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United Nations Assistance Mission in Afghanistan

AFGHANISTAN

ANNUAL REPORT ON PROTECTION OF CIVILIANS IN ARMED CONFLICT, 2009



**UNAMA, Human Rights
Kabul**

January 2010

Map of Afghanistan



Source: UN Cartographic Centre, NY

AFGHANISTAN

Annual Report on Protection of Civilians in Armed Conflict, 2009



UNAMA

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Executive Summary

The intensification and spread of the armed conflict in Afghanistan continued to take a heavy toll on civilians throughout 2009. At least 5,978 civilians were killed and injured in 2009, the highest number of civilian casualties recorded since the fall of the Taliban regime in 2001. Afghans in the southern part of the country, where the conflict is the most intense, were the most severely affected. Nearly half of all civilian casualties, namely 45%, occurred in the southern region. High casualty figures have also been reported in the southeastern (15%), eastern (10%), central (12%) and western (8%) regions. Previously stable areas, such as the northeast, have also witnessed increasing insecurity, such as in Kunduz Province. In addition to a growing number of civilian casualties, conflict-affected populations have also experienced loss of livelihood, displacement, and destruction of property and personal assets.

UNAMA Human Rights (HR) recorded a total of 2,412 civilian deaths between 01 January and 31 December 2009. This figure represents an increase of 14% on the 2118 civilian deaths recorded in 2008. Of the 2,412 deaths reported in 2009, 1,630 (67%) were attributed to anti-Government elements (AGEs) and 596 (25%) to pro-Government forces (PGF). The remaining 186 deaths (8%) could not be attributed to any of the conflicting parties given as some civilians died as a result of cross-fire or were killed by unexploded ordinance.

AGEs remain responsible for the largest proportion of civilian deaths. Civilian deaths reportedly caused by the armed opposition increased by 41% between 2008 and 2009, from 1,160 to 1,630. Deaths resulting from insurgent-related activities in 2009 were a ratio of approximately three to one as compared to casualties caused by PGF. 1,054 civilians were victims of suicide and other improvised explosive device (IED) attacks by AGEs and 225 were victims of targeted assassinations and executions. These make up the majority of casualties caused by AGE activities and is 53% of the total number of civilian deaths in 2009. Together, these tactics accounted for 78% of the non-combatant deaths attributed to the actions of the armed opposition. The remainder of casualties caused by AGE actions resulted primarily from rocket attacks and ground engagements in which civilian bystanders were directly affected.

Suicide and IED attacks caused more civilian casualties than any other tactic, killing 1,054 civilians, or 44% of the total civilian casualties in 2009. Although such attacks have primarily targeted government or international military forces, they are often carried out in areas frequented by civilians. Civilians are also deliberately targeted with assassinations, abductions, and executions if they are perceived to be supportive of, or associated with, the Government or the international community. A broad range of civilians — including community elders, former military personnel, doctors, teachers and construction workers — have been targeted. Other actors, such as the UN and non-governmental organizations (NGOs) have also been targeted, often receiving threats, and in some cases becoming victims of violence. Through these actions, the armed opposition has demonstrated a significant disregard for the suffering inflicted on civilians. Intermingling with the civilian population and the frequent use of residential homes as bases puts civilians at risk of attack by the Afghan National Security Forces (ANSF) and international military (IM) forces.

Pro-Government forces - Afghan National Security Forces and International Military (IM) forces - were responsible for 596 recorded deaths; this is 25% of the total civilian casualties recorded in 2009. This is a reduction of 28% from the total number of deaths attributed to pro-Government forces in 2008. This decrease reflects measures taken by international military forces to conduct operations in a manner that reduces the risk posed to civilians.

Notwithstanding some positive trends, actions by PGF continued to take an adverse toll on civilians. UNAMA HR recorded 359 civilians killed due to aerial attacks, which constitutes 61% of the number of civilian deaths attributed to pro-Government forces. This is 15% of the total number of civilians killed in the armed conflict during 2009. IM forces and ANSF also conducted a number of ground operations that caused civilian casualties, including a large number of search and seizure operations. These often involved excessive use of force, destruction to property and cultural insensitivity, particularly towards women.

UNAMA HR remains concerned at the location of military bases, especially those that are situated within, or close to, areas where civilians are concentrated. The location and proximity of such bases to civilians runs the risk of increasing the dangers faced by civilians, as such military installations are often targeted by the armed opposition. Civilians have been killed and injured as a result of their proximity to military bases, homes and property have been damaged or destroyed; this can lead to loss of livelihood and income. The location of military facilities in or near residential neighborhoods has also had the effect of generating fear and mistrust within communities and antipathy towards IM forces given their experience of being caught in the crossfire or being the victims of AGE attacks on Government or pro-Government military installations

International military forces did take strategic and specific steps to minimize civilian casualties in 2009. The change in ISAF command, clearer command structures, and a new tactical directive have all contributed to the efforts by ISAF to reduce the impact of the armed conflict on civilians. However, a Civilian Casualty Tracking Cell, that was established in 2008 in ISAF (with a similar tracking mechanism in USFOR-A) has not proved very effective in addressing UNAMA concerns in a timely manner. Measures need to be taken to improve the Tracking Cell so that it can be more responsive and helpful in relation to civilian casualty incidents.

This report on the protection of civilians in armed conflict in Afghanistan in 2009 is compiled in pursuance of the United Nations Assistance Mission in Afghanistan (UNAMA) mandate under United Nations Security Council Resolution 1868 (2009). UNAMA Human Rights undertakes a range of activities aimed at minimizing the impact of the conflict on civilians; this includes independent and impartial monitoring of incidents involving loss of life or injury to civilians and analysis of trends to identify the circumstances in which loss of life occurs. UNAMA Human Rights officers (national and international), deployed around Afghanistan, utilize a broad range of techniques to gather information on specific cases irrespective of location or who may be responsible. Such information is cross-checked and analyzed, with a range of diverse sources, for credibility and reliability to the satisfaction of the Human Rights officer conducting the investigation, before details are recorded in a dedicated database. An electronic database was established in January 2009. The database is

designed to facilitate the collection and analysis of information, including disaggregation by age and gender. However, due to limitations arising from the operating environment, such as the joint nature of some operations and the inability of primary sources in most instances to precisely identify or distinguish between diverse military actors/insurgents, UNAMA HR does not break down responsibility for particular incidents other than attributing them to “pro-Government forces” or “anti-Government elements.” UNAMA HR does not claim that the statistics presented in this report are complete; it may be the case that, given the limitations in the operating environment, UNAMA HR is under-reporting civilian casualties.

