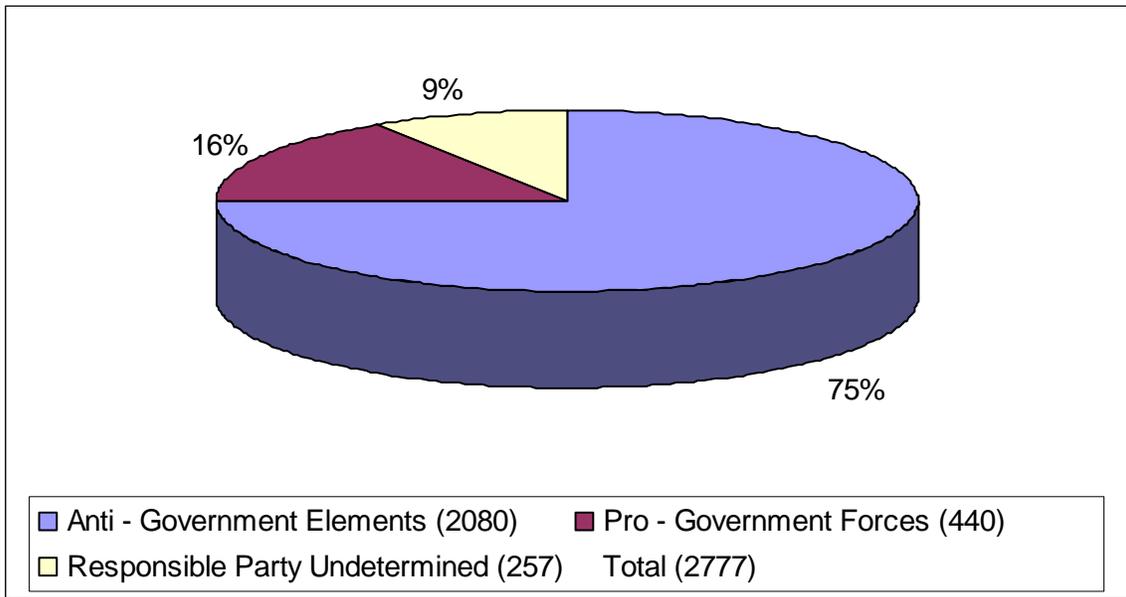
- Undertake thorough, impartial and transparent investigations into all incidents involving civilian casualties, publicly and promptly report on progress and results of investigations and take disciplinary or criminal action against any individuals found responsible for gross violations of human rights under international human rights law and serious violations of international humanitarian law.
- Ensure regional commanders fully implement Standard Operating Procedures and Tactical Directives on the use of force and night raids with strengthened standardized, transparent monitoring and evaluating mechanisms to assess implementation.
- Explore viable alternatives to night raids and ensure that all search and seizure/night raids operations are jointly conducted with or led by Afghan National Security Forces, fully respect traditional, cultural and religious practices and comply with the forces' international legal obligations of proportionality, distinction and precaution. Ensure international and Afghan security forces leave completed standardized contact forms with victims or relatives of detainees as required by the Tactical Directives.
- Improve transparency on Special Forces' operations and publicly accept responsibility where civilian harm has occurred as a result of their actions.

- Issue a directive to ISAF and all US Forces-Afghanistan including Special Operations Forces stressing implementation of NATO non-binding guidelines on compensation and offering practical, detailed procedures for recording casualties, receiving claims, conducting investigations and offering amends in the form of compensation, apologies, condolences and other dignifying gestures.
- Implement the Standard Operating Procedure that outlines standard rules and regulations for the treatment of evidence gathered at the point of capture and procedures for handing over evidence to Afghan authorities.
- Comprehensively review all ISAF/US-Forces decisions to destroy civilian property during all operations to ensure compliance with international humanitarian law, and explore and use alternative means and methods that minimize destruction of civilian property and livelihoods.
- Support the establishment of an appropriate mechanism to monitor the creation, recruitment and activities of Afghan Local Police units to prevent misconduct and unlawful actions outside the ALP mandate, and to ensure that ALP units comply with Afghan and international law including human rights and humanitarian law.

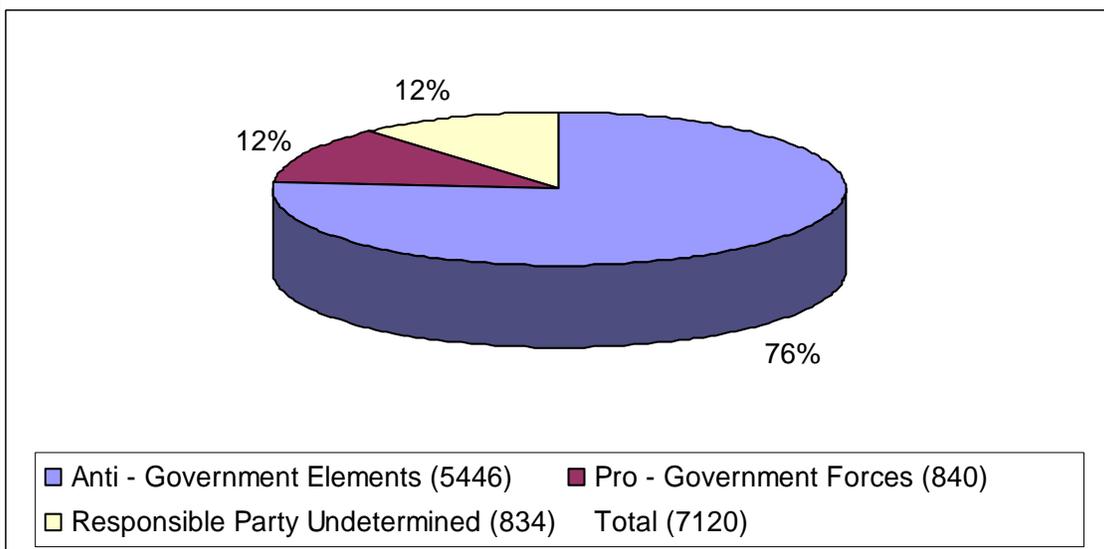
To the Government of Afghanistan

- Establish a professional, standing government body with powers to respond to major incidents of civilian casualties and authority to interact with all interested parties on information sharing, investigations and findings.
- Implement standardized compensation procedures in a coordinated, transparent and timely manner, and raise public awareness about procedures for civilians affected by the conflict including on compensation and accountability.
- As lead security responsibilities are transitioned from international military forces to Afghan forces, establish a body within the Afghan National Army to serve as focal point on civilian casualties including documentation, investigations, accountability and compensation.
- Develop and implement together with international military forces measures to protect potential targeted civilians from assassinations.
- Ensure Afghan National Security Forces including Afghan Local Police fully respect their obligations under international humanitarian law to protect civilians and to take all feasible precautions to avoid and minimize incidental loss of civilian life, injury to civilians and damage to civilian property.
- Take prompt and transparent measures to improve accountability for any member of the Afghan National Security Forces including Afghan Local Police who unlawfully causes death or injury to civilians or violates the rights of Afghan citizens including disciplinary measures and prosecution.
- Ensure all mechanisms of detention, investigation, prosecution and trial comply with Afghan and international fair trial standards, that no persons are released without proper investigation and prosecution and that those responsible for serious crimes are held accountable.
- Urge mullahs and influential religious leaders to call on parties to the conflict to end the killing and injury of civilians and minimize the impact of the conflict on civilians.

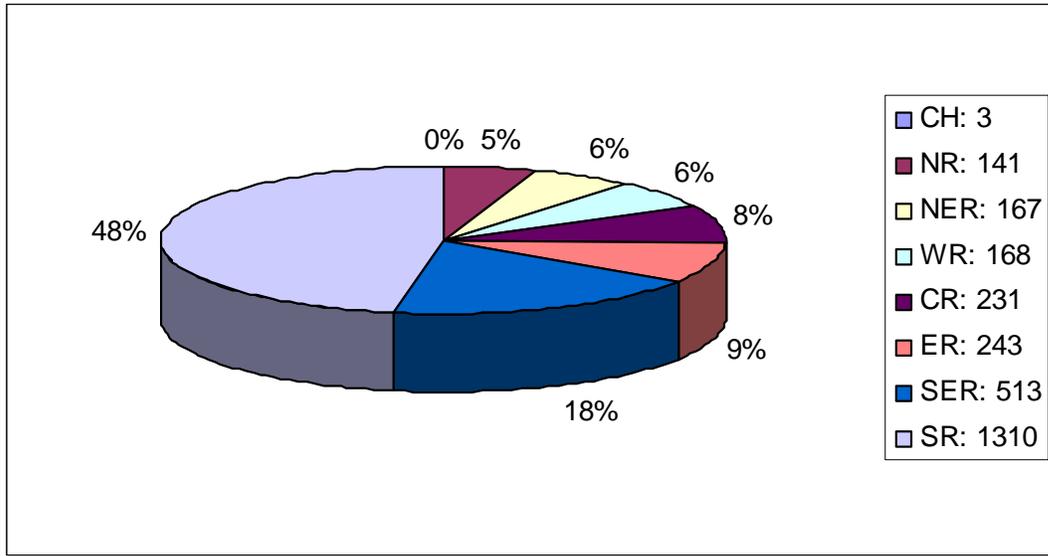
Recorded total civilian deaths in 2010 by parties to the conflict



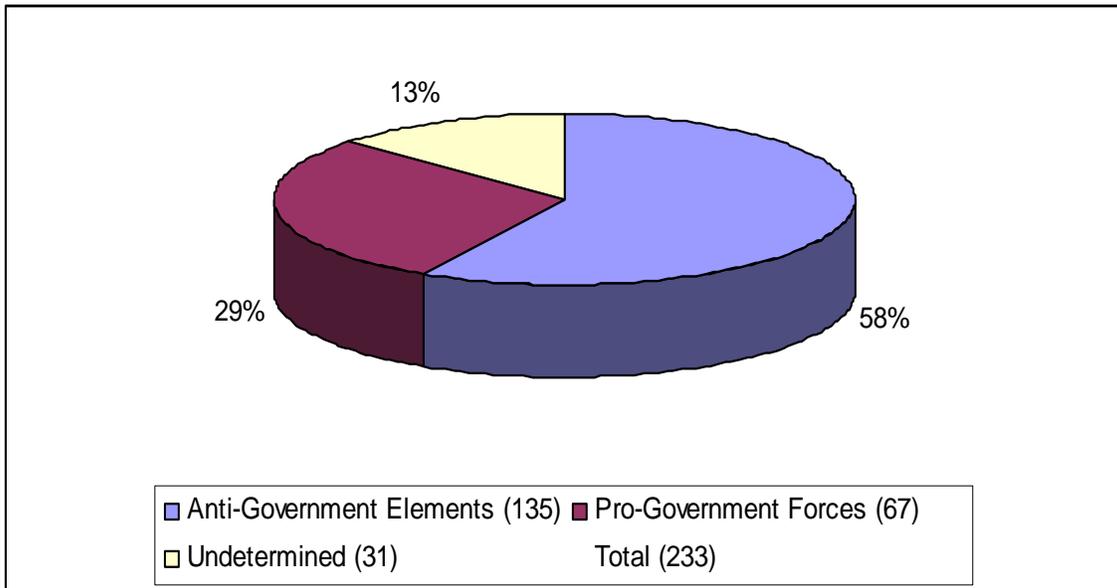
Recorded number of civilian casualties (deaths and injuries) in 2010 by parties to the conflict



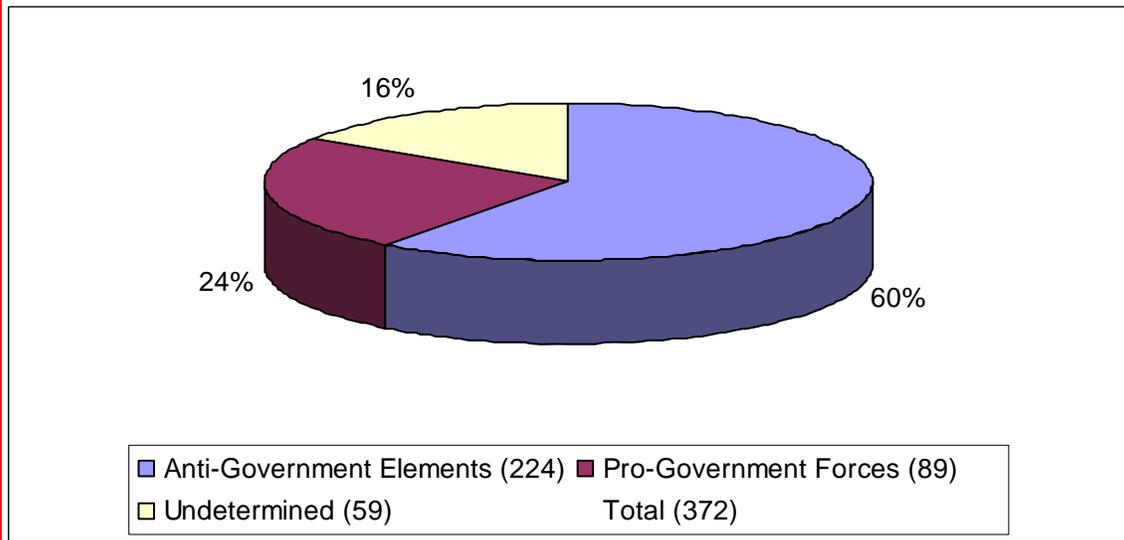
Recorded civilian deaths in 2010 by region



Recorded number of female deaths by parties to the conflict in 2010



Recorded number of child deaths by parties to the conflict in 2010



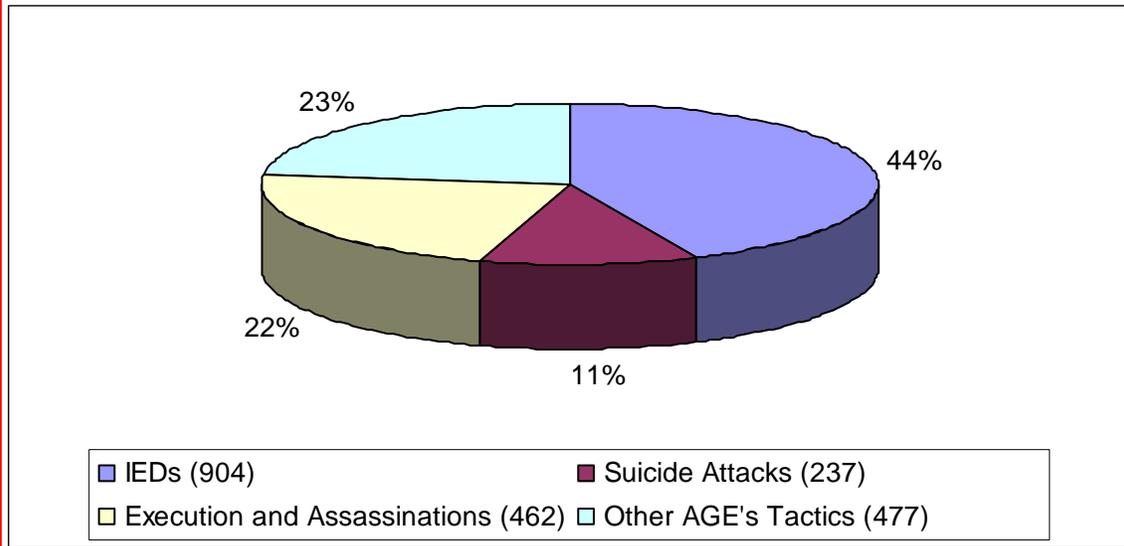
ANTI-GOVERNMENT ELEMENTS AND PROTECTION OF CIVILIANS

Legal Analysis on Obligations of Non-State Parties: In a non-international armed conflict, non-State organized armed groups, such as the Taliban and other Anti-Government Elements operating in Afghanistan, are bound by customary international humanitarian law, Common Article 3 of the *1949 Geneva Conventions* and the *Second Additional Protocol to the Geneva Conventions*. These groups have the same obligations as States to limit the risks that conflict imposes on civilians, to protect civilians not engaged in hostilities and to refrain from targeting and attacking civilians and civilian objects. For the purpose of this Report a civilian is any person who is not taking a direct part in hostilities. It includes all civilians and public servants who are not used for a military purpose to fight the conflict, and encompasses teachers, health clinic workers and others involved in public service delivery, as well as political figures and office holders. It also includes soldiers or persons who are *hors de combat* (“outside of combat”) whether from injury or surrender or who otherwise have ceased to take a direct part in hostilities. It includes persons who may be civilian police personnel not being used in combat or counter insurgency operations and who are not taking a direct part in hostilities including when they are off-duty.

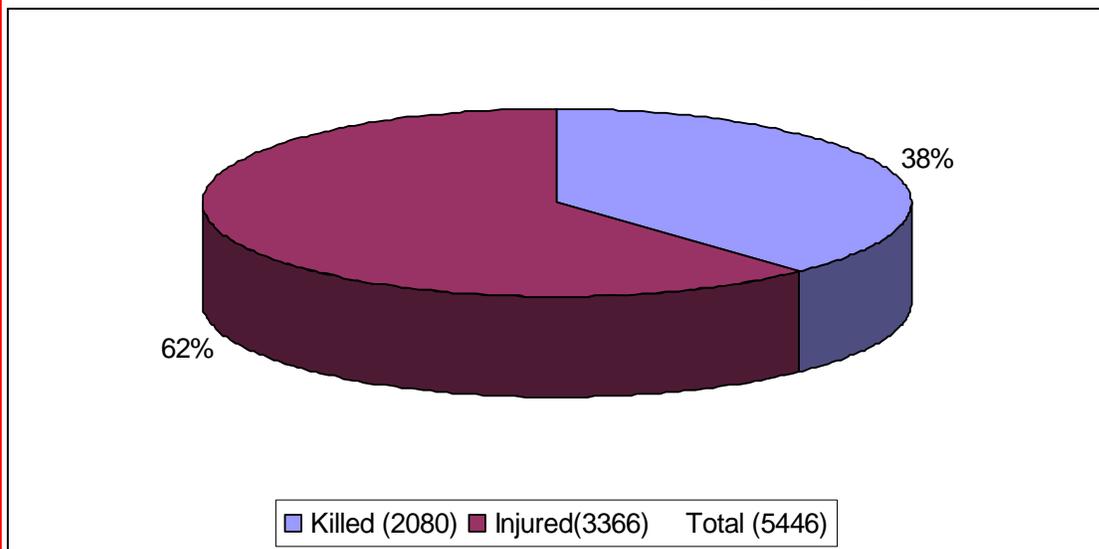
1. Overview

Between 01 January and 31 December 2010, 5,446 civilian casualties were attributed to Anti-Government Elements (AGEs), representing 76 per cent of the total number of civilian casualties for the year. AGEs were linked to 2,080 civilian deaths and 3,366 civilian injuries, (75 per cent and 78 per cent respectively of the total number of civilians killed and injured in 2010). IEDs, suicide attacks, assassinations and executions, abductions, intimidation and harassment were the dominant tactics used by AGEs to wage conflict. These tactics appeared aimed at undermining support for the Government of Afghanistan and its international military allies, and at spreading terror and fear among the civilian population as a means of control.

Recorded Anti-Government Elements – attributed civilian deaths in 2010 by incident type



Recorded number of civilians killed and injured by AGEs



Numerous armed opposition groups operate in Afghanistan, collectively referred to in this Report as Anti-Government Elements. These include, but are not limited to, the Taliban, which is divided into several factions and its associates; Hezb-i-Islami and other factions; the Haqqani network; and al-Qaeda affiliates such as the Islamic Movement of Uzbekistan, Islamic Jihad Union, Lashkari Tayyiba and Jaysh Muhammad. In 2010, a particular armed opposition group sometimes admitted responsibility for a specific attack. All the groups however used tactics that included stand-off attacks and ground engagement as well as asymmetric tactics, such as IEDs and suicide attacks, assassination and execution, abduction and intimidation. In this context, it was often difficult to attach responsibility for specific attacks to an identifiable armed opposition group where no group admitting responsibility.

The AIHRC and UNAMA Human Rights made efforts to track admissions of responsibility for attacks to assist in determining accountability and to better target advocacy on civilian casualties with specific AGEs. By tracking admissions of responsibility, the AIHRC and UNAMA HR also highlight the large number of attacks that caused civilian casualties for which no group took responsibility and to address tendencies to attribute all AGE attacks and civilian casualties specifically to the Taliban.

Analysis of patterns of IED attacks by district throughout the country show sharp differences among districts in how discriminate IED detonations were. In analyzing districts with 10 or more detonations, several interesting contrasts were noted. For example, in Zhari district (Kandahar), 75 per cent of IED detonations resulted in civilian casualties whereas in Panjwayi district (Kandahar) 10 per cent of detonations caused civilian deaths and injuries. In Chamkani district (Paktia), 27 percent of IED detonations caused civilian casualties while in Zurmat district (Paktia) only 10 per cent of detonations resulted in civilian casualties. These variances suggest that the killing and injury of civilians by IEDs depends on district-level targeting decisions and actions of individual district level AGE commanders.

The AIHRC and UNAMA Human Rights are carrying out further analysis into these patterns to enhance incident specific reporting and advocacy aimed a specific commanders/areas.

The use of IEDs, suicide attacks, rocket and mortar fire increased in 2010. Even where targets were legitimate military objects, such as military installations and combatants (Pro-Government Forces), these attacks and tactics often disproportionately harmed civilians. The AIHRC and UNAMA Human Rights found that many attacks were carried out in civilian areas where the military target was not clear or it was unknown. IEDs and suicide attacks in particular were carried out in areas such as bazaars, commercial areas or alongside roads busy with civilian traffic.

The use of tactics, such as assassinations, executions, abductions, as well as some IEDs and suicide attacks often intentionally targeted specific individuals who were not directly participating in hostilities. A range of civilians, from provincial government authorities, tribal elders and community leaders to civilians working for the Government or international military forces were targeted in a systematic and widespread campaign of intimidation. Those targeted were abducted, killed, beheaded, and in some cases mutilated. AGEs often left notes with the bodies of civilians they killed indicating the reasons for the killing. This tactic spread fear in communities and further undermined support for the Government and/or international military forces.

AGEs established illegal checkpoints particularly in the east, north and southern regions. These checkpoints severely restricted people's freedom of movement and ability to move without fear or harassment. In some cases where military operations were underway, restrictions of movement blocked people's access to urgent medical treatment. AGEs also set up illegal check points to search for employees of the Government or international military forces. Many civilians were abducted and killed when stopped at these checkpoints.

1.1. Admissions of Responsibility by the Taliban

The Taliban frequently admitted responsibility for attacks, in particular IEDs, suicide attacks and assassinations in which they reported success in achieving their objective.

In other attacks, armed opposition groups, including the Taliban, sometimes issued statements taking responsibility for the same attack.

The Taliban often admitted responsibility for attacks through their spokesperson, in press releases or through letters attached to bodies of their victims. In civilian casualty incidents documented by the AIHRC and UNAMA Human Rights, the Taliban in most cases did not admit responsibility for attacks that resulted in civilian casualties. For example, although the overwhelming number of civilian deaths in 2010 resulted from IEDs, few were admitted by the Taliban. In the east, from 88 IED incidents documented by the AIHRC and UNAMA Human Rights, the Taliban admitted responsibility for six. Three of these incidents targeted Pro-Government Forces and the rest were against non-military targets, which resulted in ten civilians killed and 43 injured, including children.¹¹

In the south, the AIHRC and UNAMA Human Rights documented 302 IED incidents which killed 511 civilians by AGEs, for which the Taliban admitted responsibility for three; one targeted a police check post, one target remained unclear and one targeted the Registan district ANP Assistant Chief.¹²

AIHRC and UNAMA Human Rights documented 150 suicide attacks across the country, out of which the Taliban claimed responsibility for 59. According to the AIHRC and UNAMA Human Rights documentation, the Taliban admitted responsibility for 21 out of 42 documented suicide attacks in the south. All those attacks targeted the ANP. However, the Taliban did not admit responsibility for several major suicide and IED attacks that resulted in large numbers of civilian casualties in the south.¹³ In the eastern region, the AIHRC and UNAMA Human Rights documented seven cases of suicide attacks, out of these the Taliban admitted responsibility for four. All the attacks occurred

¹¹ These included: On 7 April, a bicycle-borne RCIED detonated against an international military convoy in Jalalabad city, Nangahar province in which three civilians died and 13 others injured. On 4 July, an IED detonated against an empty fuel tanker in Jalalabad city. No casualties were reported. On 11 October, an IED detonated against a private construction company vehicle in Qarghayi district, Laghman province. No civilian casualties reported. On 14 November, RCIED detonated near an ANA vehicle on a busy road in Jalalabad city resulting in the deaths of two civilians, including a 17 year old boy and seven children, aged between 4-13 years were injured. On 22 November, an IED detonated against an ANP check post near a public health hospital in Mehterlam city, Laghman province killing four civilians and injuring 23 others. On 26 November, AGE attacked a private guesthouse with small arms fire and IEDs resulting in one civilian injured.

¹² On 9 January, a roadside IED exploded near to an ANP checkpoint in Kandahar city, killing one civilian and injuring one. On 19 April, an RCIED detonated on a donkey cart killing three children and injuring two other civilians. On 29 October, an IED hit the vehicle of the Registan district ANP Assistant Chief, killing him and a tribal elder.

¹³ This included, for example, on 10 December, a civilian vehicle carrying 19 passengers, travelling in Khanashin district of Helmand province hit a roadside IED. Fifteen civilians, including women and children were killed and four others were injured. No one claimed responsibility for the attack. On 21 March, a suicide attacker detonated in Grishk town in Helmand province in a bazaar area on a bridge. At least seven civilians were killed and 11 others injured. No one claimed responsibility. On 27 April, in Daman district in Kandahar province close to Kandahar Air Field, three BBIEDs attacked a private security company, killing four and injuring 30 others. No one claimed responsibility. On 4 September, a SVBIED detonated against an IM convoy resulting in four civilians killed and 11 others injured in Kandahar city. No one claimed responsibility.

in busy civilian areas, all on bridges, and although appeared to target Pro-Government Forces resulted in numerous civilian casualties.¹⁴

From a total of 214 assassination cases documented by the AIHRC and UNAMA Human Rights in the south, the Taliban admitted responsibility for nine. These included high level provincial officials, *shura* members, civilians accused of spying and tribal elders. In the eastern region, the AIHRC and UNAMA Human Rights documented 18 cases of execution, out of which 14 were admitted by the Taliban. The majority of civilians were killed for spying and in all cases letters were either left with the bodies stating the reason for the killing or the Taliban informed the victim's family and community of the reason for the killing.

1.2. Taliban Statements on Civilian Casualties

The Taliban published a number of statements throughout the year. They either issued orders to commanders on the ground laying out policy and declaring their intentions to target "all supporters of foreign invaders"¹⁵ or dismissed and refuted reports of UNAMA, AIHRC and other human rights organizations on civilian casualties as "spurious" and "partial, one-sided and incorrect." After the publication of UNAMA Human Rights' 2010 Mid Year Report on Protection of Civilians in August, the Taliban in a 15 August statement proposed the establishment of a joint committee to investigate harm against civilians.¹⁶ Although the AIHRC and UNAMA Human Rights consider the proposal an opportunity to open dialogue on protection of civilians, any dialogue should be premised on a demonstration of genuine willingness to reduce civilian casualties.

¹⁴ On 6 June, an SVBIED detonated against an IM convoy on Puli Behsud Bridge in Jalalabad city in Nangahar province, injuring 12 civilians, including four children. On 21 June, a female suicide bomber attacked a joint ANP and IM check post on Shultan Bridge in Shaigal wa Shultan district of Kunar province, killing one civilian and injuring 13 others, including nine children. The Taliban in a statement to the media confirmed the presence of a female suicide attacker. On 9 July, an SVBIED exploded against an IM convoy near Bihsud Bridge, killing one civilian and injuring ten others, including two children. On 10 December, an SVBIED detonated close to Nagrak Bridge in Surkh Rod district in Nangahar province targeting the NDS. As a result one civilian woman was killed. In all the Taliban statements admitting responsibility for the attacks, civilian casualties were not mentioned.

¹⁵ 8 May 2010, "Afghan resistance statement. Statement of the Leadership Council of the Islamic Emirate of Afghanistan on the occasion of the commencement of *Al-Faath* Operations." The statement includes the following directive: "The *Al Faath* operations will target the invading Americans, the NATO military personnel, foreign advisers, spies who pose as foreign diplomats, members of the Karzai stooge administrations and members of the cabinet, members of the parliament, personnel of the so-called ministry of defense, intelligence department, ministry of justice, ministry of internal affairs, contractors of foreign and domestic private security companies, contractors and personnel of military logistics and military construction companies and all supporters of foreign invaders who are working for the strengthening of foreign domination...1. [T]hose who support the non-believers will be considered as one of them and will be punished for their betrayal; 2. Owners and workers of transportation and construction companies... should put an end to these illegal activities. [Or Mujahedin] will kill their personnel and destroy their equipment."

¹⁶ "Response of the spokesman of the Islamic Emirate of Afghanistan about civilian casualties survey," 15 August, 2010, http://www.shahamat.info/english/index.php?option=com_content&view=article&id=1181:response-of-zabihullah-mujahid-the-spokesman-of-islamic-emirate-of-afghanistan-about-civilian-casual&catid=4:statements&Itemid=4

In May 2010, the Taliban issued an updated *Laiha*, or Code of Conduct and Regulations for the Mujahids of the Islamic Emirate.¹⁷ As in previous codes of conduct, this edition sets out rules and regulations on issues such as prisoners, suicide attacks and conduct in the conflict. Both in statements and the code of conduct, the Taliban have a stated aim to minimize civilian loss and said that “Taliban leadership have instructed their followers in Afghanistan to deal gently with the common people.”¹⁸ However, to date, the AIHRC and UNAMA Human Rights have not observed any concerted effort by the Taliban to implement these orders or to take action against those commanders or members who disobey them. In addition, as noted above, the AIHRC and UNAMA Human Rights documented numerous indiscriminate or disproportionate attacks that resulted in civilian casualties for which the Taliban admitted responsibility.

Legal Analysis on Use of IEDs and Suicide Attacks: The use of IEDs in many cases violates the international humanitarian law principles of distinction, proportionality and precaution. A suicide attack that directly targets civilians or one that may be expected to result in casualties beyond the strict requirements of military necessity violates international humanitarian law. Suicide attacks, as a method of attack during an armed conflict, are not prohibited *per se*. However, a suicide attack violates international humanitarian law when it targets civilians, or it may be expected to result in civilian casualties in violation of the principle of proportionality, or is carried out in a perfidious manner. In addition, many suicide attacks on legitimate military objectives disregard the principle of proportionality by taking place in public areas with large numbers of civilians indicating a failure to take all feasible precautions to minimize incidental loss of civilian life and injury.

2. IEDs and Suicide Attacks

2.1. IEDs

IED attacks accounted for the majority of civilians killed in 2010 with 904 killed and 1662 injured (33 per cent of the total number of civilian deaths and 38 per cent of the total number of civilian injuries in 2010), more than half of which occurred in the south. July (355) and August (316), in the run up to the Parliamentary elections in September, recorded the highest number of civilian casualties from these attacks than in any other month since the Presidential and Provincial Council elections in August 2009.

Civilian casualties from IEDs increased by 40 per cent compared to 2009. This dramatic increase in the use of IEDs in 2010, even when targeting a legitimate military object, disproportionately harmed civilians. IEDs in the southern region killed the most civilians in total with 511 deaths during the year, with June and July as the deadliest months killing and injuring 420 civilians. High casualty rates were also documented in the southeast in August (65), in northern region in September (57), in eastern region in November (57), and in the northeast region in October (52).

¹⁷ The *Laiha* consists of 14 Chapters and 85 articles.

¹⁸ Taliban statement in response to publication of the UN's Annual Report on Protection of Civilians 2009, 15 January 2010.

In 2010, AGEs used IEDs more than any other tactic in the conflict. IEDs caused the most harm to civilians due to the nature of the weapon and where it was placed. Many IEDs were discovered¹⁹ before they caused harm, but the majority of IEDs detonated resulting in deaths and injuries to civilians. According to UN Department of Safety and Security figures, at least 5,995 IEDs in total were discovered and detonated during 2010 and from the total of 5,995, at least 3,238 IEDs were detonated.²⁰ Twenty-one per cent of IED detonations resulted in 937 civilian deaths.

The southern region had the most detonated IEDs in the country with 1,281 incidents. From this total, 294 IEDs killed 513 civilians in the south, with the most civilians killed in Helmand (220). The Helmand districts of Lashkar Gah and Nad Ali (including Marja) saw the most civilian casualties in the province, with 40 per cent and 16 per cent respectively of civilian casualties caused by IEDs.

2.1.1. Indiscriminate Use of IEDs

The widespread use of IEDs by AGEs appears to demonstrate an unwillingness or inability by AGEs to discriminate between civilian and military targets. IEDs were placed on roads used by civilian traffic, in commercial areas such as bazaars, by buildings, such as schools and clinics, or placed on motorbikes and rickshaws in areas frequented by civilians. In many cases the attacks caused large numbers of civilian casualties although it was unclear who was specifically targeted by the AGEs.

In 45 incidents documented by the AIHRC and UNAMA Human Rights, where IEDs killed more than five people, at least 30 of the incidents did not have a discernible military objective as a target. Many of the incidents were caused by roadside IEDs, pressure plated or wired IEDs, causing any vehicle to hit the IED to explode. Many regions across the country experienced an increase in the use of IEDs, and even with the banning of ammonia nitrate in January the AIHRC and UNAMA Human Rights noted that many IEDs were larger and more sophisticated.

Under international humanitarian law, warring parties should make civilians aware of impending attacks. The AIHRC and UNAMA Human Rights have recorded only a few incidents where AGEs notified the community of IEDs placed on roads. This occurred in March in Farah province when AGEs distributed leaflets in Khak-e-Safid and Pusht Rod districts warning the local population, and in advance of some incidents in the south around Marja.

2.1.2. IEDs Placed on Busy Roads

As AGEs have placed bigger and better IEDs alongside roads, the AIHRC and UNAMA Human Rights noted that more civilian mini buses carrying large numbers of passengers were hit causing numerous casualties. On at least 14 occasions, large civilian mini buses traveling on roads have hit IEDs causing the deaths of six or more civilians, resulting in a total of 171 killed and 96 injured, including many women and children. In five incidents alone, 83 civilians were killed and 42 were injured. Four incidents took

¹⁹ For the purpose of this report, IED detonations are incidents when the device explodes without having been detected by ANSF or international military forces. Discoveries refer to instances when ANSF or international military forces find and defuse IEDs or control-detonate them. Definitions are taken from UNDSS.

²⁰ IED detonation and discovery figures for 2010 supplied by the UN Department of Safety and Security (UNDSS).

place in the south (three in Helmand and one in Nimroz province), and one in Kushk Kuna, Herat province in the west; three of which took place in December alone. Other vehicles carrying civilian passengers were also hit, and on one occasion on 20 October an IED struck a wedding convoy, reportedly killing 13 civilians, including five women and five children and injuring 10 others, including six females.

The fact that many civilians, mainly families, were affected by roadside IEDs suggests that AGEs often indiscriminately placed these deadly devices causing a high number of civilian casualties. On 15 March, a vehicle carrying six family members hit an IED, killing three and injuring three in Andar district, Ghazni province. Twelve members of an extended family, out of 16 people, were killed and four were injured when their mini-van hit an RCIED in Charada Bagh village of Kushk Rabat Sani district in Herat province on 16 December. The family was to attend a wedding at the district centre.

2.1.3. IEDs Placed in Motorbikes and Rickshaws

IEDs were also placed strategically on motorbikes and rickshaws. They were also often used to target specific civilian individuals [see assassinations section]. In a number of cases, many IEDs appeared to use large amounts of explosives, often disproportionate to the intended target, as these explosions resulted in numerous civilian casualties. An IED fixed to a bicycle that potentially targeted the Traffic Police Department on 23 February in Lashkar Gah exploded killing seven and injuring 16. An IED placed on a motorbike in Imam Sahib district of Kunduz province on 13 November may have potentially targeted a pro-Government militia commander but instead it killed six civilians, including three children, and injured 19 others. On 31 March, an IED exploded in the Baba Ji weekly market in Sangin district that killed 24 and injured 46 others. The target may have potentially been an ISAF base located nearby, but it was unaffected.

An IED placed in a bicycle in Mehterlam city in Laghman province detonated some 20 metres away from an ANP check post resulting in four civilians killed and 23 others injured on 20 November. The attack was carried out on a busy civilian road, near residential compounds, market places and close to the public hospital. The Taliban claimed responsibility for the attack.

2.1.4. Placement of IEDs in Busy Commercial Areas

A noticeable trend was the placement of IEDs in busy commercial areas, such as bazaars. Several IED detonations occurred in or outside of shops causing civilian casualties. This was particularly observed in the eastern and southeastern regions. Often shops were targeted for selling music and sweets, such as in Jalalabad city in Nangahar province. In one incident, an IED exploded in a music shop on 10 November in Jalalabad city, injuring nine civilians. These incidents had a knock-on effect throughout the business community in other parts of Nangahar province, with the result that other shops stopped playing music for fear of retaliatory attacks by AGEs.

In the southeastern region, in all four provinces (Khost, Paktika, Paktya and Ghazni) many other shops were also targeted, often for unknown reasons, resulting in civilian casualties. An IED that exploded in a shop near a mosque in Ghazni city on 4 September injured 28 civilians. In Khost, those targeted included barbers, ice-cream shops, butchers and medical shops resulting in 21 civilian casualties over an eight month period. In one of the explosions on 30 November, a former *Wolesi Jirga* candidate was killed. All these attacks failed to distinguish between civilians and combatants and were not directed against legitimate military objectives.

2.2 Suicide Attacks

At least 71 suicide attacks occurred in 2010, killing 237 civilians and injuring 737. Of these suicide attacks, eight killed more than ten civilians, with some of the deadliest occurring in the south and southeast regions. The majority occurred in the southern regions, with three quarters occurring in Kandahar province alone, totaling 288 civilian casualties. Many of the suicide attacks not only targeted ANSF and international military bases and installations but district *shuras*, provincial government officials and were used for targeted killings [see assassinations section].

Suicide attacks represented 11 per cent of all deaths attributed to AGEs, and eight per cent of the total civilian deaths in 2010. This is a decrease of 15 per cent from 2009. As the number of suicide attacks remained at the same level in 2009 and 2010 (approximately 140 attacks each year), it appears that suicide attacks caused less civilian casualties in 2010 compared to 2009.²¹ This may reflect guidance in the Taliban Code of Conduct or *Laiha* to concentrate the use of these strategic weapons on “very important targets” and possibly the guidance to “avoid casualties among the common people.”²²

2.2.1. Complex Suicide Attacks

The first eight months of 2010 witnessed numerous multiple or complex attacks, including suicide attacks, mainly occurring in the southern regions, particularly in Kandahar province. Although the majority of attacks targeted international military or Afghan National Security Forces, they still resulted in numerous civilian casualties. Several attacks focused on international organizations. Attacks included those on foreign guesthouses in a 26 February attack in Kabul and a 15 April attack against a compound housing US implementing partners of the Afghan Government’s Stabilization Initiative in Kandahar city. On 5 May a complex attack, including nine suicide bombers, occurred against the provincial administrative centre in Nimroz province and on 2 July AGEs conducted a complex BBIED and VBIED attack against an international development organization. On 23 October, an attack involving multiple suicide bombers took place against the UN compound in Herat. Two people were injured. This was the worst attack against the UN since the late 2009 complex attack in Kabul that targeted an international guesthouse.

2.2.2. Suicide Attacks on Military Convoys Caused Civilian Casualties

Pro-Government Forces’ military convoys were particularly targeted by suicide attackers, especially along busy roads, as well as at government and international military bases, checkpoints, foot patrols and in commercial areas with a military presence. Although these were legitimate military targets, many of the attacks were disproportionate and indiscriminate in their nature, killing and injuring far more civilians than either international military forces or Afghan National Security Forces’ personnel. In twelve documented cases of suicide attacks against international military convoys, foot patrols or Pro-Government Forces’ convoys, more civilians were killed and injured than international or Afghan forces. In over half of all the cases documented by the AIHRC and UNAMA Human Rights, no casualties from Pro-Government Forces were reported. In one particular incident on 18 May, a SVBIED that targeted an international military

²¹ UNDSS reports for 2009 and 2010 and see Reports of the Secretary General for 2009.

²² Quoted from the 2010 Taliban Code of Conduct (*Laiha*) for Mujahidin of the Islamic Emirate of Afghanistan, article 57.

convoy in Kabul city, killed seven civilians and injured 49 others. In this case, there were no reports of international military casualties.

The only documented case of a suicide attack conducted by a female was against a Pro-Government Forces' checkpoint on Shultan Bridge in Kunar province on 21 June. Although the attacker targeted Pro-Government Forces, 13 civilians were injured, including nine children.