UNAMA HR information on civilian casualties is, routinely, made available, internally and externally, to the Security Council through the UN Secretary General, the Special Representative of the Secretary General (SRSG) UNAMA, the UN Emergency Relief Coordinator, the Office of the UN High Commissioner for Human Rights (OHCHR), and other UN mechanisms as appropriate. UNAMA Human Rights advocates with a range of actors, including Afghan authorities, international military forces, and others with a view to strengthening compliance with international humanitarian law and international human rights law. It also undertakes a range of activities on issues relating to the armed conflict, and protection of civilians with the Afghanistan Independent Human Rights Commission (AIHRC), the humanitarian community, and members of civil society.

2009 was the worst year in recent times for civilians affected by the armed conflict. UNAMA HR recorded the highest number of civilian casualties since the fall of the Taliban regime in 2001. The conflict has intensified and spread into areas that previously were considered relatively secure. This has resulted in increasing numbers of civilian dead and injured and with corresponding devastation and destruction of property and civilian infrastructure, often leading to loss of income and livelihoods. The use of asymmetric tactics by the armed opposition is a significant factor in the growing number of civilians who are killed and injured. The use of air strikes and the placement of military facilities in civilian areas greatly increase the risk of civilians being killed and injured. The United Nations calls upon all parties to the conflict to respect and uphold their obligations under international humanitarian law and international human rights law in order to minimize the impact of the conflict upon civilians.

I. IMPACT OF THE ARMED CONFLICT ON CIVILIANS: 2009

This has been the worst year for civilian casualties since UNAMA HR began systematically documenting these incidents in 2007. The conflict has intensified: it has spread, affecting previously tranquil areas, such as in the northeast, and deepened as it has moved from rural to urban areas. The continued volatile security situation as a result of increased armed attacks, persistent fighting throughout the year, including the winter months, cross-border infiltration of armed groups and the increase in the number of pro-Government forces have all contributed towards an intensification of the conflict. In addition to conducting hostilities, the Taliban has established shadow governments in some areas, directly confronting or undermining the authority of the Government of Afghanistan (GoA). Conflict has grown intense, particularly in the southern regions, and impacted on some major urban areas, sharply increasing its affects on civilians. The usual winter lull in hostilities has also largely failed to materialize depriving civilians of any respite. The manner in which the conflict is conducted continues to evolve including in ways that increase the risk posed to civilians.

Moreover, access to vulnerable populations continues to be challenging as growing insecurity shrinks humanitarian space. In addition to those who are directly victimized by incidents of warfare, resulting in death and injury, a large swathe of the population continues to suffer the indirect and accumulated costs of armed conflict. This includes their ability to move freely without fear or harassment and to access services essential for their health, well-being, and education. The conflict has also taken a heavy toll on civilians by destroying infrastructure, undermining livelihood opportunities, displacing communities, and eroding the quality and availability of basic services. This has often disproportionately affected vulnerable individuals, such as women, children and the internally displaced. Armed conflict, of course, has significant repercussions for socio-economic development efforts and exacerbates the development deficit.

UNAMA HR recorded a total of 2,412 civilians killed over the 12 month period under review. This figure represents an increase of 14% on the 2,118 civilian deaths recorded in 2008. The 2009 civilian death toll is the highest of any year since the fall of the Taliban regime in 2001. UN preliminary figures show that there is a 29.6% year on year increase in security-related incidents, with an average of 960.3 incidents per month as compared to 741.1 incidents per month for 2008. The elections period saw the most pervasive violence of 2009. AGEs discouraged Afghans from voting and were responsible for threats and assassinations against electoral candidates and staff. Violence surrounding the 20 August Presidential and Provincial Council elections was widespread and significant; it included, for example, two suicide attacks in Kabul on 15 and 18 August respectively and a suicide attack in Kandahar city on 25 August. Overall, September proved to be the deadliest month, with 336 civilians killed.

Of the 2,412 civilian deaths reported in 2009, 1,630 (67%) were caused by AGEs and 596 (25%) were caused by PGF. The remaining 186 (8%) could not be attributed to either of the conflicting parties. As in previous years, the majority of civilian casualties occurred in the southern region of Afghanistan. However, the south-east, east, west and central regions also reported high numbers of civilian casualties. The

conflict has spread into what were previously relatively tranquil areas, including the northeast, which had previously seen limited AGE activity.

The tactics responsible for the largest number of civilian casualties during the year were IEDs, suicide attacks, and aerial attacks (air strikes and close air support). These attacks frequently resulted in civilian fatalities and the destruction of civilian property and infrastructure. Often used in an indiscriminate manner, many civilians bore the brunt of IED and suicide attacks and were killed and injured as a result. Although AGEs continued to principally target ANSF and IM forces the placement of IEDs and the location of suicide attacks often resulted in large numbers of civilians being killed. Many IEDs (both remote controlled and trigger detonated) are placed along roads heavily used by civilian vehicles and pedestrians. UNAMA HR has recorded, moreover, a number of instances in which IEDs have been placed in crowded residential and commercial areas, such as market places and shops. Suicide attacks have targeted government buildings, such as Ministries and provincial ANSF buildings that are often located in busy civilian areas.

2009 year saw a marked increase in the number of civilians who were targeted by the AGEs as they were, apparently, perceived to support, or be associated with, the GoA, ANSF, or IM forces. As a result, traditional tribal structures, especially in the southern regions of Afghanistan, have been severely affected, and often undermined, as community and tribal leaders are targeted by elements of the armed opposition. Other civilian actors, such as humanitarian and construction workers, have also become victims of AGE activities, including through threats, abductions, and killings. The Taliban frequently took advantage of *Pashtunwali* (the traditional code of honour), particularly in the southern regions of Afghanistan, where the traditions of hospitality oblige the host to provide shelter and food to guests. In some cases, insurgents have intentionally used civilians' homes and civilians themselves as shields from military attack in violation of international humanitarian law.¹ As a result, civilians are put at further risk as they are detained by pro-Government forces. Their houses are searched and property destroyed because of their perceived support of the insurgency.

Mullah Omar issued a new "code of conduct," called "The Islamic Emirate of Afghanistan Rules for Mujahideen," in July for Afghan Taliban in the form of a book with 13 chapters and 67 articles for distribution to Taliban forces. It called on Taliban fighters to win over the civilian population and avoid civilian casualties, including by limiting the use of suicide attacks to important targets and setting forth guidelines for abductions. It is unclear whether any measures are in place to give effect to, or monitor compliance with, this "code of conduct".

The year saw a marked improvement, from the perspective of civilians, in the way that pro-Government forces conducted military operations. The new command structure is more transparent and streamlined, with COMISAF now heading both ISAF and USFOR-A commands. The unclassified sections of the COMISAF General McChrystal's Initial Assessment to the US Secretary of Defence and in numerous statements thereafter by COMISAF, noted that a future strategy should be based on a population-centric approach, involve closer collaboration with the Afghan government and community leaders, protect civilians and work to minimize civilian casualties. However, with the expected surge of more than 30,000 troops, anticipated

to be completed by mid-2010, UNAMA HR remains concerned that the increase in fighting could result in an increase in civilian casualties. Adherence to the Tactical Directives and the counter-insurgency guidelines could, however, limit civilian casualties even as fighting increases.