2.2.3. Suicide Attacks in Civilian Areas

Suicide attacks were also conducted in areas with large numbers of civilians, for example outside hotels, on bridges and in market places and also against civilians [see assassinations]. Two suicide attacks in the south occurred outside of hotels in Dehrawud district, Uruzgan province and in Kabul on 14 January and 4 February respectively resulting in a total of at least 23 civilians killed and 34 injured.

Suicide attacks also took place during meetings, against provincial officials, at a wedding party, and at the residence of a provincial security official and a former *Mishrano Jirga* member. Several suicide attacks targeted the vehicles of provincial government officials, such as on 14 May a BBIED attack against the Governor of Paktya. He was unhurt but the attack killed one civilian and injured five others. In the south, suicide attackers targeted civilian convoys, including the convoy of the Arghandab district governor on 15 June, the convoy of the acting provincial governor of Uruzgan on 26 June, the car of the Dand district governor on 2 August and on 18 December the convoy of the Dand district commissioner. In total, these attacks killed 15 and injured 22 civilians.

Many of the suicide attacks targeted Afghan and international military buildings, convoys, bases, check posts and personnel. Several suicide attacks targeted provincial civilian authorities [see above]. However, the AIHRC and UNAMA Human Rights noted that several major suicide attacks occurred during the year that caused large number of civilian casualties and took place in busy civilian areas often with no discernible military target. These attacks either targeted foreign guesthouses, were against high profile provincial civilian authority officials, or against militia commanders.

The AIHRC and UNAMA Human Rights documented six suicide attacks²³ that occurred across the country and took place in civilian areas often with no apparent military objective. Although three of the attacks allegedly targeted specific people, two of them reportedly targeted pro-government militia leaders and the third targeted a provincial council chair, in total these three attacks alone resulted in 25 civilians killed and 125 injured. A suicide attacker of about 18 years old exploded his vest during a wedding party in Arghandab district in Kandahar province that killed 40 and injured 72 civilians on 9 June. This incident alone killed more civilians in the southern region since the 25

²³ These included the 22 February SBBIED attack during a meeting to resolve a land dispute in Nangahar that killed 14 and injured 12; 26 February complex attack against foreign guesthouses in Kabul that killed 13 and injured 44.; 13 March complex attack in Kandahar that occurred in various places across the city, killing 25 and injuring 75 others; 9 June SVBIED attack during a wedding party in Arghandab district, killing 40 and injuring 72; 31 July, a BBIED attacker targeted a pro-government militia commander who was watching a football match, killing three and injuring 25 civilians, including eight children and the 5 November suicide attack that occurred in a busy bazaar area in Maymana district targeting the provincial council chair that killed 11 and injured 50 others.

August 2009 truck bomb in Kandahar city. On 31 July, a BBIED attacker targeted a pro-Government militia commander who was watching a football match, killing three and injuring 25 civilians, including eight children. On 5 November, a suicide attack occurred in a bazaar area when the provincial council chairman was injured in Khwaja Sabz Posh district, Maimana province. As a result, 11 civilians were killed and 50 were injured.

Legal Analysis on Assassinations: According to international humanitarian law, civilians may never be attacked unless and for such time they take a direct part in hostilities. It is not a violation of international humanitarian law for a party to the conflict to ask civilians to stop cooperating with or showing support for an opposing party to the conflict, but civilians may not be attacked for these reasons. This rule is part of both customary international law and the *Second Additional Protocol to the Geneva Conventions* which the Taliban and other AGEs are legally obliged to comply with:

Art 13 of Second Additional Protocol to the Geneva Conventions on protection of the civilian population

1. *The civilian population and individual civilians shall enjoy general protection against the dangers arising from military operations. To give effect to this protection, the following rules shall be observed in all circumstances:*

2. *The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.*

3. *Civilians shall enjoy the protection afforded by this part, unless and for such time as they take a direct part in hostilities.*²⁴

In addition, the act of “[i]ntentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities” is a war crime that may result in prosecution before the International Criminal Court.²⁵

3. Assassinations, Executions and Abductions

2010 was characterized by an intensified, systematic and widespread campaign of intimidation by AGEs. Assassinations, executions and abductions were carried out against government officials (both military and civil), civilians working for international military forces and civilians who were supportive, or perceived to be supportive, of the Government and international military forces. Abductions and assassinations were more widespread than in previous years and increased sharply over the year from already high levels in 2009.

The AIHRC and UNAMA Human Rights recorded 381 assassinations and executions. This is more than double the number of incidents recorded in 2009 for executions and assassinations. At least 462 civilians were killed as a result, an increase of 105 per cent from 2009. Those who were abducted were often held for ransom or intimidated to end their support for the Government or were in some cases beheaded. At least 251 incidents of abductions by AGEs during 2010 were recorded. This is an 83 per cent increase on the number of incidents of abductions recorded in 2009.

²⁴ Protocol II, art. 13; see also ICRC Customary IHL Study, Rules 1, 2, and 6.

²⁵ Rome Statute, article 8 (2)(e)(i).

3.1. Assassinations and Executions

Targeted killings were a dominant feature of 2010. Although these mainly included high-level provincial government officials, such as governors, district governors, *shura* and provincial council members, tribal and religious elders, civilians targeted also included doctors, teachers, students, construction workers and civilians perceived to be supportive of the Government and the international military forces. Retired Afghan National Security Forces' personnel and police who were *hors de combat* or not directly participating in hostilities were also targeted.

During 2010, AGEs killed at least 462 civilians, (17 per cent of the total civilians killed in 2010), an increase of 105 per cent from 2009. This figure probably underreports the number of people killed through assassinations and executions because of the frequency of attacks and the difficulty in distinguishing assassinations from other killings and shootings that occur during conflict. The AIHRC and UNAMA Human Rights documented at least 42 tribal elders, at least 25 council or *shura* members and at least 21 students, teachers or educational officials killed across the country in 2010. More people were killed on the suspicion of spying than on any other issue.

Assassinations and executions mainly occurred in the southern, southeastern and central regions of the country. Nineteen people were targeted in the south in April alone, including government officials, prominent local leaders or civilians who were in some way connected with the Government, international military or international development/assistance organizations. In the southeast, eight people were assassinated in March, including the head of the Civil Service Commission. In July, 22 civilians were assassinated, primarily on the suspicion of spying for the Afghan government and the international military forces. In the central region in July at least 12 people were assassinated, allegedly including a child who was suspected to have passed information to the Afghan Government and international military forces.

In tracking assassinations and executions on a monthly basis, the AIHRC and UNAMA Human Rights noted that May, July and August recorded the most assassinations and executions with 69, 93 and 87 civilians killed respectively. The numbers for the latter two months were related primarily to the Parliamentary elections held in September.

3.2. Assassinations of Government Officials

The effect of assassinations and executions by AGEs not only weakens support for the Government but also weakens its presence within affected communities, preventing the building of rule of law and good governance. At least 140 Government officials were killed in 2010. The killing of large numbers of civil servants highlights the Government's failure and inability to implement its obligation to protect civilians during the conflict, and safeguard the population from violence.

The number of Afghan politicians and Government officials assassinated has made such positions hard to fill, especially in the south, which further contributes to undermining Government presence across conflict-affected areas. Five district governors were killed across the country during the year.²⁶ Out of the five killed, four were replaced with new

²⁶ On 14 January, the Chisht Sharif district governor was killed and replaced by a new district governor on 21 January. On 15 June, a VBIED attack killed the Arghandab district governor who was replaced by a new district governor. On 10 July, an RCIED detonated against the vehicle of the Qala-e-Zal district governor in Kunduz province, killing him. The position is still vacant. On 22

district governors. Two deputy mayors of Kandahar were killed six months apart on 19 April and 4 October respectively. A temporary replacement was appointed while waiting for the official position to be filled.

3.3. Targeted Assassinations of Government Officials using IEDs

Targeted assassinations through the use of IEDs and suicide attacks occurred during the year. IEDs, mainly remote-controlled, were placed in motorbikes and rickshaws and targeted high-profile government officials. The most high-profile provincial officials to be killed were the Governor of Kunduz and the Deputy Governor of Ghazni. The Governor of Kunduz died when a BBIED detonated inside a mosque in Taloqan city centre in Takhar province on 8 October. Twelve civilians were also killed, including two children, and at least 36 others, including two children, were injured.

Attacks against places of worship are prohibited under international humanitarian law, where civilian objects should not be targeted, nor be used for any military means, and are subject to special protections. As a result of NDS investigations, five people were arrested on the same day. The Governor was the third provincial official to be killed in the northeastern region, as in August and September district governors were killed in Kunduz and Baghlan provinces respectively. The Deputy Governor of Ghazni was killed by an RCIED placed in a motorbike on 28 September, which also injured 25 civilians.

3.4. Use of Children in Suicide Attacks

Suicide attacks were also increasingly used as a tactic to target provincial civilian officials. The AIHRC and UNAMA Human Rights documented a number of young and teenage boys used as suicide attackers to target Pro-Government elders and officials in the south, north and east. According to the *Laiha* of 2010, in Chapter 12, article (69), young males “under-age persons without beards” are forbidden to live with the Taliban in residential or military centers, effectively banning them from participating in the conflict.²⁷

Use of Children for Suicide Attacks: On 22 February, a young boy exploded his suicide vest in Nangahar province targeting a prominent group of community and tribal elders who were returning from a meeting to solve a land dispute resulting in the deaths of 14 civilians and injuries of 12 others. Those killed included a former warlord and supporter of President Karzai as well as serious injury to the Director of the Returnees and Refugees Department. In Puli-Kumri in Baghlan province on 8 September a boy suicide bomber (reportedly between 12-15 years) detonated himself killing two members of a newly created Pro-Government militia and injuring another one. The target of the attack was the commander of a newly established Pro-Government militia who was unharmed. A teenage suicide bomber targeted the head of the Faryab provincial council in the bazaar in Khwaja Sabz Post district on 5 November. The provincial council head was injured, 11 civilians were killed and 50 were injured.

October, an RCIED exploded against the vehicle of the district governor of Dur Baba in Nangahar province who was killed and replaced on 24 October. On 6 September, the district governor of Nahring was killed. He was replaced on 17 October.

²⁷ Ibid. Article 69 states: Non-adults (underage persons without beards) are forbidden to live in the Mujahids residential places and military centers.

3.5. Executions of Civilians

In an alarming development, the AIHRC and UNAMA Human Rights documented numerous executions of civilians across the country. The majority of these executions were of an extra-judicial nature, with very few incidents reportedly involving a type of “due process” by the Taliban. Documentation shows that such “due process” was not undertaken in a manner sufficient to permit the accused his or her full rights. In one case, on 17 October in Arghistan district in Kandahar province two civilians were taken from their homes and executed reportedly by the Taliban. Although there was no public trial, Taliban reportedly later informed the community about the reasons for the executions. One man, a member of the community development council, was reportedly executed because the Government was digging a water well for him and the Taliban suspected him of collaboration and spying for the Government. The other was reportedly executed because he had previously transported construction material to Afghan National Police check posts in the district centers of Arghistan and Maruf districts of Kandahar province.

On 16 October, a man was publicly extra-judicially executed by the Taliban on the allegation that he had killed two persons four years ago in Chack district of Wardak province and then fled to Iran. After he returned to the district, the victim’s family reportedly complained to the Taliban and the man was subsequently detained and publicly executed by them, reportedly without any investigation or trial.

3.6. Executions, Beheadings and Hangings for Spying

The AIHRC and UNAMA Human Rights documented civilians publicly executed, beheaded and hung on the suspicion of spying. Eighty four civilians were killed on the allegation of spying. From this total, 65 were ordinary individuals with reportedly no professional or political affiliation. Three public executions took place all in Murghab district in Badghis province in October and in Kandahar province between 23 - 24 August two civilians were hung. They were all accused of spying and subsequently killed. In only one incident documented by the AIHRC and UNAMA Human Rights was an alleged Taliban trial held to try an accused on the allegation of spying. A 17 year old man was killed on 2 November in Tantil area, Manogay district, Kunar province allegedly for spying for the NDS. A handwritten letter attached to his body described that a Taliban court had sentenced him to death for spying after the victim had reportedly undergone a 25-day trial.

Between July and November, four civilians were beheaded on the suspicion of spying. These took place in the districts of Lashkar Gah, Nawa-I-Barak Zayi in Helmand, Tawara district in Ghor and Sayadabad district in Wardak. It is unknown whether any of the civilians underwent a trial by the Taliban.

In Kandahar and Arghandab on 23 and 24 August respectively, two civilians were reportedly hung on the suspicion of being spies for the Government and the international military forces. The Taliban claimed responsibility for the abduction, beheading and mutilation of a civilian on the allegation of spying for international military forces on 3 December in Sirkanay district in Kunar province. The civilian had previously been abducted on 25 November. Reportedly, the Taliban also killed the victim's two sons on the same allegation in Manogay district of Kunar province. On 2 November, AGE killed two abducted ANP members in Pusht Dag area, Sirkanay district, Kunar province. The AGEs abducted the off-duty ANP members, and detained them on 29 October. The

victims were beheaded and their corpses were thrown in a ditch in a remote desert of Sirkanay district

The Taliban *Laiha* of 2010,²⁸ Chapter Three sets out provisions on how to deal with spies. Article (18) gives a detailed outline as to the methods defining and executing alleged spies. Although these are detailed rules, it is unclear whether the Taliban applied any of these rules before punishment took place.

3.7. Beheadings of Members of Afghan National Security Forces

Under Common Article 3 of the Geneva Conventions all prisoners must be treated humanely in all circumstances and should be protected against any act of violence.²⁹ In 2010, the Taliban abducted or captured a number of ANSF personnel and subsequently killed them. The treatment of prisoners is also reiterated in the *Laiha* 2010 code of conduct which states in Chapter two – “About prisoners”, article (10) that only Mullah Omar, his deputy and the provincial judge has the authority to execute or to punish.³⁰

The AIHRC and UNAMA Human Rights documented several cases of ANP officers abducted and later beheaded. It is not clear whether this provision in article 10 of the *Laiha* was adhered to when these beheadings took place. A former officer who worked in the district detention centre in Muhammad Agha in Logar province was not only reportedly beheaded but also was found without his hands on 26 June. ANP officers were beheaded in Baghlan province on 20 July, when Taliban fighters overran a police post in the Baghlan district capital. On 29 October two ANP were abducted in Sirkanay district, Kunar province and on 2 November, they were beheaded and their corpses were thrown in a ditch in a remote desert of the district. On 26 June, members of the *Wolesi Jirga* expressed frustration at the Government’s inability to provide security to people, and announced that local communities should find ways to protect themselves.

²⁸ The Islamic Emirate of Afghanistan, “The *Laiha*,” [Code of Conduct and Regulations] for Mujahids, Second Edition – 1431 lunar year of the Hegira system (5 March 2010). Article 18 states “Whenever a person has been categorized as a perpetrator of social destruction it is obligatory that it be proven in accordance with the four points below. First: The person willingly confesses his espionage, without any coercive force applied against him. Second: Two witnesses give testimonies regarding the espionage and the testimonies given by them should be reliable before the judge. Third: Circumstantial evidence (documents) raises strong suspicion, such as specific tools (equipment) used by spies for the purpose of spying and other such evidence. Of course, not everyone can assess the circumstantial evidence. If the court is available, the judge, and if it’s not available, a specialist – an efficient and pious person - shall examine the strong and weak [aspects] of the circumstantial evidence. If the circumstantial evidence is [found] strong then the punishment shall be strengthened. If the circumstantial evidence is strong enough for a firm conviction [unshakeable confidence], and if the *Imam, Najib Imam* and judge have determined that execution [killing] is appropriate, then they can execute him. Fourth: A person who is eligible to be a witness is someone who is very just [fair], without fanaticism [prejudice], who keeps himself far from *Kabair* [grave sins] and never prolongs [when committed] the *Saghair* [minor sins].

²⁹ As stated in Common Article 3 to the 1949 Geneva Conventions and Additional Protocol II. In particular, all those persons who do not take direct part, or have ceased to take direct part in the hostilities are protected against murder, torture and cruel, humiliating or degrading treatment.

³⁰ If a judge is not appointed in a province it is the responsibility of the person-in-charge of the province to decide the fate of the prisoner with regard to their execution or punishment.

Legal Analysis on Abductions: International humanitarian law prohibits the taking of hostages in international and non-international armed conflict. International human rights law also prohibits hostage-taking because it amounts to an arbitrary deprivation of liberty. The International Convention against the Taking of Hostages defines hostage-taking as the seizure or detention and the threat to kill, to injure or to continue to detain a person (the hostage) in order to compel a third party to do or to abstain from doing any act as an explicit or implicit condition for the release of the hostage (Article 1). It is the specific intent that characterizes hostage-taking.

Article 3 Common to the four 1949 Geneva Conventions prohibits the taking of hostages, as does the Fourth Geneva Convention (article 34). The prohibition of hostage-taking is also firmly entrenched in customary international humanitarian law and is a war crime under the Rome Statute (Article 8(2)(a)(viii) and 8(2)(c)(iii)). It is recognized as a fundamental guarantee in 1977 Additional Protocols I and II (articles 75(2)(c) and article 4(2)(c)). Hostages must be released immediately and must be treated humanely at all times.

4. Abductions

Abduction remains a key tactic of the AGEs strategy of intimidation. The AIHRC and UNAMA Human Rights documented 251 incidents where at least 559 civilians were abducted. Both organizations note that abduction is underreported due to fear of jeopardizing the hostages' safety, of any potential negotiations for their release and of fear of retaliation if released. In the complexity of the conflict with many different armed groups, it is difficult to differentiate one group from another when documenting cases of abduction. Criminal gangs abducted civilians often for ransom and in some cases these civilians were handed over to the Taliban or other networks for use as negotiating chips in the conflict. Many civilians abducted were later released following negotiations with elders. However, some civilians who were abducted were later executed. In some cases, notes were left with the bodies detailing why the person had been killed. In most circumstances, civilians killed had been accused of spying for international military forces.

4.1. Trends of Abductions by Region and Month

Abductions occurred across the country, but were predominant in the eastern, northern, southeastern and southern regions of the country. Abductions targeted senior provincial officials, tribal elders, aid and construction workers, educational officials and ordinary civilians amongst others. The southeast alone saw a high number of abductions. In May, 26 civilians abducted by AGEs were documented, including tribal elders, government officials, students and other community members. The majority of the victims were abducted on the allegation of spying for the Government and international military forces. One was confirmed killed, 13 were released, while the whereabouts of the 11 others remained unknown. At the beginning of May, around a dozen people in Andar district in Ghazni province were abducted. The bodies of four were found on 18 May, including that of a 17 year old student resulting in demonstrations in the district denouncing the killing. This was one of the rare demonstrations by Afghans against AGE actions.

July, August and October recorded the most abductions during the year across the country. This could be partly as a result of actions by AGEs in the run up to the Parliamentary elections in September. In July, high numbers of abductions were recorded in the southeast, north and eastern regions. In the southeast, 23 cases of abduction by AGEs were documented in Ghazni province, of which 22 civilians worked for the National Solidarity Program (NSP) and local councils in the province. Reportedly, the majority were released unharmed. In the northern region at least 28 civilians were reportedly abducted, while in the eastern region AGEs reportedly abducted 13 health care workers. All were released.

The northern region registered 43 individuals abducted in July reportedly by AGEs. During the month, 26 were later released through the mediation of elders or because of payment of ransom. The fate of 17 others is unknown.

4.2. Abductions of Provincial Officials

Provincial government officials were targeted with 28 people abducted. The majority were released. This included two district governors of Sayadabad, Wardak province and of Watapur district in Kandahar province on 15 June and 22 August respectively and the head of the Department of Women's Affairs of Paktika who was abducted on 16 April while traveling in Sayadabad district of Wardak. She was later released on 20 April, following elders' mediation. Elders were also targeted for abduction with at least 22 elders mainly from the southern regions targeted.

4.3. Abductions on the Allegation of Spying

The AIHRC and UNAMA Human Rights documented at least 151 ordinary civilians abducted by AGEs. Often the reasons were unknown, but in some cases civilians were abducted on the accusation of spying, of working for, or perceived to be supportive, of the Government and the international military forces, of attending *shuras* with an international presence, and of being relatives of government officials, among others. In most documented cases, civilians were either released or their status is still unknown. Out of 151 abductions, at least 16 of those took place when civilian vehicles were stopped at illegal checkpoints established by AGEs who were looking for government employees or international military-contracted employees, or who were abducted on suspicion of spying.

4.4. Mass Abductions

The AIHRC and UNAMA Human Rights documented several cases of mass abduction in the southeast region. On 23 May, in Shamal district of Khost province, 11 tribal elders from the pro-Government Zadran tribe who had been gathered in one place by AGEs on the pretext of a religious meeting were fired upon, killing five elders. The remaining six were kidnapped and one tribal elder was subsequently killed. The remaining five elders were released at a later date. On 2 July, a group of at least 60 armed AGEs (reportedly linked to the Haqqani network) in ANA uniform gathered males from four villages in Soor Kokh area, Spera district of Khost province. Reportedly, the AGEs had informed the male villages that they wanted to have a meeting with them. Varying accounts exist of the numbers abducted, but at least 60 villagers were abducted and taken to a remote area bordering Pakistan, where five of the abductees were executed and one was injured. AGEs then later released most of the abductees who also took back the bodies; reportedly ten others were released on 7 July. Reportedly four of the men killed were former Afghan security guards working for IM forces and the fifth was a vaccination doctor. Allegedly this is the same group that killed five tribal elders and abducted more than seven others in the 23 May incident.

4.5. Abductions and Torture

The AIHRC and UNAMA Human Rights documented numerous incidents where individuals abducted were often killed and in some cases tortured before they were killed. Three elders abducted from a mosque reportedly by the Taliban in Tarnak wa Jaldak district in Zabul province on 24 October, were severely mistreated while they were held. One of the elders died as a result of the beatings inflicted during captivity, while the remaining two were released although injured. They were allegedly beaten because they refused to provide money to the Taliban.

On 16 December, a tribal elder from Chaparhar district in Nangahar province was abducted, reportedly tied to a tree and then killed by stoning and stabbing on suspicion of being a spy for international military forces. The Taliban claimed responsibility by a letter attached to the victim's body warning that other informants for the international military forces would face the same consequences.

4.6. Prison run by Anti-Government Elements

During a Pro-Government Forces' raid on a shadow prison run by AGEs in Musa Qala district in Helmand province on 17-18 August, at least 27 persons who had been abducted were freed. Five of the abductees, taken in Marja on 7 June, were recent high school graduates and were killed during the raid including two persons who had been working for an implementing partner of an international organization.

5. Threats, Harassment, Illegal Checkpoints and Night Letters

Other intimidation tactics of AGEs involved the establishment of illegal checkpoints, harassment of travelers along roads searching for employees of the Government and international military forces, the illegal taxation of farmers and others, and the publication and distribution of night letters.

Night letters were posted across the country. In August, AGEs distributed night letters in Jalalabad city and in Bihsud district in Nangahar province calling on the local population to stop supporting the Government and the IM forces. In Jawzjan province, night letters set a deadline for civilians to resign from their positions in the government. On 1 July, a night letter that condemned religious elders' participation in the elections, threatened female teachers who work, and called on the local population and religious scholars to ban funeral ceremonies of members of Afghan National Security Forces who were killed on battlefield were distributed in Burka district centre of Baghlan province and were attributed to Hizb-i-Islami Hekmatyar. Night letters on 23 June distributed by AGEs in Chaparhar district of Nangahar province consisted of AGE warnings and an order that vehicles should travel with the inside lights on.

Illegal checkpoints were also established across the country, mainly by AGEs, looking for government employees and those working for international military forces. However, other civilians were also abducted, killed and injured when stopped at these checkpoints. These check points restricted civilians' freedom of movement, created fear throughout the country and served to demonstrate AGEs' control of certain areas. In one incident on 12 September, Taliban in Arghandab district of Kandahar province stopped three men in their vehicle who reportedly worked as private security contractors for ISAF; one man was shot dead and hanged from a tree in a garden, the other two are missing. On 8 June, the head of the Nahr-e-Shahi district education department was abducted when his vehicle was stopped at an illegal checkpoint in Balkh province.

AGEs operating in the eastern part of the country established numerous checkpoints. The AIHRC and UNAMA Human Rights documented many incidents of civilians harassed, abducted and in some cases killed when their vehicles were stopped at these checkpoints between June and December in Kunar province. In August, a tribal elder from Azra district was abducted, four elders from Sirkanay district who were returning from a funeral and four other civilians, including a *Wolesi Jirga* candidate—all at illegal checkpoints. The latter were all later released following the intervention of community leaders.

6. Attacks on Women and Children

In 2010, women and children were extremely adversely affected by the conflict. Lack of freedom of movement, access to essential basic services such as health and education and attacks resulting in death and injury have all severely negatively impacted on their lives. As the conflict spread and deepened, vulnerable persons, particularly those in rural areas, suffered the most. Insecurity, continuing violence and the pervasive atmosphere of intimidation and fear has caused large numbers of displacement to urban centers. According to UNCHR, 102,658 individuals were displaced due to the conflict in 2010.³¹ Those civilians, particularly women and children who stay in conflict affected areas have seen their quality of life significantly deteriorate.

IEDs, suicide attacks and mortar and rockets by AGEs caused the most women and children casualties during the year. Ninety-four women and 163 children were killed by IEDs and suicide attacks, a 31 per cent increase in deaths of women and 66 per cent increase in deaths of children compared to 2009. The killing and injury of women and children mainly resulted from roadside IEDs, suicide attacks occurring in busy market places and targeted attacks against provincial government officials or other Pro-Government officials that occurred in public places where women and children congregated.³²

Women casualties were also mainly as a result of IED explosions, with the majority occurring when traveling by minibus. In four incidents alone, five women or more were killed, including eight women killed on 30 December when their bus travelling to Sangin district hit a roadside IED in Nahri-Sarraj district in Helmand province. Large numbers of child casualties also mainly occurred as a result of IED explosions. In one incident alone, nine children were killed and ten were injured when a series of IED explosions occurred in Kandahar city on 5 October. The first explosion reportedly targeted an ANP vehicle, but the vehicle had already passed. In response to the first explosion another ANP vehicle arrived at the scene, where a second IED was detonated. However, between the two explosions, a large number of boys from a nearby language school had congregated. A third explosion then took place. It is believed that all three IEDs were remotely detonated.

6.1 Assassinations of Women and Children

The AIHRC and UNAMA Human Rights documented at least six incidents where AGEs assassinated females and at least eight cases where children were assassinated. High

³¹ UNHCR estimates of conflict-related internal displacement in Afghanistan in 2010.

³² For further information on the situation of children and armed conflict in Afghanistan, please refer to the Report of the Secretary-General on Children and Armed Conflict in Afghanistan, S/2011/55. The report covers the period 01 September 2008 to 30 August 2010 and was published on 3 February 2011.

profile females working for the Government or those working for international organizations were deliberately targeted. In three incidents, four female aid workers, either working for international organizations or national implementing partners were assassinated. All four women were killed in the southern region; two in Kandahar province and two in Helmand province. In at least one of the incidents, threatening phone calls were previously made to the victim. A 22 year old female, working for an international organization received threatening phone calls before she was killed on 13 April in Kandahar city.

At least eight incidents were documented where children were extra-judicially executed, often on the suspicion of spying for the Government or the international military forces or for being associated with the Government. Three children were killed by AGEs on the allegation of spying. Two children were killed reportedly for being associated with the Government and in three cases the circumstances and the motive are unclear, although local tribal politics involving the Taliban seems to have had a part in the killings. The youngest victim to be killed on the allegation of spying was a seven-year old boy from Sangin district in Helmand province on 9 June. He was hanged from a tree. The Taliban denied the killing.

The other two killings took place in Kunar and Ghazni provinces on 11 March and 29 June respectively. In the former case a 17 year old allegedly went through a trial and in the latter case a 12 year old boy was publicly executed allegedly by AGEs in the district centre of Waghaz in Ghazni province. Two children, a 17 year old and a 13 or 14 year old who were accused by the Taliban of being associated with the Government were both killed in Chack district in Wardak province on 8 March and 19 July respectively.

6.2. Lack of Access to Education and Health Care

In conflict affected areas, NGOs and humanitarian workers could not safely access populations in need and the continuing abduction and killings of skilled workers, such as doctors and teachers, meant that families were deprived of not only a quality of service but access to essential, and life saving services. In Kamdish district of Nuristan province, reportedly controlled by the Taliban, elders, community leaders and district *shura* members told the AIHRC and UNAMA Human Rights that as a result of insecurity patients experienced a lack of access to medical treatment and to education for children.

UNAMA Human Rights and the AIHRC documented numerous cases of schools, teachers, students and others intimidated through night letters, attacked, killed and injured and property destroyed, denying educational opportunities to thousands of students across the country. According to the Secretary-General's report on children and armed conflict in Afghanistan released on February 3 2011, there was a significant increase in attacks on educational establishments, of damage to schools through military operations by Pro-Government Forces and attacks by AGEs and of schools increasingly used for political and military purposes.³³ The United Nations Human Rights Council adopted a resolution in July 2010 that condemned attacks against schools and students.

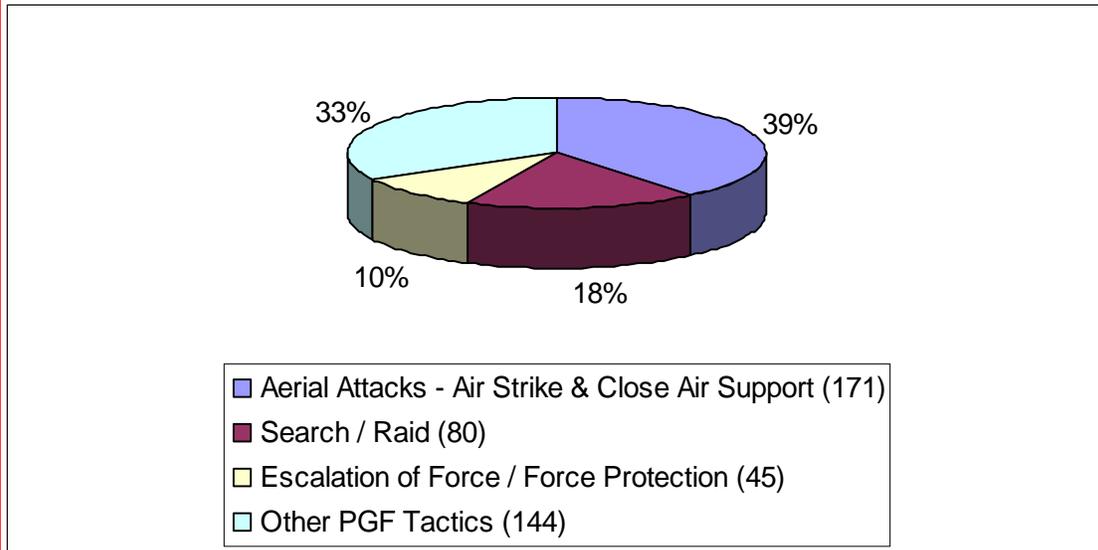
³³ Ibid.

PRO-GOVERNMENT FORCES AND PROTECTION OF CIVILIANS

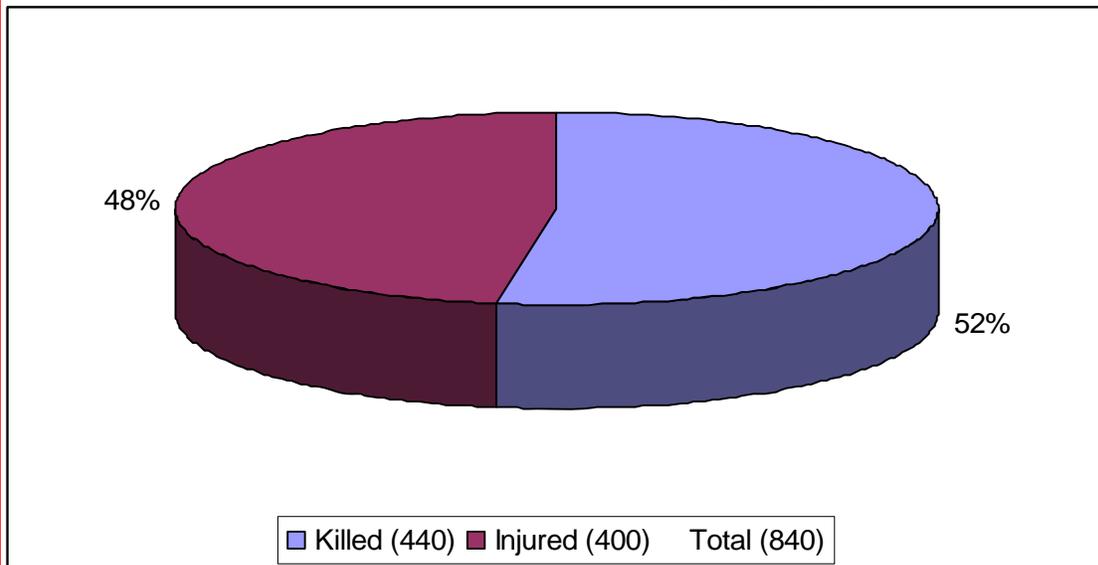
1. Overview

Between 1 January and 31 December, 840 civilian casualties were attributed to Pro-Government Forces (PGF), with 440 civilian deaths and 400 injuries. This represents a decrease of 21 per cent from 1,057 civilian casualties linked to PGF in 2009. The AIHRC and UNAMA Human Rights recorded a significant decline in civilian deaths from air strikes (171), escalation of force incidents (45) and search and seizure operations (80) during 2010.

Recorded PGF – attributed civilian deaths in 2010 by incident type



Recorded number of civilians killed and injured by PGF in 2010



General Petraeus, who took over command of ISAF in July 2010, reinforced and revised General McChrystal's counterinsurgency guidelines, updated and revised the July 2009 Tactical Directive on the "disciplined use of force" in August, published Standard Operating Procedures on the Escalation of Force, and brought out two Tactical Directives on Night Raids in January and December 2010.

On 13 October 2010, the UN Security Council renewed ISAF's mandate and reaffirmed "that all parties to armed conflict must take all feasible steps to ensure the protection of affected civilians," called "for all parties to comply with their obligations under international humanitarian and human rights law and for all appropriate measures to be taken to ensure the protection of civilians," and recognized "the importance of the ongoing monitoring and reporting to the United Nations Security Council, including by ISAF, of the situation of civilians and in particular civilian casualties."³⁴

According to a number of ISAF statements reported in the media, 2010 saw more aerial attacks, more operations by more Special Operations Forces and more night raids than in previous years.³⁵ In spite of this surge of international military forces and operations, the AIHRC and UNAMA Human Rights observed a decline in the number of civilians killed and injured by PGF in 2010. The conduct of Pro-Government forces, however, continued to generate anger and resentment among a large majority of Afghans. Incidents of excessive use of force, ill treatment, arbitrary detention and deaths and injuries of civilians coupled with a lack of accountability and transparency regarding some operations have contributed to a greater amount of blame apportioned to Pro-Government Forces for civilian casualties than the number of civilian casualties linked to PGF indicate.

Legal Analysis on Aerial Attacks: Aerial attacks are governed by general rules of international humanitarian law that require parties to a conflict to, at all times, distinguish between the civilian population and combatants, and to spare the civilian population and property. Neither the civilian population as such nor civilian persons or objects shall be the object of attack. Attacks are required to be directed solely against military objectives. In addition, parties to a conflict and members of their armed forces do not have an unlimited choice of methods and means of warfare. It is prohibited to use weapons or methods of warfare of a nature to cause unnecessary losses or excessive suffering.

In the conduct of military operations, constant care must be taken to spare the civilian population and civilian objects. Armed forces must take all feasible precautions to avoid, and in any event to minimize, incidental loss of civilian life,

³⁴ SC Resolution 1943 (2010). Adopted by the Security Council at its 6395th meeting, on 13 October 2010, found at: <http://www.securitycouncilreport.org/atf/cf/7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF97D/Afgh20S20RES201943.pdf>.

³⁵ Press statements and media reports cited a number of figures and statements by international military forces, including: "Peace moves in Afghanistan as fighting goes on," *IRIN*, 24 October; "Bombs Away: Afghan Air War Peaks with 1000 Strikes in October," *Danger Room*, 10 November; "Coalition's ramps up air war over Afghanistan," *AP*, 30 November; "In bid to break Taliban, US embraces more firepower," *AFP*, 15 December; and "Afghan, NATO forces carry out 1784 operations in three months: NATO," *Xinhua*, 27 December.

injury to civilians and damage to civilian objects. They must also take all feasible precautions in the choice of means and methods of warfare with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects.

Under international humanitarian law, parties must do everything feasible to assess whether any attack may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated. Finally, the warring parties must give effective advance warning of attacks which may affect the civilian population.

2. Aerial Attacks

Aerial attacks continued to be the most deadly tactic used by Pro-Government Forces in the conflict. Although the number of civilian casualties decreased by 43 per cent from aerial attacks in 2010 compared to 2009 these attacks continued to cause the most civilian harm with 171 deaths and 133 injuries.³⁶ Aerial attacks also caused substantial damage to civilian property and prompted anger and resentment in affected communities.

The southern region continued to witness the most aerial attacks, mainly due to the large number of military operations taking place in the region, followed by the eastern region. February and October proved to be the most deadly months for civilians killed by aerial attacks. Several major air strikes occurred during those months in Kunar province in the eastern region and air strikes in the southern region in February and October caused the largest amount of civilian casualties. In an air strike in Uruzgan province on 21 February, 32 civilians were killed and 26 injured and several air strikes during October particularly in Helmand and Kandahar provinces caused numerous civilian casualties. In at least two of these incidents the AIHRC and UNAMA Human Rights documented reported multiple air strikes against a number of targets (see below).

2.1. *Tactical Directives on Aerial Attacks and Civilian Casualties*

General McChrystal in an effort to minimize civilian casualties from aerial attacks, issued the July 2009 Tactical Directive. Since then the AIHRC and UNAMA Human Rights recorded a substantial decrease in the number of civilians killed and injured caused by these attacks. Like night raids, however, these operations still raised concern and anger among communities. In response, General Petraeus issued an updated Tactical Directive on 1 August 2010, which applies to all ISAF and US Forces-Afghanistan. The Directive facilitates the use of air strikes but calls on troops to do everything possible to avoid putting civilians at risk. It gives guidelines on the use of fire that “must determine that no civilians are present” and where civilians are present affirms that any actions

³⁶ Although overall civilian deaths from air attacks by Pro-Government Forces decreased in 2010, the number of civilians killed in air strikes increased over the course of 2010: in the first half of 2010, 69 civilians were killed in air attacks while in the second half of 2010, 102 civilians died from air strikes representing a 48 per cent increase in civilian deaths from air strikes over the 12 months of 2010 linked to significant increases in the use of air assets in combat in the last half of 2010.

taken “will not bring harm to civilians” except under certain conditions.³⁷ The AIHRC and UNAMA Human Rights have been unable to obtain the full classified Directive. However, according to ISAF, the Tactical Directive does set out procedures for investigating civilian casualties. In addition, Commanders must coordinate with ISAF Joint Command and national reporting chains. NATO/ISAF Commanders are accountable to both COMISAF and their National chain of command for the operations they direct.³⁸

2.2. Increase in Air Strikes in 2010, Decrease in Civilian Casualties and Investigations

In the latter half of 2010, the number of air strikes substantially increased. According to USAFCENT Public Affairs Directorate, as of 31 December 2010, a total of 33,679 Close Air Support sorties were recorded with a total of 5,101 incidents in which weapons were released.³⁹

Although the number of air strikes increased exponentially, the number of civilian casualties from air strikes decreased in 2010. This is welcome, however, it is important that ISAF investigates all incidents of civilian casualties from air strikes as more transparency and accountability for deaths and injuries of civilians would assist in changing Afghans’ largely negative views of international military operations.

Several incidents were documented where aerial strikes caused civilian casualties in 2010. Out of 58 incidents that caused civilian casualties, 11 aerial attacks caused five or more civilian deaths. Investigations by ISAF, known to the AIHRC and UNAMA Human Rights, were undertaken in six of these 11 incidents.⁴⁰ Three investigations occurred in the southern provinces of Helmand and Uruzgan, two occurred in the eastern provinces of Nangahar and Laghman, and one in Baghlan province in the northeast.

The AIHRC and UNAMA Human Rights followed up with ISAF and provincial authorities on all six investigations into civilian casualties by air strikes and found that ISAF fully investigated one incident, the 21 February air strike in Uruzgan province. The final results from Government investigations into the two incidents in the eastern region were not shared with UNAMA Human Rights or the AIHRC, although compensation from the President’s Fund was given to victims. ISAF conducted Joint Investigation Assessments (JIA) of both incidents in the east, but only conducted one full investigation into the Laghman incident. In the two incidents in Helmand province, ISAF continues to refute

³⁷ The ISAF press release announcing the issuance of the new Tactical Directive states, “While stressing the importance of our efforts to minimize loss of innocent civilian life on our operation, it also stressed the right and obligation of our troops to defend themselves and the coalition and Afghan forces with whom we serve shoulder to shoulder.”