Throughout the year, President Karzai took a strong stance in favour of measures to reduce civilian casualties. He made this issue a defining feature of his relations with the international community and the international military forces. In comments and speeches, President Karzai repeatedly condemned civilian casualties and night searches. In February, Karzai commented that he had *“to campaign for an end to civilian casualties and for an end to the arrest of Afghans....The Afghan people expect their government to protect them and to stand for them.”*² Several Presidential Commissions were established to investigate the killings and injury of civilians as a result of IM forces’ operations. These Commissions need to ensure that their findings are made public and that their recommendations are implemented by the GoA in a timely manner.

Although, the overall proportion of civilian deaths attributed to pro-Government forces has declined in recent times, air strikes remain a concern; they are responsible for 61% of civilian deaths attributed to pro-Government forces in 2009.

UNAMA HR remains extremely concerned with the location of military bases in populated areas, such as bazaars and district centres. This has the effect of increasing the risk that civilians will be harmed when AGEs target international military bases with IEDs, rockets, and suicide attacks. In line with international humanitarian law, military bases should be placed outside residential and commercial areas in order to minimize the effects of the conflict on civilians.

Despite considerable improvements in the procedures that regulate search and seizure raids, there continues to be a high level of hostility towards these practices. Excessive use of force, damage to property, and insensitivity towards cultural norms still characterizes many of these raids. UNAMA HR continued to record a decline in ‘force protection incidents,’ whereby civilians were killed and injured because they were too close to a military convoy or failed to follow instructions. This decline in death and injury of civilians is a result of constructive amendments through directives as well as an increased awareness amongst Afghan civilians.

There is a wide range of armed actors operating in Afghanistan. Many illegal armed groups (IAGs) are still active, notwithstanding the Disarmament of Illegal Armed Groups (DIAG) process. These IAGs have been implicated in a number of human rights abuses within the context of the armed conflict. The Government has also made efforts to recruit local forces, sometimes referred to as militia, to provide security in particular communities. International military forces continue to support locally-organized, anti-insurgent militias. In both cases, accountability mechanisms to respond to abuses by IAGs and local militias are extremely weak. There is no clear command structure, transparency, nor apparent government responsibility to regulate their activities. In April 2009, the UN Working Group on the Use of Mercenaries conducted an official visit to Afghanistan and looked at, among other issues, “questions of accountability of non-State actors, the rights of victims to an effective remedy and the regulatory structure for private security companies.” The Working

Group was in the process of preparing a report, for submission to the UN Human Rights Council, at year- end.

Access to basic services continues to be severely disrupted in conflict-affected regions. This includes the closure of schools, the intimidation of students, especially girls, as well as staff. Clinics and patients were targeted for attack by AGEs and searched by pro-Government forces, thus undermining their status as neutral civilian objects. According to UNICEF, between January and November 2009, there were 613 recorded school-related incidents, as compared to 348 incidents recorded in 2008. UNICEF notes that the southern regions have been particularly hard hit, as more than 70% of schools were closed in Helmand Province and more than 80% were closed in Zabul Province.

Aid workers from NGOs and UN agencies have experienced harassment, threats, intimidation and death during the year as a result of AGE activities. The environment they were able to operate in became increasingly restricted as the conflict spread. Truck convoys, often carrying food or aid supplies, were stopped. Drivers were often beaten by AGEs; in a few cases they were abducted, and the goods burnt or looted. Some international organisations have tragically been caught up in insurgent attacks, such as the 25 August suicide attack in Kandahar that killed an ICRC staff member.

Women and children, and those who are vulnerable, face particular disadvantages in the context of the problems associated with the armed conflict. Violence and related insecurity greatly affects their ability to access essential services, such as education and health care. Women and children are also victims of air strikes, house-raids, suicide and IED attacks. These attacks often lead to deep psychological scars and trauma; the prevailing situation inhibits access to, or creation of, productive and helpful coping mechanisms.

One of the consequences of the deteriorating security situation is that many females have been further confined to their homes. In a very conservative society, attacks on women who, traditionally, have a limited public role, further inhibit their participation in public life. The conflict further impacts on women's freedom of movement and greatly restricts access to essential, life-saving services as well as education. In some cases, UNAMA HR has noted that the risks inherent in the deteriorating security situation influence whether women decide to participate in public life, particularly for those who work in high-profile positions.

At least 345 children were killed due to conflict-related violence. UNAMA HR has recorded numerous incidents where children have been affected as a result of attacks, including air strikes, rocket attacks, IED and suicide attacks. UNAMA HR noted that there have been reports of recruitment of children into armed groups. There were several cases throughout the year of children being used to carry out suicide attacks or to plant explosives, often resulting in their deaths as well as that of numerous civilians.

The detention and ill-treatment of minors allegedly associated with armed groups by both the ANSF and the international military forces remained a concern. There have been detailed reports of children detained for up to a year in government detention facilities as well as reports that children have been held at the Bagram Theatre

Internment Facility (BTIF) without due process; in some cases they allegedly suffered ill-treatment. Mohammed Jawad, aged 12 in 2002 at the time of his arrest for allegedly throwing a hand-grenade at a US military vehicle was eventually released in July 2009 from Guantanamo. Jawad, during his time in detention in Afghanistan and Guantanamo, was subjected to cruel, inhuman and degrading treatment amounting to torture according to his legal defense team. Since his release, the authorities have failed to provide proper support for his reintegration.

Different UN and other entities continued to monitor the effects of armed conflict on children pursuant to Security Council Resolution (SCR) 1612. A subsequent SCR, 1882, involves naming parties which are responsible for killing and maiming of children, including those who perpetrate grave sexual violence against children in war time. On 18 October, the GoA appointed a high level focal point to help address this issue. In December, the Government committed to launch an inter-ministerial Government Steering Committee on Children and Armed Conflict, with the objective of developing an Action Plan for the protection of children affected by armed conflict.

UNAMA HR remains concerned about the situation of conflict-related detainees, particularly those held by US forces and the National Directorate of Security (NDS). There continues to be little or no information on the conditions and treatment of those in detention, especially those held by NDS at the provincial level. NDS continues to operate without a known legal framework that clearly defines its powers of investigations, arrest, and detention and rules applicable to its detention facilities. UNAMA HR continues to receive allegations that former detainees were subject to ill-treatment, including torture, by NDS.

Many of the cases and incidents documented by UNAMA HR have not been adequately investigated by the Government, so that only a few of the alleged perpetrators have been brought to justice. Some of the law enforcement duties of the police in Afghanistan have been adversely affected by other duties related to the conflict. As ANP personnel routinely take on counter-insurgency duties — such as establishing checkpoints to look for insurgents — their capacity to carry out traditional duties of criminal investigation has been undermined. Therefore, thorough investigations of conflict-related incidents often do not occur.