³⁸ ISAF correspondence, 06.03.2011

³⁹ Information on Operation Enduring Freedom/ ISAF air operations taken from the United States Air Force Central Combined Air and Space Operations Centre. United States Air Forces Central (USAFCENT, or AFCENT), formerly the United States Central Command Air Forces (USCENTAF) is the Air Force component of the United States Central Command. Further information can be found at www.centaf.af.mil.

⁴⁰ The five incidents included: on 5 August, 10 civilians killed in Nangahar province; on 24 September, 13 civilians killed in Laghman province; on 21 February, 32 civilians killed in Uruzgan province; on 11 October, 10 civilians killed in Helmand province; on 25 October, 10 civilians killed in Helmand province; and on 22 August, six civilians killed in Baghlan province.

reports that multiple air strikes occurred which are inconsistent with reports and sources interviewed by the AIHRC and UNAMA Human Rights in their investigations.

2.2.1. 21 February, Uruzgan province

UNAMA Human Rights and AIHRC are aware that ISAF fully investigated one incident, a 21 February air strike in Uruzgan province, in which 32 civilians were killed and 14 others injured. ISAF publicly released redacted findings and took disciplinary action against the individuals involved [see footnote 40].

2.2.2. 5 August, Nangahar province and 24 September, Laghman province

In two of the incidents in the east, the provincial governors and President Karzai promptly established commissions to investigate. In the 5 August Nangahar incident, provincial authorities briefed the AIHRC and UNAMA Human Rights on the outcome of the provincial authorities' investigation. Findings of the presidential commission for the 24 September incident in Laghman province were not shared with the AIHRC or UNAMA Human Rights. In both incidents compensation from the President's Discretionary Fund 99 was paid to the victims' families. In both incidents, according to provincial authorities, ISAF conducted investigations but did not share their findings with provincial authorities. After extensive email correspondence with Legal Advisors of ISAF (LEGAD) at Regional Command East, the AIHRC and UNAMA Human Rights were informed that any information on the two air strikes could only be provided by ISAF HQ.

According to ISAF's Legal Advisors in Kabul, two Joint Investigation Assessments were conducted in both incidents and in the Laghman incident a full investigation by the Unit involved was initiated and recommendations made. It is not clear whether the recommendations were implemented. ISAF acknowledged that if civilians were killed in the Nangahar incident, it was an accident, as the civilians were together with suspected AGEs. Although the Government paid compensation, none was paid by ISAF. The investigation by the Unit involved in the Laghman incident acknowledged that at least one woman was killed. ISAF also acknowledged through the Unit's investigation, that they failed to notify district leadership of the operation and that the ANA could have been more involved.⁴¹

2.2.3. 11 October and 25 October, Sangin district, Helmand province

The other two incidents in Helmand province in October reportedly caused at least 20 civilian deaths. In-depth investigations by UNAMA Human Rights and the AIHRC were conducted into the two incidents, the 11 October air strikes in Malazai and Balozia villages and 25 October air strikes in Mikan and Hazar Drakht villages, where multiple air strikes were reported.⁴² In discussions with ISAF, they acknowledged air strikes in both

⁴¹ UNAMA Human Rights meeting with ISAF HQ personnel, 27 February 2011.

⁴² On 11 October, international military forces conducted two aerial attacks in Sangin district, Helmand province. The day before, two international military check posts had reportedly been established in Sangin in two houses in Malazai village and in Kajgar area. Reportedly, as a result of Taliban firing on the check post, ISAF called an air strike that hit the residence nearby, killing and injuring many of the men sitting outside and injuring two women inside. Those injured were driven to Mirwais hospital in Kandahar city. The truck carrying the injured stopped in Balozai village and those that died during the journey were moved out of the truck; others who required medical treatment were moved to another vehicle that carried on. Shortly after, a second aerial attack was reportedly conducted against the group with the bodies, killing at least ten civilians and injuring at least six others. On 25 October, an air strike followed ground engagement by international military forces in Mikan village, Baghran district in Helmand province. Two aerial attacks against a guesthouse in the nearby village of Hazar Drakht followed. Although the air strike targeted a mosque and a madrassa in Mikan village, three civilians were killed in an

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.⁴³

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.

⁴³ UNAMA Human Rights meetings with ISAF HQ, Kabul 20 December 2010.

Escalation of Force incident occurs when the driver of a vehicle fails to stop after military forces give a series of signals to stop resulting in death and injury of civilians. The majority of EoF incidents occurred in the southern region, particularly in Kandahar and Helmand provinces that saw the majority of EoF incidents, followed by the central and southeast region. This is an increase of 15 per cent in civilian deaths compared to 2009.

3.1. Standard Operating Procedures on Escalation of Force and Increase in Civilian Casualties

The number of EoF incidents that occurred in 2009, together with concerns from communities, prompted COMISAF to review its procedures on EoF through Standard Operating Procedures (SoPs) 373 in February 2010 that were updated in April 2010. These SoPs provide guidance on EoF incidents and how ISAF should respond. They provide a framework for the use of force within authorized rules of engagement. The guidelines instruct troops to ensure efforts are made to control a situation without force; to 'tailor' procedures to the local environment by consulting local Afghan leaders; whenever possible to remain at the scene of any convoy shootings; to find ways to de-escalate the situation; and to take responsibility for their actions.

According to figures of the AIHRC and UNAMA Human Rights, the number of incidents of EoF recorded dropped significantly after the publication of the SoPs compared to the first two months of 2010, which was prior to their publication. From January to February the AIHRC and UNAMA Human Rights documented 15 EoF incidents (7.5 incidents per month), when the initial SoPs were published. From March to December 32 EoF incidents (3.2 incidents per month) were documented. This is a 57 per cent reduction in the number of recorded EoF incidents in the last ten months of the year compared to the months of January and February 2010. Yet more civilians were killed by EoF incidents in 2010 than in 2009, even though the number of incidents decreased.

The overwhelming majority of EoF incidents occurred when vehicles approached international military convoys and reportedly failed to heed signals before being shot, either while traveling close to a convoy or failing to stop at a checkpoint. January and April were the deadliest months for civilians killed by EoF incidents, with nine and 13 civilians killed respectively. In one incident alone on 12 April, five civilians were killed and 18 were injured when international military forces fired on a bus in Zhari district of Kandahar province. In a press statement, ISAF acknowledged responsibility for the incident and reported that measures to prevent future incidents included re-emphasis of the 2 July 2009 Tactical Directive to reduce civilian casualties, a larger public information campaign to ensure that civilians understand signals given and delivery of more non-lethal measures for use in EoF incidents. The AIHRC and UNAMA Human Rights cannot confirm whether these measures were implemented.

3.2. Demonstrations against Escalation of Force Incidents

Three EoF incidents in 2010 resulted in large demonstrations against international military forces and the ANSF. Two were held in Kabul in January and May and the third in Sayadabad district in Wardak province in March. Demonstrators protested over the killings of a doctor on 23 March, an Imam on 28 January, and a woman and child from one family on 10 May. The Imam and the woman and a child were killed when their cars approached international military vehicles too closely. The doctor was killed when he left his house and was reportedly standing too close to a convoy, prompting elders to complain to district authorities. According to information available to the AIHRC and

UNAMA Human Rights, it is unclear whether protestors' complaints were taken up by either international military forces or provincial authorities.

Legal Analysis on Search and Seizure Operations/Night Raids: When a raid by military forces is conducted against a legitimate military objective, such as combatants, it is largely governed by the same standards of international humanitarian law that govern other attacks, including rules and principles pertaining to the verification of the target as a military target, proportionality, precautions in attack and military necessity. When international military forces plan a raid, "everything feasible" must be done "to verify" that the target is a military objective, distinguish between civilians and combatants and to refrain from targeting and attacking civilians.

4. Search and Seizure Operations/Night raids

Civilian casualties through search and seizure operations and night raids decreased compared to 2009, from 135 to 102 in 2010 representing 24 per cent of civilian deaths linked to Pro-Government Forces. The AIHRC and UNAMA Human Rights documented 60 incidents of night raids that caused civilian casualties.

According to media reports, both General McChrystal and General Petraeus greatly increased the number of night raids. General Petraeus has repeatedly stated that night raids are successful in gathering intelligence, arresting suspected insurgents, reducing civilian casualties and stopping more attacks by AGEs. ISAF commanders also state that no shots are fired in 80 per cent of night raids. However successful these operations are they continue to generate anger and resentment among Afghans primarily towards international military forces. As stated in UNAMA's 2010 Mid Year Report on Protection of Civilians: "[C]oncerns around night raids are not new, and debate has not often focused on the need or reason for night searched, but rather on how night raids are conducted, and the frequency of civilian casualties as a result."

Many communities, including numerous public statements by President Karzai, view these raids as a violation of the sanctity of the home. They believe that night raids are conducted in a culturally insensitive manner and cause civilian casualties further directing anger at international military forces. Many concerns also relate to destruction of property and subsequent lack of compensation, the inability to investigate and prosecute those who killed and injured civilians during raids, and lack of information regarding the location of detainees taken in raids.

4.1 ISAF Implementation of Tactical Directives on Night Raids

4.1.1. Lack of Coordination and Partnering with the ANSF

The January and December Tactical Directives issued by COMISAF stress the importance of partnering with the ANSF, and that ANSF should "be part of the planning and execution phase" as stated in the August Tactical Directive on the use of force. Both the January and December 2010 Tactical Directives on night raids state that the ANSF should be included in the planning process and take the lead on all raids whenever possible. In cases documented by the AIHRC and UNAMA HR, however, evidence suggests that international military forces took the lead role. In addition, although in

many incidents joint ANSF and international military forces' operations were conducted, in some cases, a total lack of coordination with provincial security authorities was observed (although some of these operations could have been undertaken by Special Forces that are not within the remit of COMISAF and do not coordinate with their Afghan counterparts).

In Kabul province in August, tribal elders from Musayi district reported to the AIHRC and UNAMA Human Rights on several night raids by international military forces that caused civilian casualties, arbitrary detention of civilians, were not coordinated with ANSF, lacked cultural sensitivity in searching women and used excessive force. In July, elders from Kunduz criticized culturally insensitive actions by Pro-Government Forces during operations and said that such actions could potentially drive communities to support the Taliban.

All of these concerns were echoed by elders in Nawbahar district in Zabul and from Kunduz city about night raids conducted on 6 and 28 November respectively. Elders from Kunduz expressed concern about the conduct of international military forces during the 28 November night raid. Their concerns included lack of information regarding the location of eight civilians detained, lack of access to medical treatment for a seriously ill child and destruction to property. These comments reflect a greater perception by the wider Afghan community that the presence of international forces is responsible for higher levels of insecurity, is the cause for greater numbers of civilian casualties regardless of the perpetrator, and that international forces act with impunity.

Elders representing Kunar and Nuristan provinces emphasized the importance appropriate coordination between international forces and district authorities prior to military operations, specifically when conducting night raids. This concern was echoed during consultations with elders from Logar and Wardak provinces, who suggested that international forces not only consult district authorities, but also the ANSF, the provincial governor, provincial councils and local elders to avoid civilian casualties.

The AIHRC and UNAMA Human Rights documented several incidents in the central and southern regions where elders complained that civilian casualties resulted from lack of coordination with ANSF and provincial authorities. In one incident, on 24 April in Pul-i-Alam district in Logar province, international military forces carried out a night raid that resulted in five males killed. The ANP reported that the operation was not coordinated with them. Eyewitnesses told the AIHRC and UNAMA Human Rights there was no ANSF present during the raid.

In a public statement on 17 October, the National Security Council (NSC) of the Government highlighted lack of coordination by international military forces with provincial civil and security authorities in certain operations. The NSC stated that the joint operations command at Bagram with responsibility "to share information on any operation by international forces in Afghanistan and where necessary, prior authorization from the ministries of defense, interior or the NDS be obtained for any search and arrest operation, is not effective."⁴⁴ The statement suggests that in some cases international forces may not have fully followed General Petraeus' statements (that Afghan forces take the lead in these operations and that senior officials from the ministries of interior

⁴⁴ Statement by the National Security Council, News Release, "National Security Council Calls Joint Operation Command-Bagram Ineffective," 17 October 2010.

and defense take part in the planning stages) reinforced in the Tactical Directives and updated counter insurgency guidelines. The National Security Council also stated that as a result of this lack of coordination “[I]t was decided that further discussions be held on the effectiveness of the ops command, so required practical decisions can be taken soon.” On enquiry, no further follow up has been undertaken.

4.1.2. Lack of Written Notice on Detainees’ Location, Reasons for Detention and Contacts for Follow Up

Both the January and December Tactical Directives make provisions for the use of receipts and notification of detainees and property seized and damaged. In all cases, international military forces and the ANSF must leave written notification, through the use of standardized forms, at the site so that affected families and communities understand who to contact to follow up on these concerns. Provincial authorities across the country, the AIHRC and UNAMA Human Rights continued to receive numerous reports from affected communities that ISAF was not adequately implementing this provision in the Tactical Directives. UNAMA Human Rights and the AIHRC documented several incidents in the southeastern region that were representative of a lack of adequate implementation of the Tactical Directives.⁴⁵ According to information available to the AIHRC and UNAMA HR at the time, in all cases, the location of detainees and reasons for detention were unknown to their families in spite of numerous efforts to obtain information from ISAF and local authorities. This situation is contrary to the requirements of the Tactical Directive which state that ISAF must leave written notification with contact details where families can follow up which was not done according to the families.

4.2. Raids on Villages

The AIHRC and UNAMA Human Rights received reports that night searches in some areas were conducted against entire villages. Civilian casualties occurred from several of these operations including in Sawa village, Ahamad Abad district of Paktya province on 10 July. A joint international military and ANSF operation cordoned off the village and searched three houses, resulting in the killing of one civilian and the detention of 14 others, with seven released on 12 July.

On 6 November, elders from Nawbahar district in Zabul province complained to the provincial governor about a series of night raids around Shahakl village where reportedly three shops were burnt, civilians from three different villages were killed and one person was arrested.

⁴⁵ On 20 January, international military forces and ANSF conducted a joint search operation in Qarabagh district of Ghazni province. During the operation four people were killed and a fifth arrested. Although provincial authorities claimed that two men had links with the Taliban, the other two killed were minors. On 24 April, again during a night raid in Qarabagh district in Ghazni province by international military forces, one civilian was killed and his brother arrested. Reportedly both were civilians and daily wage labourers. On 6 December, international military forces conducted a night raid in Gardez city of Paktya province. During the search, property was damaged and three people were arrested, although reportedly at the time international forces indicated they had carried out the raid to target one person. The families called for release of the house owner and his son.

On 1 December, a joint operation by ISAF and ANP was launched in Shah Wali Kot against suspected AGEs that lasted for two days. On the first day, according to sources, Pro-Government Forces surrounded approximately 40 residential houses in Kundalan village. Damage to property occurred and ISAF/ANSF took some 100 men and boys from each of the houses to one house for questioning. Five men were apparently considered suspicious and were allegedly tortured by Pro-Government Forces. Allegedly they were hung from a tree, forced into cold water, electrocuted and beaten. Later, the five were taken to another house, allegedly sprayed with diesel fuel and set alight. The house was also destroyed. Two other civilians were killed during the operation. International military forces and ANSF went to at least one other village in the area, Tangai village, where they detained 30 people. Claims of damage to houses in Kundalan village were reported to the AIHRC and UNAMA Human Rights and reportedly Kundalan school was partially destroyed. Four people were arrested, but released soon after.

ISAF conducted an investigation from 11 December 2010 and the findings were endorsed on 21 January 2011. The investigation indicated that the communities retracted the allegations of civilian casualties. The investigation found that 15 people were killed including seven civilians who were killed due to "hostile intent." ISAF refuted all allegations of torture during the operation. On December 9, a Presidential delegation from Kabul went to the area to investigate and reported to the President. The report has not been made public. The provincial governor also promised to establish a commission of enquiry which has not been established

4.3. ISAF Investigations of Night Raids causing Civilian Casualties

Initial investigations into military operations conducted by ISAF usually take place soon after an incident has occurred. ISAF does not routinely share with the AIHRC, UNAMA Human Rights or other concerned parties results of investigations or provide information on what action was taken as a result of investigations. Affected communities throughout the country have told the AIHRC and UNAMA Human Rights that they are not made aware of results of investigations or informed whether an investigation has taken place.

ISAF does not provide information on the method and composition of their initial investigations. The AIHRC and UNAMA Human Rights have made efforts to follow up with ISAF on many cases involving civilian casualties and night raids with significant difficulty. Both organizations have documented only a few cases where investigations appear to have been fully carried out and results reported. A joint ANSF and ISAF investigation was conducted into a 12 February night raid in Gardez city that killed five civilians, injured four and detained eight others. The ISAF investigation and payment of compensation occurred in response to UNAMA Human Rights' investigation and media reports. Final report findings were not released to the AIHRC, UNAMA Human Rights or the affected family.

ISAF issued press statements following some night raids, often highlighting the way the operation was conducted and refuting allegations that those killed and detained were civilians.

Lack of transparency and accountability about many of these incidents, the apparent failure to effectively investigate and prosecute those held responsible for abuses in the

majority of incidents, lack of information regarding location of detainees and difficulty in obtaining compensation for loss of life, injury and destruction to property are often repeated concerns of communities and provincial authorities. The January Tactical Directive went some way to address these concerns; however, the AIHRC and UNAMA Human Rights continued to record similar concerns in night raids after the issuance of the new Tactical Directive in December 2010.

4.4. Demonstrations against Night Raids

Following several night searches in various parts of the country, demonstrations were held to protest against the raid and detention of civilians. The AIHRC and UNAMA Human Rights documented demonstrations to protest night raids in Pul-i-Alam district in Logar province, Sayadabad district in Wardak province, Bar Kunar district in Kunar province, Surkh Rod district in Nanagahar province, Gardez district in Paktya province, Qarabagh district in Ghazni province, and others in Kabul, Helmand, Kandahar and Nangahar provinces. Based on available information, it is unclear whether protestors' demands were taken up by the Government or international forces.

5. Special Operations Forces

UNAMA Human Rights and the AIHRC have found it very difficult to monitor and adequately document the activities of Special Forces, particularly US Special Operations Forces (SOF). Both tactical reasons and deliberate lack of information about such operations account for this. The majority of US Special Forces were reportedly brought under COMISAF command in March to ensure greater integration and coordination of military operations. In 2010, more Afghan civilians were affected by operations of Special Forces due to reported increases in both the number of Special Forces and the increased numbers of raids that have killed and/or captured Taliban commanders.

General Petraeus, through various media reports, stated that from May to the end of July 2010, Special Forces conducted nearly 3,000 night raids in which 365 'insurgent leaders', 1,355 Taliban rank and file fighters were captured and 1,031 were killed.⁴⁶ It is unknown whether these figures reflect numbers of civilians caught up in raids as ISAF stated that 'suspected insurgents' were also captured and included in these numbers.

Excessive use of force, ill treatment, death and injury to civilians and damage to property has occurred in some cases involving Special Forces. According to media reports, President Karzai has repeatedly demanded an end to night raids by US Special Operations Forces and stated that all night raids should be done within the confines of Afghan law.

The AIHRC and UNAMA Human Rights documented a sample of 13 incidents in 2010 that involved Special Forces. Civilian casualties occurred in many of these incidents which included aerial and ground operations where Special Operations Forces were reportedly involved. In at least six of the incidents, either Afghan Commandos or ANSF were present.

⁴⁶ See media reports including, "New light shed on US's night raids", Gareth Porter, *Asia Times*, 16 September 2010, "Special forces eliminate 300 Taliban and Al Qaeda leaders, says Gen. D. Petraeus," *Telegraph*, 15 October 2010.

Out of the 13 documented incidents, the AIHRC and UNAMA Human Rights know of three incidents - on 30 January in Khas Uruzgan district, 12 February in Gardez district and on 21 February in Charchine district,⁴⁷ where ISAF undertook an investigation and payment was made for deaths and injury during the operations. In the first incident, a *shura* was held with elders and district officials and in the last two incidents comprehensive investigations were undertaken; although a full ISAF investigation into the 12 February incident began only after independent investigations were carried out by both UNAMA Human Rights and a journalist. The Government gave compensation in this incident and it is not clear whether international military forces took disciplinary action against the unit and soldiers that conducted the raid.

In the 21 February incident, a US investigation resulted in implementation of disciplinary measures against the soldiers involved. According to information available to the AIHRC and UNAMA Human Rights, COMISAF also adopted remedial steps and decisions to improve understanding and compliance with existing directives to avoid civilian casualties.

In the remaining ten incidents documented, the AIHRC and UNAMA Human Rights were not informed, in spite of requests, of efforts of international military forces to carry out investigations where deaths, injuries and arbitrary detention of civilians occurred.