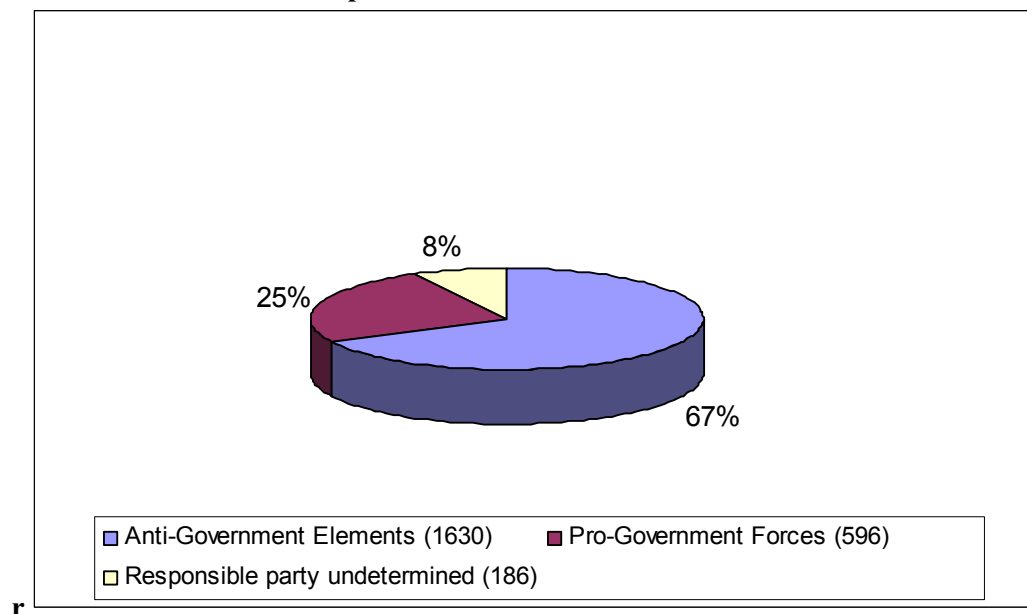
New procedures introduced for detainees held at BTIF, which was replaced with a new detention facility established in Parwan Province at the Bagram Air Base in December, could constitute the basis for a fairer process for detainees as well as improved treatment and conditions. However, it is extremely important that all detainees enjoy due process guarantees to which they are entitled under Afghan domestic law and international human rights and international humanitarian law.

This year marked the tenth anniversary of the UN Security Council working on the protection of civilians in armed conflict and the 60th anniversary of the Geneva Conventions of 1949. According to the report of the UN Secretary-General on the protection of civilians in armed conflict (May 2009), there is suffering “owing to the fundamental failure of parties to conflict to fully respect and ensure respect for their obligations to protect civilians.” On 11 November, the Security Council had an Open Debate on the protection of civilians in armed conflict culminating in the adoption of SCR 1894 (2009). The UN High Commissioner for Human Rights, Ms Navi Pillay, in

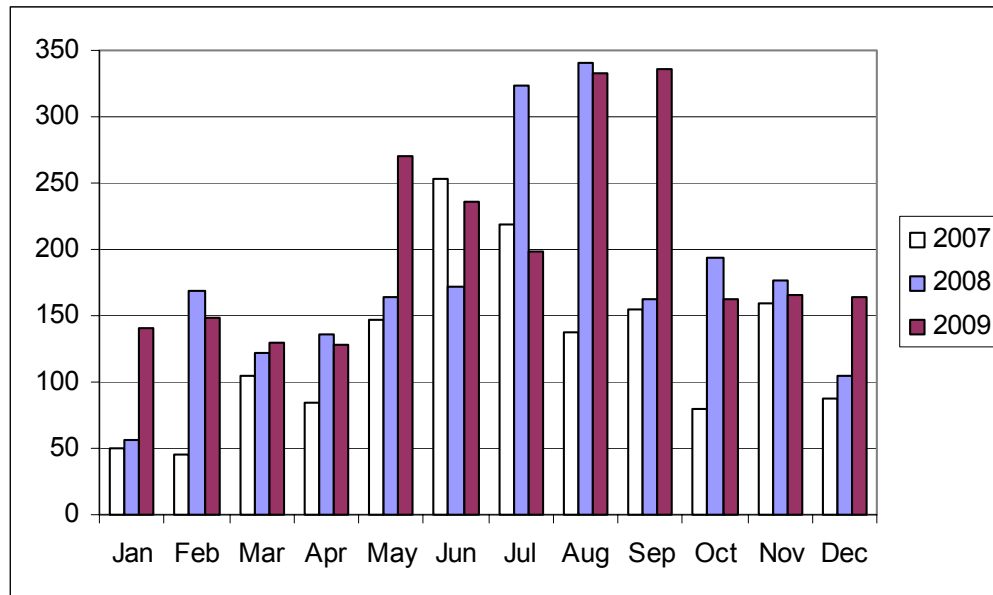
her address to the Open Debate, stressed the vital importance of redressing grievances, ending impunity and protecting the human rights of civilians: “[T]here continues to be an urgent need to improve overall accountability procedures, including through criminal prosecution when warranted as redress for victims, while bringing the legal framework governing conflict-related detention – by all who take and hold detainees- into line with human rights law.”

The United Nations remains concerned about the high cost of the conflict on civilians. It has repeatedly underlined, through public statements by the UNAMA SRSG, Mr Kai Eide, that all parties should respect their obligations under international humanitarian law and international human rights law. Actions by all parties to the armed conflict must be transparent and accountable to ensure the least possible adverse impact upon the civilian population. Equally, all those who perpetrate abuses against the civilian population, in transgression of their obligations under the rules of war and national legislation, should be held to account in a timely and transparent manner.

Chart 1: Reported civilian casualties Jan – Dec 2009



Chart/Table 2: Total number of civilians reported killed as a result of armed conflict in Afghanistan, 2007, 2008, and 2009



Month	2007	2008	2009
January	50	56	141
February	45	168	149
March	104	122	129
April	85	136	128
May	147	164	271
June	253	172	236
July	218	323	198
August	138	341	333
September	155	162	336
October	80	194	162
November	160	176	165
December	88	104	164
TOTAL	1523	2118	2412

II. ANTI-GOVERNMENT ELEMENTS

AGEs and Civilian Casualties

AGE activities have taken the heaviest toll on civilians. Civilian deaths reportedly caused by anti-Government elements totaled 1,630 in 2009; this represents an increase of 41% from 2008 and accounts for 67% of the total number of civilian deaths in 2009.

Suicide and other attacks involving IEDs continued to claim the most civilian lives in 2009 with an overall toll of 1,054 killed. 225 civilians were killed as a result of targeted assassinations and executions. Together, these tactics accounted for over 78% of the civilian deaths attributed to AGE actions. The remainder of AGE-inflicted casualties resulted primarily from rocket attacks and from ground engagements in which civilian bystanders were directly affected.

Chart 3: Civilian Deaths Attributed to AGEs disaggregated by incident type

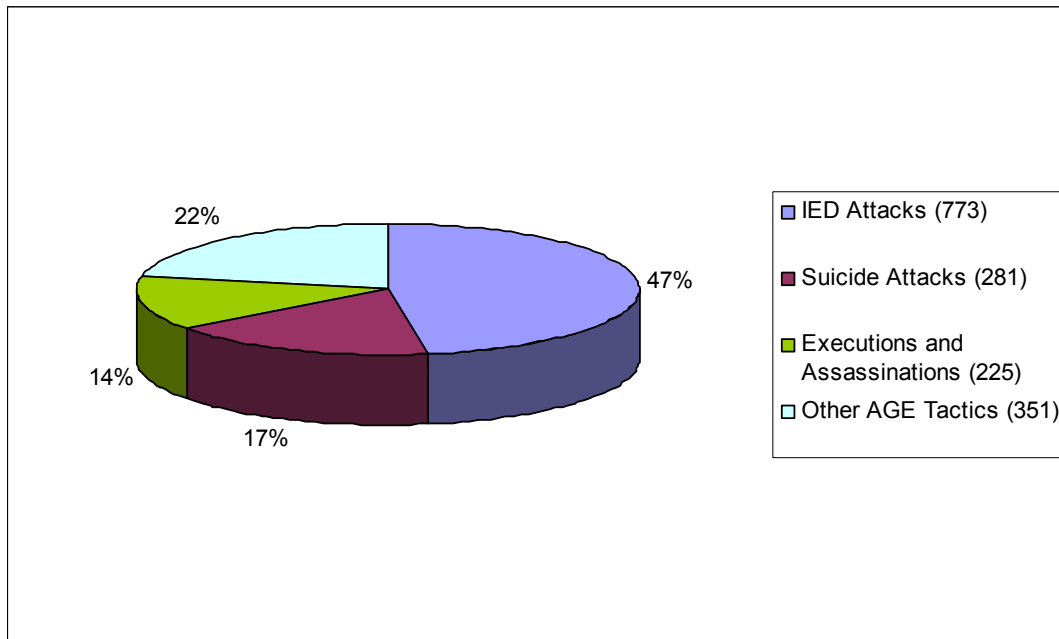
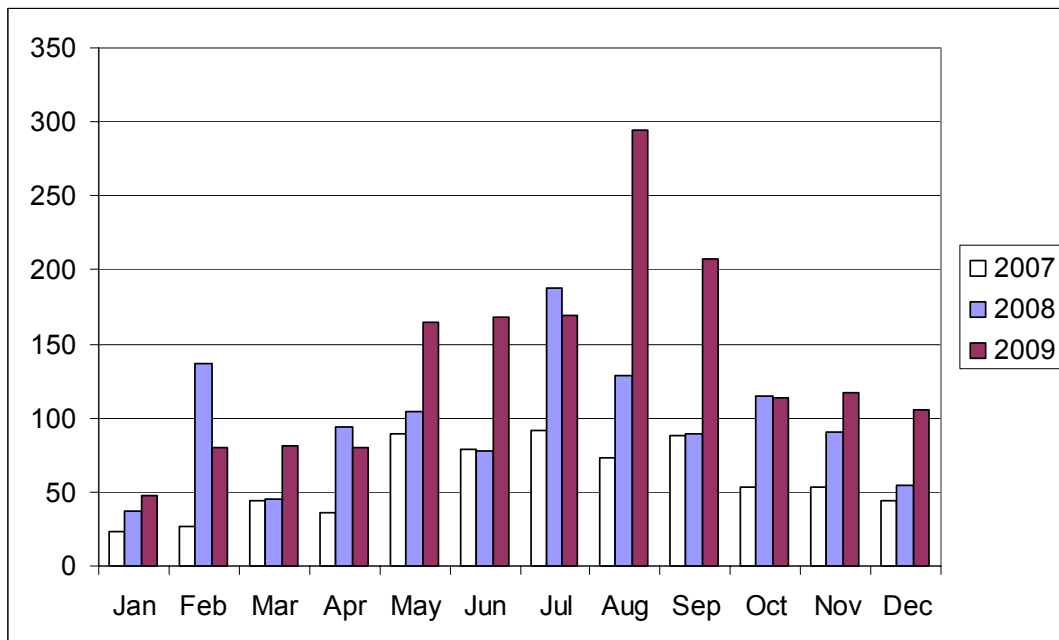


Chart 4: Civilian Deaths Attributed to AGEs – 2007, 2008, 2009



Suicide and IED attacks

IEDs and suicide attacks accounted for more civilian casualties than any other tactic, and the number of civilians killed increased dramatically since 2008 by 45%. IEDs planted by AGEs accounted for 773 civilian deaths (47% of all civilians killed by AGEs) and suicide attacks accounted for 281 civilian deaths (17% of all civilians killed by AGEs) in 2009.

Since the intensification of the insurgency in 2006, there has been a gradual but continual shift by AGEs towards the use of asymmetric attacks, such as IEDs and suicide attacks. Too often, these attacks are carried out in a manner that fails to discriminate between civilians and military targets or to take adequate precautions to prevent civilian casualties. Thus, they have an impact far beyond their initial target. August and September proved to be the year's most deadly periods of insurgent activity, with the detonation of multiple SVBIEDs (car and truck bombs).

- On 15 August, seven civilians were reportedly killed and at least 90 injured in a suicide bomb blast outside ISAF HQ in Kabul;
- On 18 August, seven people were reportedly killed and at least 50 injured in an SVBIED attack near Camp Phoenix on the Jalalabad Road in Kabul. In this explosion, two UN staff members were killed and one injured; and
- On 25 August, at least 46 civilians were allegedly killed and more than 60 injured when a truck bomb exploded in a commercial and residential area of Kandahar city. The explosion destroyed several commercial buildings and left a large number of families homeless. It is understood that the SVBIED exploded prematurely before reaching its intended target, apparently the National Directorate of Security. While the Taliban issued a statement denying involvement in the incident, no other local actor is known to use car bombs of this nature.

In September, a number of SVBIED attacks resulted in 24 civilians killed and 52 injured: on 17 September, an attack on an ISAF convoy on the road to the Kabul International Airport, allegedly killed 20 civilians and injured 45 others. The Taliban acknowledged responsibility. On 8 and 9 September respectively attacks against the front gates of the ISAF military airport at Kabul International Airport and an attack in front of Camp Bastion in Helmand reportedly resulted in the death of four civilians and seven injured.