Affected communities, as well as provincial civil and security officials have often directly expressed concerns about the conduct of Special Forces, particularly during night raids and search and seizure operations. For example, elders met with Ministry of Interior on 21 July and with local ANSF, *Wolesi Jirga* and *Meshrano Jirga* representatives on 4 August to complain about night raids by Special Forces in Mussayai district in Kabul province that resulted in four civilian deaths. District officials and local ANSF reported that these raids were not coordinated with them.

Incidents involving Special Forces are under-reported as it is often difficult for civilians involved to distinguish between different units and to ascertain which operations involved

⁴⁷ On 30 January, US Special Forces (USSF) and Afghan Security Guards (ASG) conducted a night search in Khas Uruzgan district in Uruzgan province, which resulted in one baby and four men killed, three of whom UNAMA HR designates as civilians and one woman injured. According to an ISAF statement, all four men were insurgents and the deaths and injuries occurred during an exchange of fire. According to the AIHRC and UNAMA HR's investigations this version of events is disputed. USSF subsequently held a *shura* with district officials and elders and in February the process of financial payments had begun. On 12 February, five civilians were killed, including three women, and four civilians were injured, including a 15 year old boy, when USSF with Afghan Commandos conducted a night raid in Gardez centre of Paktya province. A joint investigation by international military forces and the Ministry of the Interior determined that international military forces were responsible for the deaths of the three women and in a 4 April press release stated, "[W]e are continuing our dialogue with our Afghan security partners to improve coordination for future operations and help prevent such mistakes from happening again." On 21 February, 32 civilians were killed and 14 were injured during an air strike on a three-vehicle convoy carrying 45 civilians to Charchine district in Uruzgan province from Kirjan district in Daikundi province. On 29 May, USFOR-A released redacted findings of a US investigation into the incident and the conduct of its forces. General McChrystal approved the investigation's findings and adopted decisions to improve understanding of and compliance with the directives to reduce civilian casualties. The investigation also resulted in remedial steps by the US Air Force and disciplinary measures against those involved. The USSF made payments for the deaths and injury to families affected by the air strike.

Special Forces and which involved regular international military forces. Special Forces often do not respond to requests for information or make information available. Civilians harmed by these operations often do not know who to contact or how to enquire about the location of detainees and compensation.

6. Investigations and Accountability for Civilian Casualties

6.1. ISAF

The AIHRC and UNAMA Human Rights documented 172 incidents of civilian casualties involving Pro-Government forces in night raids, air strikes and escalation of force. According to ISAF, it investigates all incidents involving civilian casualties. Efforts to verify this statement, obtain information on each incident including on who conducted an initial investigation and whether further investigations were carried out have not often been successful.

In those incidents where investigations occur, either international military forces or Afghan authorities or both carry out the investigation. The results are rarely made public denying victims and their relatives' closure and making it difficult for families to receive compensation. ISAF also does not routinely provide information on whether individuals involved in these incidents were prosecuted or held accountable for civilians killed and injured.

6.1.1. Disciplinary Action for Civilian Casualties

The AIHRC and UNAMA Human Rights followed up several investigations stemming from search and seizure operations, often night raids, and aerial attacks [see search and seizure and air strike sections for further information]. Based on available information, it could not be determined whether any meaningful disciplinary procedures against those held responsible were undertaken.⁴⁸ The apparent lack of prosecutions for civilian deaths and injuries remains a major cause for concern. Troop contributing countries should carry out adequate investigations and prosecute serious violations.

6.2. Afghan National Security Forces

Neither the AIHRC nor UNAMA Human Rights differentiates between the actions of international military forces and those of the ANSF and refers to these forces as Pro-Government Forces. The Ministry of Defense could not provide any details to UNAMA Human Rights and the AIHRC on the exact number of civilian casualties as a result of Afghan National Army (ANA) actions. In six cases where the AIHRC and UNAMA Human Rights tracked incidents of civilian casualties involving ANSF four were investigated and resulted in trial and detention of the perpetrator.

⁴⁸ The AIHRC and UNAMA Human Rights are aware of two ongoing cases where American soldiers are being prosecuted for human rights violations committed during the conflict. In the first case, a trial is underway in Fort Worth, Texas involving five US soldiers from the 5th Stryker Brigade, 2nd Infantry Division on charges of murder of three Afghan civilians who allegedly were randomly killed between January and May 2010 in Kandahar province. In the second case, one soldier is on trial in the US accused of killing one civilian on 26 September in Alishang district of Laghman province. International forces arrested the man for failing to obey orders to stop. The man was taken to a temporary base and allegedly killed after an initial investigation. International military forces launched an investigation and according to ISAF's Legal Advisor in Jalalabad the accused is currently undergoing trial.

ANSF members were prosecuted in three escalation-of-force incidents that resulted in civilian casualties. In all three cases, prison sentences were handed down. An ANA soldier was sentenced to 12 years when he injured a civilian whom he suspected to be a suicide attacker during an escalation of force incident in Gardez city in Paktya province on 18 January. An ANA soldier was sentenced to 20 years in July for killing and injuring two civilians when a vehicle failed to stop at an ANA checkpoint at Guzara district, Herat province on 28 March. On 29 April, an ANP officer killed a driver after he failed to stop at a checkpoint in Khost district. The ANP officer was arrested, sentenced and although pardoned through a *jirga* with the victim's family, is still detained.

6.3. Lack of Follow Up and Public Reporting on Investigations

In several incidents of civilian casualties, government investigations, Presidential Commissions or joint international military/Government investigations were undertaken. Provincial Governors across the country also established government investigations into incidents of civilian casualties and often included civil and military provincial representatives. Presidential Commissions were routinely created for high-profile cases comprised of a variety of political, civil and military officials, often at senior levels in the Government.

In some cases, ANSF and international military forces undertook joint investigations. Most of these were opaque, without a clear mandate, time limit or information on level of responsibility to make decisions. In most of these investigations, the AIHRC and UNAMA Human Rights were unable to determine whether the investigating authority and those directly involved adequately followed up or whether recommendations were implemented. Investigation findings were rarely made public and affected communities, families and victims were rarely made aware of results of investigations.

Several Presidential Commissions were established to investigate serious abuses and civilian casualties. Often these consisted of high level advisers and officials from various security ministries, as well as members of Parliament. Commission investigations were usually conducted soon after an incident but the timeline, mandate and procedures were not clear or made public. Findings were directly reported to the President and often not shared with affected communities or families, or in some cases provincial authorities.

In some cases, President Karzai directed commission findings to be shared with ISAF. In several cases, compensation was paid to the affected families, however, according to information available no prosecutions were undertaken as a result of commissions' enquiries.

In one case the AIHRC and UNAMA Human Rights followed, relatives of a victim refused compensation and demanded an investigation into the killing. On 21 March, a 92 year old man was killed when a house was searched in Chak district of Maidan Wardak province by US forces and the ANA. Although international military forces offered payment to the family, the family rejected the money and demanded that those who conducted the raid and provided the false intelligence be held accountable. On 5 April, the victim's relatives and provincial council members visited the US forces base where US forces apologized for the death, indicated they were not provided with correct information and offered to provide any further assistance to the family. The family's demands for accountability were not taken up by the US forces.

On 8 July, ISAF fired several mortar rounds from Salerno Base in Khost province. One of the mortar rounds impacted in Miakhel bazaar in Jani Khel district of Paktya province killing six civilians and injuring nine others. A joint ANSF and ISAF assessment team concluded that artillery fire from an ISAF unit resulted in civilian casualties and damage to property. ISAF accepted responsibility in a meeting with elders. The Deputy Governor of Paktya province later visited the elders and paid compensation for those killed and injured. ISAF reportedly provided the money.

The AIHRC and UNAMA Human Rights recognize that key leadership engagement (KLE) by international military forces, emphasized in the counterinsurgency guidelines, is an important means of communication with communities. It is also recognized that numerous engagements are held across the country, and that Battle Damage Assessments (BDAs) are regularly undertaken when incidents cause loss of life and injury to civilians. UNAMA Human Rights and the AIHRC have consistently advocated that ISAF contact communities immediately after a civilian casualty incident and keep the community informed of further investigations and any results.

6.4. Community Demonstrations against Civilian Casualties

Demonstrations to protest night raids and air strikes by Pro-Government Forces were held in Nangahar province in the east, Mazar city in Balkh province in the north, Garmser district in Helmand province in the south, Baghlan province in the north and Sayadabad district, in Wardak province in the central region and several other districts in the southeastern region, often drawing large crowds. Taliban elements, particularly in the east and the south, manipulated several of these demonstrations.

The AIHRC and UNAMA Human Rights documented four demonstrations in the southeast, three to protest night raids and one to protest an air strike.⁴⁹ In all four demonstrations, protestors condemned operations of international forces, particularly those of Special Forces, civilian casualties, destruction to property and called for release of detainees. Following the 10 July demonstration, some detainees were released. In a demonstration held on 8 October due to an air strike that killed and injured seven *arbaki* in Musa Khel district, protestors condemned the air strike and demanded a meeting with the provincial governor, the chief of police and international military forces. The provincial governor held several meetings with elders to mediate and requested Kabul to provide compensation to the victims' families. The request is still pending in Kabul. To date, ISAF has not given compensation to the victims' families.

Demonstrators protested against international military forces and ANSF actions and often called for measures to be taken against those who killed and injured civilians. The demonstrations were also an outpouring of grievances, anger and resentment towards international military forces, regardless of the legitimacy of the operation. Some

⁴⁹ An international military forces night raid was conducted on 20 January in Qarabagh district, Ghazni province in which four civilians were killed, including two minors aged between 13-15 years. A demonstration was held on 23 January. On 10 July a night raid on three houses in Ahamad Abad district in Paktya province was conducted reportedly by Special Forces and ANA where 14 people were arrested. Reportedly, one civilian was killed and property was damaged. A demonstration was held that day. On 8 October, seven *arbaki* were killed during an air strike in Nader Shah Kot district in Khost province. The *arbaki* were guarding land disputed by two tribes. A demonstration was held that day. A night search by international military forces on 10-11 December in Gardez district resulted in seven security guards from a neighbouring road construction company killed. A demonstration was held on 11 December.

demonstrations turned violent and others involved excessive use of force by international forces and ANSF that resulted in civilian casualties. In some districts, repeated military operations prompted demonstrations. On 17 August, a night search operation in Surkh Rod district of Jalalabad city reportedly killed two civilians. This incident, the fourth in five months, prompted the demonstration.

Arrests and killings of religious figures, such as mullahs, also prompted a number of demonstrations. An imam who was shot and killed during an escalation of force incident in Kabul on 28 January resulted in a demonstration and on 16 August demonstrators protested against the arrest of another mullah, suspected to have links to AGEs. As a result of an international military operation in which five mullahs were arrested, demonstrators marched towards the Jalalabad-Torkham road on 1 September. They demanded release of detainees and that ANSF conduct operations rather than international military forces. Four of the mullahs were later released.

Many protestors demanded accountability, an end to operations and compensation for casualties incurred and damage to property. It remains unclear whether demonstrators' demands were taken up by provincial government authorities or international military forces and whether any investigations into deaths and injuries of civilians during the demonstrations were investigated and responsible individuals prosecuted.

7. Compensation for Deaths, Injuries and Property Damage

7.1. NATO/ISAF

The AIHRC and UNAMA Human Rights, together with a number of protection actors, have consistently called for and monitored compensation mechanisms to Afghans affected by the conflict through death or injury or damage to property. NATO has partly met calls for establishment of a uniform compensation system to streamline the process and make compensation easier for Afghans by producing non-binding guidelines. The guidelines were published in June 2010 and offer baseline advice to troop-contributing countries on compensation and guidance on how to streamline the practice.⁵⁰ On 20 September, General Petraeus forwarded the guidelines to regional headquarters.

To date, troop contributing countries continue to make payments to Afghans affected by the conflict through processes that provide money for deaths, injuries and damage to property while ensuring the country does not bear legal liability. The German government, for example, decided to financially assist families affected by the Kunduz air strike on 4 September 2009. Financial payments were made without the German Government accepting legal responsibility for the air strike and casualties. Ninety-one Afghans were killed and 11 were injured when an air strike hit two disabled oil tankers that had been hijacked by the Taliban and surrounded by civilians.

⁵⁰ NATO adopted compensation guidelines on 11 June 2010, which focus on: prompt acknowledgement of civilian casualties or damage to property during combat, the requirement for troops to investigate possible cases of civilian casualties or damage to property, provision of information to the ISAF Civilian Casualty Tracking Cell, proactively offering assistance for individual or community harm, ensuring transparency and accountability in the process, coordination through village elders and district-level authorities among others, taking into account local customs and potentially creating a common fund.

The NATO guidelines are a positive step towards harmonizing a system that is confusing to many Afghans, does not take their concerns into account and is unwieldy. NATO should implement these guidelines across the board and countries should use the guidelines as a basis of payment.

7.2. Afghan National Security Forces

Through UNAMA Human Rights' and AIHRC's discussions with the ANA, it is clear that no systematic compensation mechanism exists within the army to address civilian grievances. Usually support is offered through general Ministry of Defense funds. In some incidents, compensation has been paid by the President's Discretionary 99 Fund, often on an ad hoc basis. According to the Director of the Human Rights Unit in the Ministry of Interior there is no compensation mechanism in cases where civilians are killed by Afghan national police officers.⁵¹

As the transition of lead security responsibilities from international military forces to the ANSF gets underway in 2011, it is important for the ANSF to establish a regulatory system for compensation, which involves thorough investigations into all civilian casualties and damage to property. NATO should give guidance and support to the ANSF on how to practically establish and implement these mechanisms.

⁵¹ UNAMA Human Rights and AIHRC meeting with Director of Human Rights, Ministry of Interior, 29 December 2010.

CIVILIAN PROTECTION AND THE AFGHAN LOCAL POLICE

1. Overview

On 16 August 2010, President Karzai signed a decree establishing the Afghan Local Police (ALP). The program is aimed at deterring infiltration of armed opposition groups into specific areas of the country and at creating conditions for improved governance and development.⁵² The ALP initiative is envisioned as a Ministry of Interior (Mol)-led rural security program to protect communities from AGEs through recruitment of local individuals into an armed group with Government oversight. As at February 2011, the ALP allowed for 15,700 recruits in 61 districts. The number recruited remains below these projected figures and discussions have focused on an eventual ceiling of 30,000 recruits in 100 districts.

Based on goals outlined in the ALP plan,⁵³ the ALP can only operate locally, cannot deploy outside their home district and are not permitted to take weapons outside their area of responsibility.⁵⁴ Security duties assigned to the ALP are limited and do not include performance of law enforcement tasks unless requested by the Afghan National Police (ANP). The ALP are to work under the direct management of the Ministry of Interior, which is responsible for the management and structure of the local police, as ALP have been established under the official structure of police forces in areas with ongoing threats. The ALP's role is envisioned as a first line of security able to more effectively defend districts and residential areas. At the district level, the ALP report to the district chief of police. US Special Forces have a mentoring role, without having an official supervisory role, by providing training to the ALP and working with ALP units for a period of time before hand over to conventional forces for further mentoring.

The ALP program follows on previous local defense initiatives (often widely known as "*arbakai*") with Government oversight that were aimed at securing local communities, creating self defense structures and preventing rural areas from infiltration by AGEs. Over the past several years, programs such as the Afghanistan National Auxiliary Police (ANAP) and Local Defence Initiatives (LDI) were implemented in different parts of Afghanistan. In Maidan Wardak province, the Afghan Public Protection Program (AP3)⁵⁵ aimed at providing more security to local communities was officially abolished in 2007. The ALP is planned to replace AP3 in Wardak and several LDI projects.

2. Observations on Protection of Civilians and the Afghan Local Police

From October 2010 to January 2011, the AIHRC and UNAMA Human Rights interviewed a range of interlocutors on the Afghan Local Police initiative, including local government authorities, NGOs, ANP representatives and international military forces, community leaders and elders throughout Afghanistan and reviewed documents and reports on the initiative. The AIHRC and UNAMA Human Rights asked interlocutors a series of questions on elements of the program, particularly those affecting civilians, including ALP's role and any potential concerns regarding conduct or impact of the ALP in a

⁵² The roles of the ALP were outlined in the ALP plan approved in August 2010 following a Presidential decree issued by President Karzai on 16 August 2010.

⁵³ According to the ALP plan approved in August 2010.

⁵⁴ ALP is permitted to carry only light weapons, such as AK47s.

⁵⁵ The project was implemented only in Syadabad district in Wardak province.

community. The ALP recruitment process and compliance by government authorities with procedures for implementation was observed in several districts.

3. Command and Control Concerns

Although measures were established to give the Afghan National Police control over the ALP, many interlocutors interviewed expressed concerns relating to possible abuses of power and human rights violations against civilians by ALP members. These concerns are based on three elements: a long history of past negative experiences with similar local defense groups which were abusive to local communities; weak oversight and recruitment mechanisms; and limited training for recruits (two to three weeks) in the current ALP program. In theory, the ALP reporting structure through the local ANP to the district chief of police is a positive measure. However, concerns exist about the effectiveness of reporting mechanisms given the ANP's poor reputation in relation to abuses against civilians, its lack of discipline and professionalism, and its high levels of corruption.

In addition, as the ALP are deployed in areas with no or minimal ANSF presence, there are concerns about the viability of the oversight mechanism. In the context of ethnic, tribal and political rivalries at the provincial and district levels, loyalty and accountability to the local police or Government is often absent. The AIHRC and UNAMA Human Rights observed that powerful tribal or ethnic leaders, individually or through *shuras* formed to recommend ALP members, have attempted to influence the recruitment procedure which has consequences for command and control. Where recruitment is influenced by local powerbrokers, ALP members are likely to be more loyal to their tribal or ethnic leader or local powerbroker than to the ANP in the area. This situation could potentially sideline minority and marginalized ethnicities and tribes that would consider the ALP an alien force and could lead to increased communal violence.

4. Recruitment and Vetting Concerns

The ALP program is designed to engage local *shuras* and authorities in the recruitment and vetting procedures so that selected candidates represent local communities. In theory, local vetting should prevent individuals with criminal records, state security offences or a history of conflict-related abuses from joining the project. Ministry of Interior and other intelligence agencies, for example NDS, are responsible for recruitment and tasked to evaluate individuals including on past activities.⁵⁶ The procedure, however, does not exclude individuals who join the peace process some of whom may have records of past human rights violations and conflict-related crimes or those who have been reintegrated through the Afghan Peace and Reintegration Program (APRP).

The AIHRC and UNAMA Human Rights observed inconsistencies in the recruitment process. As soon as the *tashkil* was allocated in Pul-e-Khumri district in Baghlan province, US Special Forces consulted with local communities, particularly in the Dande Ghor area, and reportedly distributed weapons to a militia commander to pave his way to joining the ALP. Reportedly, the Special Forces did not consult with the Chief of Police and NDS, which has had a negative impact on the relationship between ALP and Special Forces and local authorities in the area.

⁵⁶ According to ALP plan approved in August 2010.

Reports were received that on 4 December, a local ALP commander invited elders from various villages in Khas Uruzgan district in Uruzgan province to a meeting. The commander asked the elders either to provide men for the ALP or pay 15000 Afghanis. Several elders refused and were subsequently detained by the commander. They were released on 15 December, after reportedly paying an unspecified amount of money.

A different development concerning recruitment was observed in the southeastern region. In that area, tribal and *shura* members had a strong influence on ALP recruitment due to lack of a vetting procedure by the NDS and ANP. Reportedly, the NDS and ANP authorities asked tribal elders to recommend individuals to serve as ALP and also requested guarantees that those individuals had no links to AGEs. The concern was whether the vetting process was sufficiently rigorous to ensure exclusion of candidates with criminal records or links to AGEs.⁵⁷

A related potential risk to civilians is ALP implementation in the context of local tribal and ethnic complexities. The recruitment process aims to include all groups from different tribes and to be accessible to any individual from the area where it is implemented. Although the presence of a multi-tribal and multi-ethnic ALP could be positive, the local power balance could, at the same time, be undermined and spark conflict or violence as a result of local dynamics, tendencies to rivalry and past and current inter-ethnic and inter-tribal disputes. This phenomenon was observed in Baghlan province where local Tajiks viewed the ALP initiative as a threat to their hegemony and as a plan designed to support Pashtuns politically and economically.

In Kunduz province, the AIHRC and UNAMA Human Rights observed that the ALP is unlikely to be inclusive of all ethnicities and tribes. Rather the ALP appears to be used as a competition among provincial powerbrokers to introduce as many militia members loyal to them as possible into the ALP. This situation could lead to institutionalization of certain powerbrokers' authority in areas where Pro-Government militias are operating, potentially inviting serious rivalries and creating violence within communities.