Although the vast majority of suicide attacks target ANSF or IM forces, their use in residential areas means that, frequently, civilians are the victims of such attacks. Moreover it is of great concern that AGEs frequently feign civilian status while conducting suicide and other attacks, making it difficult for pro-Government forces to distinguish between civilians and fighters.³

Twin explosions leading to civilian casualties in Khost

On 22 June, at least 10 civilians died and 41 were injured as a result of two explosions in Khost city. Reportedly, among the casualties, at least two children, between 9 and 17 years, were killed and at least 11 children were injured. The incident occurred around one o'clock between a GoA department and a Mosque, close to the market area. The first blast, near to the GoA department, resulted from a hand grenade, attracting a crowd of people, and was followed shortly afterward by a second explosion. The authorities believe that the attack was conducted by the Haqqani network.

AGEs have also undertaken a number of “complex attacks” involving multiple, well coordinated teams, including individuals equipped as suicide bombers and others armed with a range of weapons, including grenades. These frequently target government buildings where civilians are often present. Three complex attacks carried out in Gardez and Jalalabad on 21 July, and in Khost on 25 July on government and security forces’ installations, reveal well-planned and sophisticated operations. On 28 October, a complex attack was launched against a guest house in Kabul, resulting in the deaths of eight civilians, including five UN personnel and injury to at least nine others. The attack was well organized and executed, and included the use of multiple suicide bombers, hand grenades, and small-arms fire. Although, the Taliban claimed responsibility for the attack, it appears to have been carried out by members of the Haqqani network.

Complex attack against multiple government buildings in Kabul

The coordinated attack against the Ministry of Justice Central Prison Directorate HQ, the Ministry of Education and NDS in Kabul on 11 February resulted in at least 21 civilians killed, including 13 staff from the Ministry of Justice. At least 14 staff from the MoJ was injured. In this incident, UNAMA HR received reports that several of the civilians were deliberately singled out for attack and shot, despite clearly being non-combatants. In a statement, the Taliban claimed the attack was in retaliation for the mistreatment of detainees in Afghan detention facilities, the execution of several Taliban members in November 2008, and the shooting of a number of Taliban during an operation in the Pul-i-Charkhi Prison in December 2008.

Attacks against NDS officials and facilities by AGEs were often disproportionate to the intended target, resulting in the deaths and injury of numerous civilians.

The Deputy Head of NDS targeted by an SVBIED

On 2 September, an SVBIED attack in Laghman Province targeted and killed the Deputy Head of NDS, and four other NDS staff, as they were exiting a meeting at the Central City Mosque, in Mehterlam City in Laghman Province. The Mosque is situated near a busy bazaar. As a result, the explosion reportedly killed 18 civilians and injured 61 others, including women and children. The Taliban claimed responsibility for the attack. Following an investigation, four people were subsequently arrested by the provincial authorities. On 31 December, around 1000-1200 people demonstrated in the city calling for the government impose the harshest sentence against the accused.

IEDs were used more often than any other AGE tactic. Their use was often systematic and indiscriminate resulting in high casualty rates, particularly in the south and south east regions. In Khost Province, a trend of using magnetic IEDs that adhere to the outside of a vehicle was detected, particularly in a string of attacks in June that resulted in three civilians killed and injury to numerous others. In a press statement, the Deputy Special Representative of Secretary General (DSRSG), UNAMA, condemned the indiscriminate use of IEDs in Maywand district of Kandahar during the month of September and appealed to those responsible to desist from such actions. Civilian vehicles using an alternative route to the main highway, because damage to the main road had made it unusable, were struck by IEDs, killing a total of some 37 civilians and injuring at least 18 others, including women and children. This included a 29 September incident when at least 30 civilians were reportedly killed and 19 injured when their bus struck an IED.

AGEs have also perpetrated IED and suicide attacks in residential areas. As noted in a recent report by a consortium of NGOs,⁴ the indiscriminate use of IEDs, particularly in residential areas, caused civilians to experience feelings of trauma. The same study found that “there was a clear link between fear and anxiety, and insecurity associated with the current conflict.” These effects can be long lasting, creating a climate of fear and often result in reduced mobility and restricted access to basic services by the population.

Assassinations, Threats and Intimidation

UNAMA HR recorded 225 reported assassinations and executions by AGEs. Armed opposition groups have continued to show a great willingness to systematically target civilians through threats, intimidatory tactics, abductions and executions; in some cases by beheadings and hanging.

Persons were most often assassinated or executed due to AGE suspicions that the targeted individuals had acted as informants or “spies” for the GoA or IM forces; for working with the IM forces as interpreters, truck drivers or security guards at military bases; for actively supporting the Government; or for belonging to the ANSF. The majority of assassinations took place in the south, southeast and central regions of Afghanistan.

There are a number of ways in which AGEs identified their targets. It was not uncommon for road blocks and checkpoints to be established by armed groups in order to search cars for civilians carrying identity papers which indicated where individuals work. Civilians were harassed as a consequence and, in a few cases, were killed. These searches have taken place in the south, southeast, west, central and east of the country. “Night letters” were used to warn entire communities against engaging in particular activities and to threaten specific individuals. Many such letters warned people that failure to stop working with the government or the international community would lead to “retribution”. Such threats create a climate of fear and intimidation. In cases documented by UNAMA HR, individuals who had been abducted and killed were sometimes found with a letter attached to their body as a warning to others. These tactics point to a systematic campaign to intimidate and undermine support for the government and international forces in Afghanistan. These campaigns of intimidation can oblige individuals and entire communities to alter or restrict their usual activities, giving rise to untold hardship, including loss of income.

Distribution of leaflets by AGEs in Farah Province

On 17 June, a number of leaflets were found distributed around the mosques in Farah town threatening people not to work either for the government or the international community. These leaflets were also found in Pusht Rod and Khak Sefid Districts.

In some cases, being perceived as “supportive” of the Government or its partners in the international community can revolve around acts such as publicly greeting international forces. In February, such a greeting appears to have led to the execution of two children and the severe beating of another in Sayad Abad District of Wardak Province. This form of warning targets both men and women, and sometimes children. Frequently, the focus is on civilian government employees, construction workers, students and teachers, religious leaders and community/tribal elders and doctors, as well as former police and military personnel.

Reprisals can be swift and harsh. UNAMA HR has documented numerous cases where civilians were abducted and killed for their apparent support for, or association with, the Government and its allies or, most commonly, for allegedly being “spies”. Adults and children in the south, southeast, east and central regions of the country were more frequently subjected to such tactics. For example, on 12 July, an individual suspected of spying for the government and IM forces was publicly hanged in Chak

District in Wardak Province. On 9 November, a local daily wage labourer, working for IM forces, was allegedly abducted and killed by AGEs in Nari District, Kunar Province; he was said to have provided information to IM forces that resulted in some insurgents being killed during a previous operation. On 15 November, five males were abducted by a group linked to a local Taliban commander in Khaki Safed District of Farah Province. Two of them were beheaded for being affiliated with the Government. The remaining three were released.

UNAMA HR has noted that key tribal elders, particularly in the south, southeast and central regions, have been targeted by the Taliban. The reasons appear to be twofold: to weaken support for the Government and to undermine those tribal structures that are not supportive of the armed opposition. In the south, at least six prominent tribal elders and community leaders were killed by the Taliban in November. Many of the elders either showed their support for the government or had held key positions, such as in the district shuras. On 1 November, AGEs assassinated a prominent community elder from Dehrawood District, Uruzgan Province as well as an elder who chaired the district shura of Nawa District, Helmand Province; on 6 November, the head of the female wing of Sarpoza Prison was killed in Kandahar city; on 10 November, the deputy head and a member of the district shura in Nawa District were both killed; and on 30 November, a tribal elder and a member of a shura in Shinkey District in Zabul Province was killed. In the majority of these cases, the Taliban claimed responsibility or had previously threatened the victims.

Langar villagers, accused of collaboration, threatened and killed by the Taliban

Following an international military forces operation in Langar area of Chinarto District [unofficial district within Chora district] of Uruzgan Province on 28 April, the Taliban accused the villagers of collaboration with the IM forces. The Taliban were, apparently, angry at the significant losses incurred in the operation. Consequently, they issued a number of verbal threats and reportedly drew up a list of 42 alleged collaborators, who were to be killed. Villagers were also warned that they were not authorized to use cell phones without the permission of the Taliban. Allegedly, several villagers were taken to the mountains and killed. On 11 May, the Taliban reportedly abducted four people from the area and accused them of spying; two were executed and the other two were severely beaten. On 20 May, an individual traveling from Tirin Kot to Chinarto was allegedly stopped by the Taliban and killed because he was carrying a cell phone. As a result of the violence and threats, a total of 60 families fled to Tirin Kot, where most remain displaced.

There were also a number of attempted assassinations against high profile individuals and government employees; this has had a negative impact on their ability to carry out their responsibilities effectively for the benefit of the civilian population. A number of assassinations were conducted in the south during March. These targeted a member of the Wolesi Jirga in Helmand Province and a mullah in Uruzgan Province. The latter appears to be part of a trend of attacks against clerics deemed to be pro-Government. In November, for example, there were three separate IED assassination attempts. These included an attack on convoys of the Governor of Kandahar, a Member of Parliament in the Paghman District of Kabul, and a BBIED attack in the vicinity of the Governor's Office in Farah City, in which 15 civilians were reportedly killed and 40 injured. An SVBIED exploded near the house of former Vice President Ahmed Zia

Masood, brother of the slain Ahmad Shah Masood, on 15 December in Kabul. Zia Masood survived, but eight civilians were killed and 40 were injured. Many of the perpetrators remained unidentified even though the fact that the authorities are often notified about these threats but fail to make provision for either adequate security for people who hold high profile positions or to initiate the type of investigation that would bring the perpetrators to justice.

Attempted assassination of Ismail Khan, Water and Energy, Minister, in Herat

On 27 September, a VBIED attack against the convoy of the Minister for Water and Energy, Ismail Khan, in Herat city failed as he was traveling in Injil District on the way to the airport. He survived, but at least 4 individuals died and 15 were injured, including two women and two children. The Taliban claimed responsibility for the attack.

Threats against the head of DOWA in Khost

Between April and September the head of DoWA (Department of Women's Affairs) and another member of her staff were subjected to intimidation and death threats by AGEs. As a result of these threats, the two women refrained from attending their workplace for fear of being targeted, impacting on DoWA's capacity to undertake their regular activities. Local authorities failed to provide adequate and sufficient support and protection to the office and staff. On 19 May, the head of DoWA's official vehicle exploded in front of her house. This incident and the on-going phone calls were reported to ANP, NDS, the Governor and MoWA in Kabul. However, her protection was not strengthened and for several months she stopped working. She has continued to receive threatening phone calls subsequent to her car being blown up, as well as a threat to kidnap her younger son. In September, although she still receives threatening phone calls, the head of DoWA resumed her official duties.

Killing of Sitara Achekzai, Provincial Council member, in Kandahar city

On 12 April, Provincial Council [PC] member and women's rights activist, Sitara Achekzai, was killed by two men on a motorbike in Kandahar city. A Taliban spokesperson, Qari Mohammad Yusof Ahmadi, was reported in the media as stating that the Taliban had killed her because of her position as a Provincial Council member, and that they would continue to kill PC members regardless of gender.

Reporting on the conflict is often dangerous and complicated, because talking to either side can invite suspicion and intimidation. Afghan journalists were targeted by threats, abductions and killing thereby curtailing freedom of speech across many parts of the country. At least two journalists were killed in March. In May, AGE abducted 7 civilians, including five journalists of the Al Jazeera network in Kunar Province; four of them were later released except for one individual. However, it was less than a month later that one of them was held by the NDS for several days. Journalists who do talk to the Taliban are frequently detained by the NDS. On 17 June, two journalists from Al-Jazeera were released after three days in NDS detention. Allegedly, the pair were detained, and accused of being biased, in the production of a report on the Taliban in the north of the country. To minimize risks, journalists often practice self-

censorship. Numerous international journalists have also been abducted, along with their Afghan colleagues. Most were subsequently released.

UN and NGO employees have also been singled out for intimidation, and on a few occasions, have been killed. Many staff members who travel between work and home hide the true nature of their work; many do not carry identity cards showing their place of work, and many do not tell their family relatives or communities the real nature of their job for fear of reprisals.

III. PRO-GOVERNMENT FORCES

PGF and civilian casualties

Pro-Government forces (ANSF and IM forces) were responsible for 596 recorded deaths; this represents 25% of the total civilian casualties recorded in 2009. This amounts to a decrease of 28% from 828 deaths in 2008. This decrease is a reflection of the continued measures taken by international military forces to improve the conduct and manner in which forces undertake military operations and to reduce the impact of the war on civilians.

In the context of pro-Government military operations, air strikes claimed the most civilian lives, with 359 killed (61%). Search and seizure operations claimed the second largest number of civilian lives, with 98 killed (16%). Together, these tactics accounted for 77% of the civilian deaths attributed to PGF actions.