The ALP guidelines clearly state that weapons for ALP are to be distributed by the Ministry of Interior. However in a number of cases, such as Pul-e-Khumri and in Char China in Uruzgan, US forces reportedly distributed weapons.

5. Training of the ALP

The short time frame envisaged for training ALP recruits raises concerns about their preparedness to serve as police officers and their level of awareness of and capacity to comply with applicable laws and procedures, including international human rights and humanitarian law. Potential problems include treatment of detainees captured by ALP before handover to the ANP, interaction with and protection of civilians, and potential misconduct and illegal activities. Without sufficient knowledge of the law and inadequate training, ALP members may exceed their duties, abuse their official position or act outside their mandate putting civilians at risk. To minimize these risks, training for ALP

⁵⁷ The Taliban reportedly infiltrated ALP in Khas Uruzgan district. According to reports from the Ministry of Interior, Mullah Nasrat, a Taliban sympathizer and former ANP officer, was recruited into the ALP and then orchestrated an attack on a joint ALP-ANP check post in Shekha village on 9 November. During the attack seven police officers were killed and their weapons were taken.

should include legal obligations on protection of civilians and rights of detainees and prisoners of war.

6. Arrest and Detention

Although the ALP is not authorized to perform tasks of law enforcement police, they apparently have authority to detain individuals they capture during combat or who are suspected members of AGEs. The ALP's mandate, obligation and role regarding detention is not clearly defined or instructive on issues of arbitrary detention, handover process of detained individuals, conditions of detention, prevention of abuses and awareness of detainees' rights.

Interlocutors interviewed expressed concerns about the high likelihood of inhumane treatment of persons arrested by ALP and detention in non-degrading conditions, particularly after international military forces mentoring ALP leave an area. Concerns were also raised about ALP conducting prompt and smooth communication with the ANP and its responsiveness to local justice authorities. With ALP operating in remote areas with no ANSF presence and the high possibility of capture of AGEs, issues of conduct towards detainees, lack of detention facilities and communication channels with the ANP require urgent attention.

7. ALP Operating Outside its Area of Responsibility

Concerns exist that the ALP may be used for operations outside their area of responsibility, which has implications for the security of communities ALP is supposed to protect. The AIHRC and UNAMA Human Rights have received reports that the ALP is in some areas acting outside its authority despite safeguards established to ensure that ALP units' conduct themselves strictly within the program's framework. One of these safeguards includes a guideline that ALP should perform duties only in the district where they were originally deployed.⁵⁸ The AIHRC and UNAMA Human Rights observed that on 18 December 2010, US Special Forces, together with Kijran ALPs in Daikundi Province, went seven kilometers into Helmand province and conducted a military operation in the bazaar of Baghran district, killing at least three AGEs and arresting one influential AGE commander.⁵⁹ The involvement of Kijran ALP into Helmand province could have negative consequences by fomenting disputes across provincial borders, as well as exacerbating tensions and violence affecting civilians in the already volatile Kijran District of DaiKundi province.

The AIHRC and UMAMA Human Rights received reports of ALP units in some districts collecting illegal taxes (*zakat*) from the local community. Often collection of such taxes was accompanied with threats of violence and abusive conduct.

⁵⁸ According to ALP plan approved in August 2010.

⁵⁹ In another incident reported in Central Highlands region in Gezab district of Dai Kundi province, information was received indicating that the Village Stability Operations (VSO) Guardians were involved in an incident on 22 December which resulted in the killing of one civilian. The VSO Guardians were operating in addition to an ALP force of 300 (referred to locally as *Arbaki*, rather than the official title of *Poi-e-Mahali*), formed in early December 2010, with 70 members recruited and already operational and directly reporting to US Special Forces.

In response to a range of concerns related to ALP implementation, ISAF set up Village Stability Coordination Cells at the regional and headquarter levels to monitor and coordinate ALP and other village-level outreach programs with all interested parties (for example with the Independent Directorate of Local Governance, USAID, UN and others).

8. Anti-Government Elements and the ALP

An important security implication for communities engaged in the ALP is the negative perception of Anti-Government elements about the program. The Taliban released several statements highly critical of the ALP and stated that ALP is another Government institution to be targeted and attacked.⁶⁰

In the southeast region of Chamkani district in Paktya province in October 2010, AGEs distributed night letters to influential members of the community to discourage the local population from supporting the ALP. Reportedly, the night letters stated “[I]f you give your people to become ALP, you and your houses will be attacked by the AGEs and you (the people) will be responsible.” It appears that these night letters discouraged local populations in the Nozi, Lawari, Mangiar and Sarangoor areas of Chamkani district from participating in the ALP.

AGEs also distributed critical comments via the electronic media that recalled negative experiences from the country’s past. These messages made reference to abusive and violent tribal militias, which had poor reputations among communities, and operated in Afghanistan since the start of the conflict. The messages also accused the ALP of supporting the “invaders” and called on communities to fight and oppose the ALP.

Sources in the eastern region expressed concerns that an increase in violence affecting civilians was likely following recruitment of ALP because ALP recruits live in the community and can easily become targets of AGEs. With ALP implementation in mainly rural areas with no ANSF presence, a high risk exists that those who work as ALP officers, their family members, and other villagers will attract the attention of AGEs and become targets. In addition, situations could develop, as seen previously in locations such as Kunduz, where AGEs target ALP instead of the Pro-Government militias they previously targeted resulting in civilian casualties.

In Gezab district of Dai Kundi province, hand grenades were hung on doors of those working for the ALP. Night letters were also distributed in the district warning people not to work for the Government or they would be punished.

9. Community Views

In several areas, communities expressed positive views about ALP following its establishment in their areas. On 28 January 2011, a group of AGEs attempted to enter Masaw village in Pusht Rod district of Herat province by attacking the ALP guarding the village. ALP defended the village and the AGEs retreated. Reportedly, international military forces supported the ALP in defending the village.

Elders in Jaji Aryub district in Paktya province reported the ALP as a positive development and stated that it should be expanded. Similarly, in Bermal district, Paktika

⁶⁰ Taliban Statement January 18, 2011.

province local communities were supportive of the program and expressed an interest in its extension to other districts of the province.

10. Conclusions on ALP

In areas that experienced the presence of Pro-Government militias, such as Kunduz, the communities' expectation is that Ministry of Interior control over ALP may curb any potential illegal activities as the ALP absorbs the majority of Pro-Government militia members. At the same time, fears exist that the increased presence of forces affiliated to the Government, such as the ALP, will attract AGEs and increase violence and risks to civilians. To minimize risks to civilians, the ALP should strictly comply with its mandate to provide security locally and not engage in "offensive" operations against AGEs as such activity could further expose communities to retaliation by AGEs.

Other concerns relate to establishment of self-declared ALP units by other armed groups that are not officially constituted as ALP units. UNAMA Human Rights and AIHRC received reports of these so-called ALP units operating in certain districts without oversight or legal control.

While on paper an appropriate system of oversight exists for all aspects of ALP activities under US military supervision, the AIHRC and UNAMA Human Rights are concerned about how the oversight mechanism works in practice, given the remote areas where ALP is and planned. It is also an open question whether the ANP will be able to control ALP activities given recruits' loyalty to local tribal leaders, commanders and powerbrokers rather than local government structures in many districts.

The program's planned rapid expansion to 30,000 recruits is also a cause for concern.

The AIHRC and UNAMA Human Rights stress that rigorous oversight and monitoring of all elements of the program together with prompt discipline for any abusive or criminal acts of ALP members are essential to ensure that ALP does not increase harm and result in reduced protection for civilians, and further entrench impunity.

PROTECTION OF CIVILIANS IN THE SOUTHERN REGION

1. Overview

The surge in international military forces focused on the southern region.⁶¹ Major clearance operations in central Helmand and the districts surrounding Kandahar City were widely viewed as key tests of the counter-insurgency strategy pursued by the Afghan Government and troop-contributing countries.⁶² The Taliban responded by vigorously contesting attempts to expand government power, including through a campaign of assassinations.

Many of the civilian protection issues observed in the south corresponded to those in other regions. As was the case countrywide, IEDs caused more civilian casualties than any other tactic in the southern region, and international forces conducted frequent operations, including raids. However, other civilian protection issues were specific to the region and warrant separate consideration given the region is a test case for the surge and counterinsurgency strategy and accounted for 41 per cent of all civilians killed and injured countrywide during 2010.

In the southern region, civilian casualties increased by 20 per cent compared to 2009, and, as in 2009, Helmand and Kandahar were the provinces that experienced the most civilian casualties (38 per cent and 42 per cent of the region's total, respectively). However, the civilian casualty trends in these provinces were markedly different. In Helmand, civilian casualties increased dramatically (78 per cent compared to 2009), while, in Kandahar, deaths and injuries of civilians increased by only 11 per cent (although civilian casualties in Kandahar were already quite high). The clearance operations by ANSF and international military forces in February 2010 in the central Helmand districts of Marja and Nad Ali were accompanied and followed by intense violence which accounts for a substantial portion of the overall increase in civilian casualties in that province. In contrast, clearance operations in the districts bordering Kandahar City — Arghandab, Dand, Panjwayi and Zhari — between July and November 2010 did not lead to a similar spike in civilian casualties, although they resulted in large scale property destruction.

Throughout the region, the Taliban assassinated civilians in unprecedented numbers. Helmand saw a nearly seven-fold increase (588 per cent) in the number of civilians killed in AGE assassinations and executions and Kandahar saw a nearly four-fold increase (248 per cent) compared to 2009.

AIHRC and UNAMA Human Rights actively monitored civilian protection concerns in Marja and Nad Ali since plans for military operations were publicly announced in early

⁶¹ For the purposes of this report, the southern region comprises Helmand, Kandahar, Nimroz, Uruzgan, and Zabul provinces.

⁶² See, for example, Yaroslav Trofimov, "Coalition says troops in surge, along with new strategy, will stall Taliban and could reverse the course of advance," *Wall Street Journal*, 2 February 2011; Dexter Filkins, "Afghan offensive is new war model," *New York Times*, 12 February 2011; Adam Entous, "Pentagon puts pressure on Karzai over corruption," *Reuters*, 29 March 2010; Rajiv Chandrasekaran, "'Still a long way to go' for U.S. operation in Marja, Afghanistan," *Washington Post*, 10 June 2010.

February.⁶³ In addition to investigating and tracking civilian casualty incidents, both organizations have met with Government officials, elders, internally displaced persons (IDPs), and ISAF. Interviews with internally displaced persons included persons who left Marja at all phases of the military operation and its aftermath, from the start of operations in February 2010 through to early August. As the situation stabilized, UNAMA Human Rights and the AIHRC also interviewed elders and IDPs who fled Marja during active operations and who had begun making regular trips back to Marja through to the end of 2010. Constant telephone contact has also been maintained with elders and officials involved in the district through February 2010 to January 2011.

In an effort to promote improved security for Afghan civilians in 2011, UNAMA Human Rights and the AIHRC offer observations regarding military operations in Marja and Kandahar based on their reporting and analysis of events in those areas throughout 2010.

2. Clearance Operations and the Aftermath in Marja and Nad Ali Districts, Helmand Province

2.1. Overview

In February 2010, ANSF and ISAF retook the districts of Marja and Nad Ali in central Helmand province from the Taliban in a clearance operation. Throughout the spring and summer, the Taliban violently contested the government's tenuous control over the area. At least in the medium term, this operation had very negative consequences for the civilian population. Compared to 2009, the number of civilians killed and wounded by all parties to the conflict more than tripled (from 97 to 323), and the number of incidents resulting in civilian casualties increased more than sevenfold (from 17 to 121) in these districts. Counting Marja and Nad Ali as a single district, which they were until Marja became separate district mid-year, it saw more civilian casualties than any other district in the country, with the exception of the district that includes the populous Kandahar City.

2.2. Civilian Casualties during the Clearance Operation

The initial operation to wrest control of the district from the Taliban may be approximately dated from 13-24 February. According to the AIHRC and UNAMA Human Rights' figures, 60 civilians were killed or injured in 13 different incidents during this two-week period. The large majority of civilian casualties took place in attacks by government and international military forces or in attacks for which the responsible party could not be reliably determined. These included escalation of force incidents and incidents involving direct and indirect fire against housing compounds. In the most widely publicized incident, a munition from an artillery rocket system struck a housing compound and killed 12 civilians on 14 February. ISAF promptly took responsibility.⁶⁴ According to ISAF, the unit that called in the strike was pinned down under heavy fire and was receiving fire from the house in question but was unaware civilians were also inside.⁶⁵

⁶³ See, for example, Michael M. Phillips, "U.S. Announces Helmand Offensive," *Wall Street Journal*, 3 February 2010. Government of Afghanistan and ISAF briefings to UNAMA HR, 2 February 2010.

⁶⁴ See, for example, "Afghan civilians killed in strike by Nato rockets", *BBC* (14 February 2010).

⁶⁵ Briefings with ISAF RC South, Spring 2010.

2.3. Key Threats to Civilians Following the Major Clearance Operation

While Nad Ali was less contested, Marja remained intensely violent throughout summer of 2010. Through August, even central Marja continued to experience frequent armed clashes, assassinations, and IED explosions (from September onward, violence dropped off in the center although it continued in some outlying areas). From 25 February to the end of August, 196 civilians were killed or injured in a total of 90 incidents. Internally displaced persons (IDPs) from Marja provided a fairly consistent analysis of the key protection challenges.

One IDP who had left Marja in July (and was interviewed by UNAMA in August 2010) said, *“Of all of the problems, two are the most difficult for us. First, Taliban come and abduct people who are working for the government or NGOs. If you give them money, they will release you; otherwise, they will kill you. Second, Taliban shoot from our houses, and then the foreign forces shoot at our houses. These are the biggest problems.”*

Assassinations and executions were a major concern throughout the region. However, concerns related to civilians getting caught in armed clashes were much more specific to Marja.

2.4. Armed Clashes, Human Shielding and Civilians Caught in the Crossfire

In most parts of the country, civilians are seldom caught in crossfire exchanges. Instead, the great bulk of civilian casualties occur either when civilians are directly targeted (as with assassinations) or are too close to the blast of an IED, suicide attack, or aerial attack. In Marja and Nad Ali, however, 29 percent of all civilian casualties during 2010 were killed or injured during ground engagements between Taliban and international or government forces. The AIHRC and UNAMA Human Rights' data on civilian casualty incidents show that for armed clashes to result in such a high proportion of civilian casualties is highly unusual even in hotly contested districts.

IDPs described a variety of situations in which armed clashes led to civilian casualties, but they characterized one particular sequence of events as especially dangerous yet relatively common.⁶⁶ First, Taliban fighters would come to a house and insist, sometimes violently, that they be permitted to shoot from the house. Second, Taliban fighters would open fire on a nearby ISAF or ANSF check post. Third, soldiers at the ANSF or ISAF check post would sometimes return fire. Fourth, Taliban fighters (and sometimes also the residents) would flee the house and sometimes ANSF or ISAF would shoot at them. Fifth, ANSF/ISAF would come to the home to search for Taliban, and sometimes civilians would also get detained.

After explaining how clashes unfold, one IDP who had left in late July (and was interviewed by UNAMA Human Rights in August 2010) concluded, *“ISAF kills them. The Taliban kill them. ISAF arrests them. The people cannot live like this.”*

The main reason why so many civilians were killed and injured in armed clashes was the Taliban routine use of civilians as human shields. IDPs told the AIHRC and UNAMA

⁶⁶ Interview in August 2010 with IDPs who had left Marja between late July and early August; interview in August 2010 with IDPs who had left Marja in late July; interview in November 2010 with IDPs who had left approximately three months earlier and who were currently traveling back-and-forth to Marja frequently.

Human Rights that the Taliban deliberately chose to fire from houses that were still occupied, though there were many abandoned houses in Marja, and refused to allow the residents to leave (see below). Both organizations have received many such accounts, and these make clear that the purpose of the Taliban's firing from occupied houses was to use the residents as human shields in an effort to deter international forces from responding with artillery or aerial attacks. The use of human shields is prohibited by international humanitarian law.⁶⁷

Accounts of the Taliban's use of human shields in Marja

Each of the IDPs quoted had left Marja in late July or early August 2010. They were members of two groups of IDPs interviewed by UNAMA Human Rights in mid-August.

"The Taliban come to any house they please, by force. Then they fire from the house, and then ISAF and ANA fire at the house. But if I tell the Taliban not to enter, the Taliban will kill me. So, what is the answer? Either ISAF kills me, or the Taliban kills me."

"The Taliban came and made holes in the outer wall of a man's house from which they would be able to fire. The owner of the house came to them and said, "You cannot do this to my wall. I have women and children inside, my family is living here. It is too dangerous for them." And he insisted, so they left. But, the next day, other Taliban came and said, 'Are you not a Muslim?' And then they beat him very harshly. Villagers took him to the ISAF medical facility, and they tried to help him, but he died."

"The Taliban never use empty houses [to shoot from], because they think that ISAF will bombard them. They do not even allow people to leave their houses. They make people stay in the houses even though there is going to be a fight. When people complain that their family members may die, the Taliban say, 'We will die and go to heaven. If they also die, they will also go to heaven. It does not matter.' The people can only flee when the Taliban leave the houses to join some engagement and are busy fighting."

In part, the risk of civilians becoming victims of armed clashes was also due to the locating of ANSF and ISAF bases, or check posts, throughout the populated areas of Marja. When government and international forces are located in residential areas, Taliban attacks on them put civilians at risk. In Marja, the location of bases put civilians at particular risk, because they were established before the district had been fully cleared. As has been pointed out in past AIHRC and UNAMA Human Rights' reports, while locating military facilities in residential areas may have military advantages, it also puts civilians at risk.⁶⁸ Under international humanitarian law, ANSF and ISAF should consider the feasibility of alternative approaches to securing their hold over this type of populated area.⁶⁹

⁶⁷ ICRC Customary IHL Study, Rule 97.

⁶⁸ See UNAMA *Mid Year Report on Protection of Civilians in Armed Conflict*, 2010, pp 14-15.

⁶⁹ ICRC Customary IHL Study, Rule 23: "Each party to the conflict must, to the extent feasible, avoid locating military objectives within or near densely populated areas."

2.5. A Fragile Sense of Security in the Fall 2010

People from the district reported to the AIHRC and UNAMA Human Rights that the situation improved in central Marja over the course of September and October. From September through December, 63 civilians killed or injured in 26 incidents were recorded, a high toll but far lower than in earlier months. IDPs who were making frequent trips back-and-forth to Marja (and were interviewed by UNAMA Human Rights and the AIHRC in early November) offered two explanations for the change.⁷⁰ First, they said that most Taliban had left or become inactive as winter approached. Second, they said that the establishment of community defense forces (who are not part of the Afghan Local Police) that they termed “*arbakai*” had made it more difficult for Taliban fighters to force their way into civilian homes.

Elders and government officials also reported that IDPs began to return to Marja in large numbers during this period, in part due to the decline in violence and in part due to the need to plant crops and move from temporary shelters before winter. According to UNHCR, at the peak of the violence, an estimated 4,285 families, or approximately 27,150 people, had been displaced. Those with whom the AIHRC and UNAMA Human Rights spoke to in November were cautiously optimistic, but the uncertain consequences of establishing community defense forces and the many seasonal factors behind the decrease in violence make it difficult to predict whether civilians will again be affected by intense fighting in the coming summer of 2011.

In summary, UNAMA Human Rights and the AIHRC observed that the initial strategic decision by Pro-Government Forces to choose as a main battle ground the densely populated rural environment of Marja, without the necessary Afghan policing and public protection capacities to follow, contributed to increased civilian harm. The decision to establish numerous bases and check posts in a populated area before it had been fully cleared further contributed to a dangerous dynamic in which armed clashes between Pro-Government Forces and the Taliban routinely affected civilians. Taliban assassinations of civilians and the use of civilians as human shields particularly in densely populated areas were not only unlawful tactics but lead to devastating results for the civilian population.

3. Clearance Operations and their Aftermath in Districts Surrounding Kandahar City

3.1. Early Response to Planned Operations

In the first months of 2010, the Government and ISAF also began discussing plans to conduct clearance operations in four districts bordering Kandahar City - Arghandab, Dand, Panjwayi, and Zhari. The AIHRC and UNAMA Human Rights followed these operations by investigating and tracking civilian casualty incidents, through meetings with ISAF, and by holding consultations with elders from each of the affected districts both before and after major clearance operations had begun.

The early response to impending operations even from pro-Government elders was resoundingly negative. Almost all of those consulted in March and April 2010 strongly

⁷⁰ Interview in November 2010 with IDPs who had left in late July; interview in November 2010 with IDPs who had left approximately three months earlier. All these IDPs were now traveling back-and-forth from Marja frequently.

opposed the anticipated operations, because they believed the operations would fail to dislodge the Taliban, would kill and injure civilians, and would destroy their homes and crops. A key reason for their negative views was their belief that ISAF was incapable of discriminating between civilians and Taliban fighters.

This comment made by an elder from Zhari district in March 2010 was typical: *“War does not really discriminate. They do not have proper information about who is who, which house is which. If they had good intelligence, we would know, because then they would arrest all of the Taliban commanders who circulate freely between the districts and the city. Moreover, the Taliban stay in the houses of civilians. . . . It will be civilians who suffer and the civilians’ crops, irrigation systems, and homes that are destroyed.”*⁷¹

3.2. Clearance Operations Resulted in Fewer Civilian Casualties

Major clearance operations took place in Arghandab district in late July and August, in the Malajat area that straddles northern Dand district and southern Kandahar City in August and September and in Panjwayi and Zhari districts from September through to November. AIHRC and UNAMA Human Rights’ interviews with elders from these districts in October indicated they had begun to see improvements in ANSF and ISAF efforts to avoid civilian casualties. In part, elders said this was because raids and other attacks had targeted Taliban fighters more precisely than they had anticipated.

A group of elders from Zhari with whom UNAMA Human Rights and the AIHRC spoke in October 2010 reported there had been, *“very, very few civilian casualties. We cannot even give an estimate.”*

UNAMA Human Rights and the AIHRC did not hear this assessment in the spring, but, in the autumn, both organizations repeatedly heard similar assessments, especially in relation to Arghandab and Dand districts.

The change in perceptions is grounded in facts. During the clearance operations around Kandahar City, the AIHRC and UNAMA Human Rights recorded far smaller increases in civilian casualties than were seen during clearance operations in Marja and Nad Ali. Similarly, while civilian casualty incidents increased the kind of dramatic surge in violence that followed the clearance operation in Marja and Nad Ali has, at least to date, not been experienced in the districts around Kandahar City.

The contrast between Marja and Nad Ali and the districts around Kandahar City may be due in part to the operations’ respective timing, with Taliban fighters reportedly pulling back as winter approached, and in part to the higher level of prior Taliban control in Marja than in most areas around Kandahar City. But it would also appear that Pro-Government Forces learned from their experiences in Helmand and acted to limit civilian casualties while intensifying operations. Two factors appear to have been particularly relevant. One is that the Government and international military forces engaged in more extensive consultations prior to operations and carried out a series of smaller operations around Kandahar City. Another is that more attacks in the Kandahar operations appear to have been pre-planned (as opposed to being responses to Taliban opening fires and activities). In October 2010, an elder from Zhari opined to UNAMA Human Rights and

⁷¹ For more on the early reaction to these plans, see UNAMA, *Mid Year Report 2010: Protection of Civilians in Armed Conflict*, August 2010, pages 16-17.

the AIHRC that ISAF must now have a “very good intelligence program” given how more precisely it was targeting its attacks than in the past.

3.3. Clearance Operations Involved Large Scale Property Destruction

In contrast, elders’ fears that the Kandahar operations would involve the destruction of homes, crops, and irrigation systems were realized. There are numerous reports from elders and others that many houses were destroyed to dispose of IEDs and to improve the defenses of ISAF and ANSF bases; that military vehicles drove off roads to avoid IEDs but destroyed walls, gardens, and irrigation systems in the process; that buildings used for drying grapes were destroyed to prevent their use as fortifications; and that buildings, homes, land, trees and crops were destroyed, purportedly to allow ISAF forces to establish check posts and build additional roads where ISAF was unwilling to use existing roads for security reasons. Reportedly these operations were conducted without prior consultation with elders or owners of the land. Panjwayi and Zhari districts were the worst affected, but there was also significant destruction of property in Arghandab and Dand. At the time of writing, UNAMA Human Rights and the AIHRC received reports that property destruction continued to occur in these districts.⁷²

In January 2011, a commission appointed by President Karzai concluded that “800 to 900 houses were destroyed besides crops and fields and more than 100,000 fertile and non-fertile trees” during operations in Kandahar.⁷³ While ISAF and some government officials have disputed the commission’s findings, no one disputes that substantial property destruction occurred. ISAF told both AIHRC and UNAMA Human Rights that its bombing of houses, the use of “mine-clearing line charges” to destroy swathes of land near roads, and other forms of destruction were necessary to save soldiers’ lives given the number of IEDs planted.

While ANSF and ISAF showed care in avoiding civilian casualties during these operations around Kandahar City, international humanitarian law norms regarding the definition of military objectives, proportionality, and precautions in attack do not appear to have been rigorously applied when civilian property was at risk. Under international humanitarian law, the parties to a conflict may only attack “objects which by their nature, location, purpose or use make an effective contribution to military action and whose partial or total destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.”⁷⁴ IEDs are objects which may be considered to make an effective contribution to military action “by their nature.”

The presence of “nests” of IEDs on a road or in a house, however, should not be assumed military targets, inasmuch as a party must do “everything feasible to verify that targets are military objectives.”⁷⁵ Grape-drying huts and other civilian objects that are

⁷² Interviews with elders from Zhari in October 2010; interviews with elders from Panjwayi in October 2010; and interviews with elders from Arghandab in October 2010. Interviews with district *shura* members from Zhari, Panjwayi and Arghandab between 20 and 25 February 2011. See also Taimoor Shah and Rod Norland, “NATO Is Razing Booby-Trapped Afghan Homes”, *New York Times*, 16 November 2010; and Abubakar Siddique, Mohammad Sadiq Rishtinai, “Picking Up the Pieces Following Kandahar Offensive”, *Radio Free Europe*, 4 February 2011.

⁷³ Taimoor Shah and Rod Norland, “Afghan Panel and U.S. Dispute War’s Toll on Property,” *New York Times*, 13 January 2011.

⁷⁴ ICRC Customary IHL Study, Rule 8.

⁷⁵ ICRC Customary IHL Study, Rule 16.

not by their nature military objectives may only be targeted if everything feasible has been done to verify they have been rendered, due to their use, purpose, or location, military objectives.

Moreover, the party to the conflict planning to launch an attack for the purpose of destroying IEDs must do “everything feasible” to assess whether the damage to civilian objects, such as houses and orchards, will “be excessive in relation to the concrete and direct military advantage anticipated” from destroying a particular group of IEDs.⁷⁶ Finally, if it is decided to destroy IEDs, a party to the conflict “must take all feasible precautions in the choice of means and methods of warfare with a view to avoiding, and in any event to minimizing, incidental . . . damage to civilian objects.”⁷⁷

UNAMA Human Rights and the AIHRC suggest that ISAF comprehensively review decisions made to destroy civilian property during these operations to ensure compliance with relevant legal standards and to seek out alternative means and methods that would have less adverse impact on civilian property and livelihoods in future operations.

Accounts of elders on property destruction in Zhari and Panjwayi districts, Kandahar province

“Imagine that I have a small house and garden. If you destroy those, and in the future there is peace, then what good is this peace for me?” (Elder from Zhari, October 2010)

“So far, all of the operation’s results are negative, because they are destroying the people’s houses, their gardens, and their irrigation systems. But, as for the future, we do not know what brightness it might hold.” (Elder from Panjwayi, October 2010)

“These villages in which operations are taking place are not Taliban villages. The Taliban come from elsewhere. These are the villages of our civilian people. The Taliban are being harmed 10 per cent, and the villages are being harmed 80 per cent. . . . During the operation, if ISAF see any IED or wire, ISAF destroys the whole house. This is civilian property, and it may be worth \$50,000. But there will be no remedy. In ISAF’s operation, they have destroyed our irrigation canal, our mulberry trees, our nurseries.... This is a major harm to the civilian population. This is not Taliban property. Taliban come from somewhere else. Since the times of Daud Khan and Zahir Shah, there have been proper roads from Highway 1 to our areas. But they are not using these. Instead, they make a new road, driving through our gardens. Right now, ISAF has only one enemy – the Taliban. But, if ISAF does not listen to the civilian population, they will have two enemies – the Taliban and the civilians.” (Elder from Zhari, October 2010)

⁷⁶ ICRC Customary IHL Study, Rules 14, 8.

⁷⁷ ICRC Customary IHL Study, Rule 17. In relation to the issue of property destruction, see also ICRC Customary IHL Study, Rules 7-10, 14-21.

Elders from Panjwayi and Zhari interviewed by AIRHC and UNAMA HR in February 2011 expressed their dissatisfaction with the compensation provided by ISAF to date. At a meeting of ISAF representatives, the Ministry of Counter-Narcotics, Zhari's District Governor and others on 24 February 2011, the District Government reportedly stated that he had received 1128 applications for compensation for property damage. 728 claims had received compensation with the remaining being processed. Many who had received compensation claimed it was not enough to cover their losses.⁷⁸

3.4. Summary

It is significant that clearance operations around Kandahar City led to fewer civilian casualties than those in central Helmand. However, the long-term consequences of these operations for the civilian population will depend on whether Pro-Government Forces establish sustainable security in those areas, and prioritize and fully fund rebuilding of properties. The longer-term result will also depend on whether parties to the conflict act to prevent civilian casualties in the coming summer and predicted upsurge in combat in Kandahar and avoid replicating spring/summer 2010 in Marja. Few Kandahar residents offered more than cautious optimism about the future. As one elder from Panjwayi district told UNAMA Human Rights and AIHRC in October 2010, "We want to see 'one year security', not 'six month security'."

4. Taliban's Assassination Campaign in the South

In addition to conducting armed engagements and planting IEDs, the Taliban's strategy to counter the surge in Pro-Government operations included increasing the use of assassinations, especially in Kandahar and Helmand provinces. When the Islamic Emirate of Afghanistan (i.e., the Taliban) announced its *Al-Faath* operation in May 2010, it stated: "*The Al-Faath operations will target the invading Americans, the NATO military personnel, foreign advisers, spies who pose as foreign diplomats, members of the Karzai stooge administrations and members of the cabinet, members of the parliament, personnel of the so-called ministry of defense, intelligence department, ministry of justice, ministry of internal affairs, contractors of foreign and domestic private security companies, contractors and personnel of military logistics and military constructions companies and all supporters of foreign invaders who are working for the strengthening of foreign domination.*"

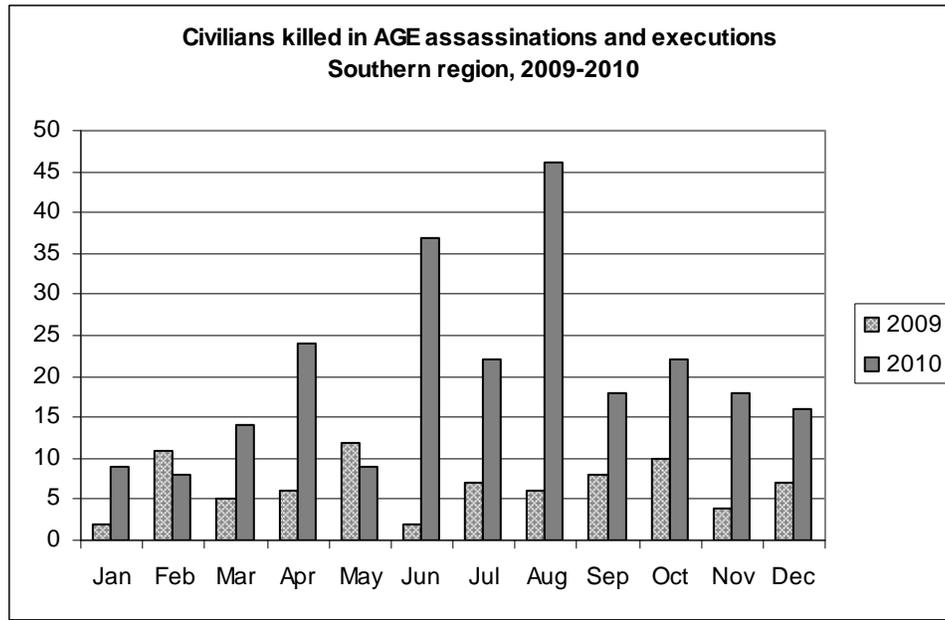
The statement went on to threaten to punish "all military intelligence, judicial and administrative officials" and expressly threatened to kill "owners and workers of transportations and construction companies, who transport logistical goods for the foreigners or build their construction facilities."

The Taliban's words have been matched by actions that targeted civilians and combatants alike. In 2010, victims of assassinations in Kandahar included government officials, district shura members, participants in development programs, drivers of trucks delivering supplies to ISAF, off-duty police, suspected informants, and others.

In 2010, in the southern region, the AIHRC and UNAMA HR recorded three times as many civilians killed in AGE assassinations and executions as in 2009 (a 204 per cent

⁷⁸ Interviews with district shura members from Zhari in February 2011.

increase).⁷⁹ In contrast, for all other incident types combined, the increase in civilians killed by AGEs was nine per cent. The overall 29 per cent increase in civilians killed by AGEs was due primarily to the surge in assassinations. While the Taliban had not announced its strategy until May, this trend was already visible in March, in the aftermath of the major Pro-Government clearance operations in Helmand and in the lead up to their clearance operations in Kandahar.



Assassinations also became increasingly widespread. In 2009, the AIHRC and UNAMA Human Rights recorded assassinations in 17 districts. In 2010, both organizations recorded assassinations in 30 districts.⁸⁰ Kandahar district (which includes Kandahar City) had more assassinations than any other and here, too, insecurity increased everywhere: In 2010, sub-districts 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 saw more assassinations, and no sub-district saw fewer.

The social and psychological effects and violations of human rights associated with assassinations are more devastating than a body count would suggest. An individual deciding to join a district *shura*, to campaign for a particular candidate, to take a job with a development organization, or to speak freely about a new Taliban commander in the area, often knows that their decision may have life or death consequences. Assassinations aim to deter individuals from exercising their basic human rights (to life and security) and freedoms of expression, political participation, association, work and education. This suppression of individuals' rights also has political, economic and social

⁷⁹ The AIHRC and UNAMA Human Rights have made efforts to distinguish ordinary murders from AGE assassinations and excluded a large number of targeted killings on this basis; however, given the limitations of police investigations and judicial process as well as the unreliability of Taliban claims and denials of responsibility, it is plausible that the figures for both 2009 and 2010 are either higher or lower than the true figures. However, the dramatic upward trend is unmistakable. Note also that the figures exclude targeted killings of individuals committed using IEDs and suicide attacks (both organizations count these incidents separately).

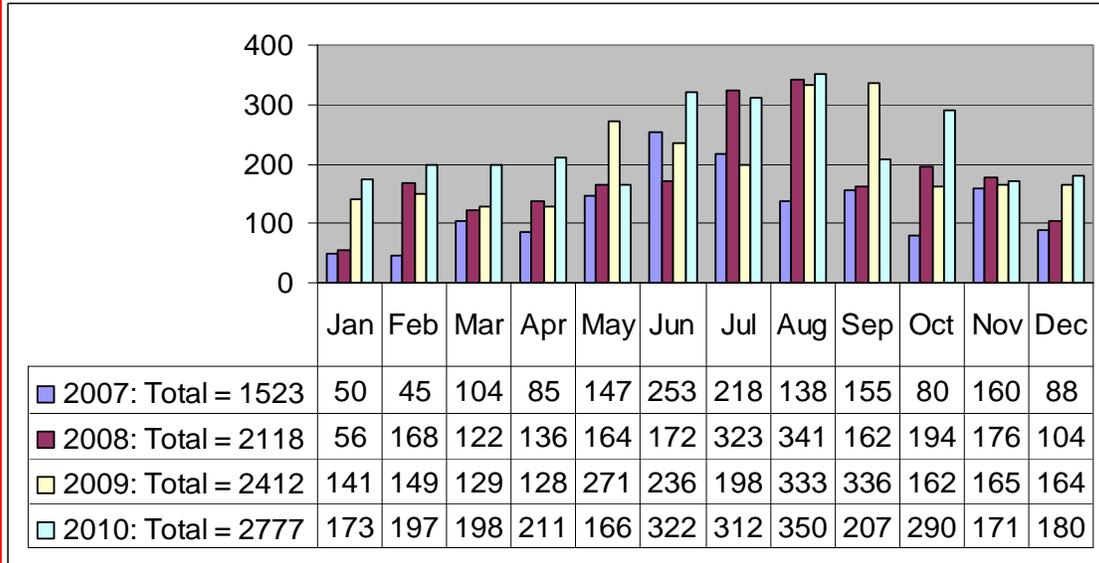
⁸⁰ In both years, Dand district and Marja district were counted as part of Kandahar district and Nad Ali districts, respectively, although they both became official districts in the course of 2010.

consequences as it impedes governance and development efforts. Neither international military forces nor Afghan national security forces have been able to protect civilians from assassinations.

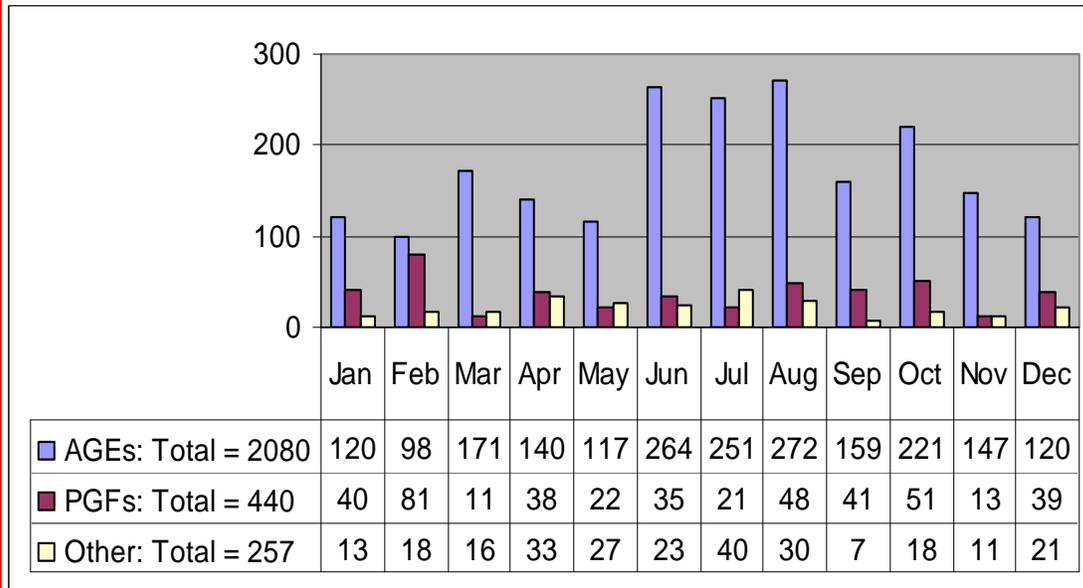
Appendix

Additional Graphs on Civilian Casualties

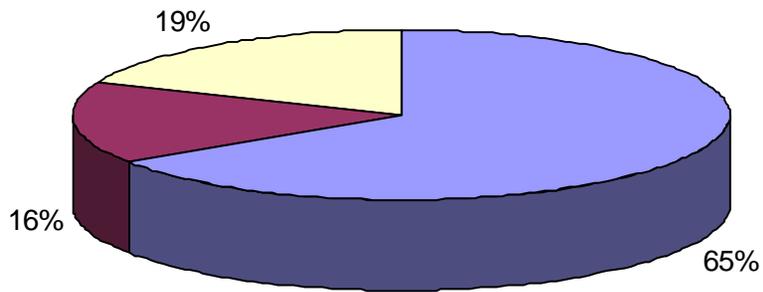
Recorded number of civilian deaths in the months of 2007, 2008, 2009 and 2010



Recorded civilian deaths in 2010 by parties to the conflict and month

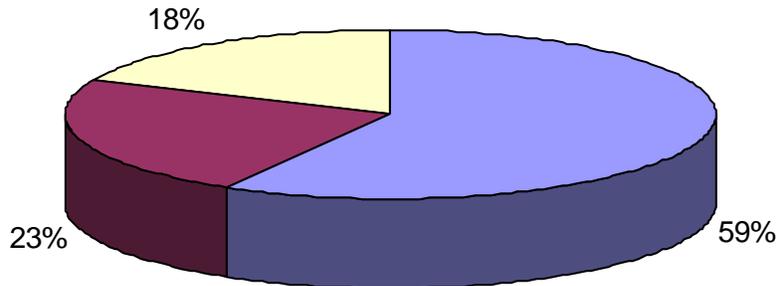


Recorded number of child deaths and injuries by parties in 2010



■ Anti-Government Elements (770) ■ Pro-Government Forces (186)
■ Undetermined (219) Total (1175)

Recorded number of female deaths and injuries by parties in 2010



■ Anti-Government Elements (324) ■ Pro-Government Forces (130)
■ Undetermined (101) Total (555)