Chart 5: Civilian Deaths Attributed to PGF, disaggregated by incident type

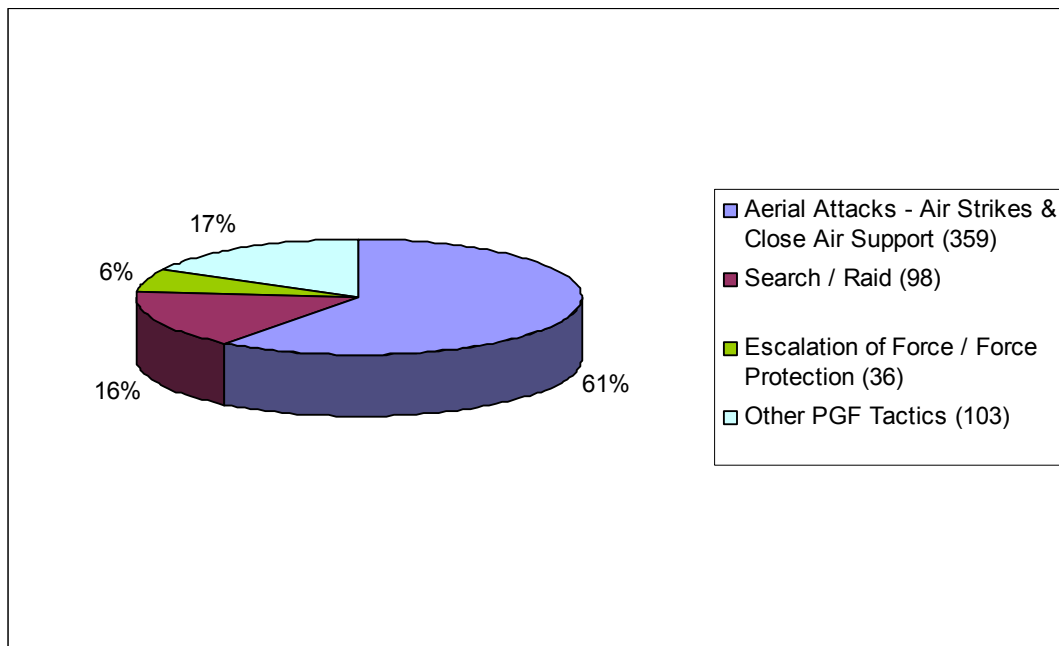
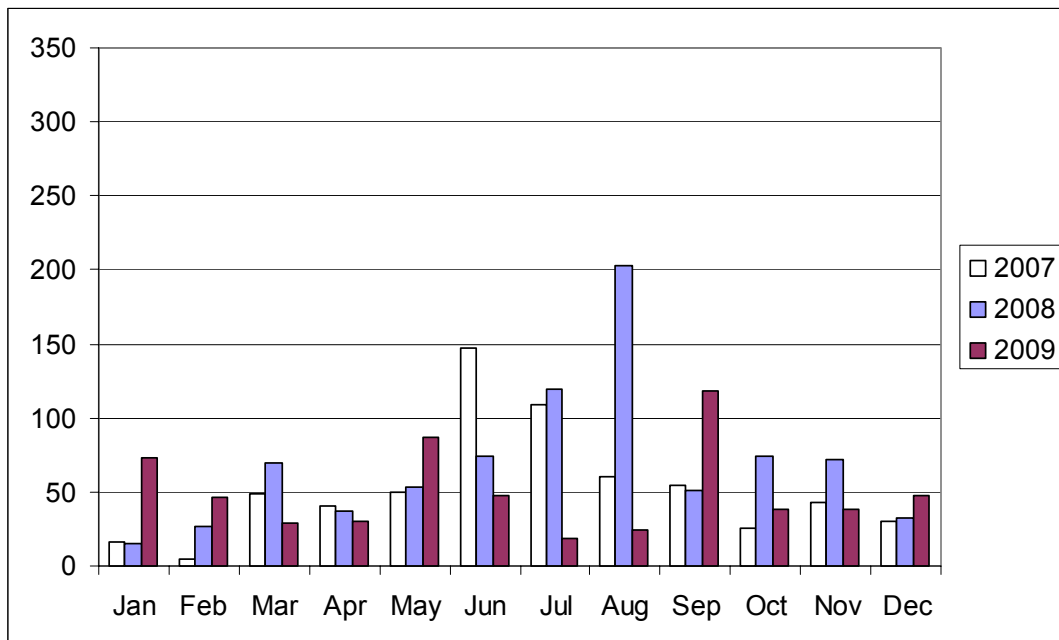


Chart 6: Civilian Deaths Attributed to PGF – 2007, 2008, 2009



High-level policy decisions on the conduct of international military forces have contributed to an improved environment for civilians affected by the armed conflict. The 2 July Tactical Directive issued by COMISAF, applicable to all forces of ISAF/USFOR-A, was designed to reduce civilian casualties. It limited the use of force – such as close air support – in residential/populated areas. It also revised the guidelines for operations involving residential compounds, and searches of houses and religious establishments; which now should always be accompanied, or conducted, by the ANSF.

However, despite this improved situation, UNAMA HR continued to receive accounts of civilian casualties and the detention of Afghans, who often remain in undisclosed locations, subsequent to night searches.

Aerial attacks

Air strikes and close air support account for the largest percentage of civilian deaths attributed to pro-Government forces. UNAMA HR recorded 65 incidents in which air strikes resulted in the deaths of civilians in 2009. In all, this resulted in 359 civilian deaths in 2009 and 15% of those killed overall. These percentages are significantly lower than the figures recorded for 2008, when 552 civilians died. This appears to be a result of the 2 July Tactical Directive that authorized the use of aerial attacks under very specific conditions.

May and September were the deadliest months for civilian casualties in the context of air strikes due to an incident in Bala Baluk District on 4 May that claimed 64 lives and an air strike near Omer Khel village in Aliabad District, Kunduz Province on 4 September that claimed the lives of 74 civilians. This figure includes an Afghan journalist, captured at the scene of the incident, who was also killed in a rescue attempt in which a foreign journalist was freed.

As noted in our Mid-Year Bulletin, (July 2009), while the number of deadly air strike incidents remains relatively low compared to the overall number of air strikes, they still result in a significant amount of lives lost. Civilians remain at risk from air strikes in night raids, when in the vicinity of an ambush on pro-Government forces' convoys or when mistakenly identified as AGEs.

Civilian casualties as a result of an air strike in Mizan District, Zabul Province

On 28 July, an ISAF air strike reportedly killed six civilians, including two children, and injured six others in Takhon Village, Mizan District of Zabul Province whilst targeting Taliban. A helicopter launched a strike, after chasing Taliban riding a motorcycle into an orchard in which civilians were working. ISAF acknowledged that six civilians were killed and six others were injured.

Air strikes also highlight the problem of AGEs sheltering in the homes of civilians and sometimes deliberately using civilian as shields. In several cases investigated by UNAMA HR, information was received that important AGEs targeted in military operations had deliberately taken shelter in houses inhabited by persons not connected to the insurgency. Traditional codes of hospitality and power imbalances inhibit the ability of villagers living in areas with a strong AGE presence to refuse shelter to an AGE commander. Information indicates that AGEs take advantage of these factors to use civilian houses as cover to deter PGF raids. While using human shields violates obligations of international humanitarian law, there is also an obligation on ISAF to take all necessary measures to reduce harm to civilians. AGE violation of international law does not authorize ISAF to violate its own obligation to international humanitarian law.

Air strike against hijacked oil tankers in Aliabad District, Kunduz Province

On 3 September, a group of Taliban hijacked two fuel tankers along the main Kunduz-Baghlan road. They tried to cross the Kunduz river towards Chahar Dara District, near to Omarkhel village in Aliabad District. The trucks got stuck in the river bed and when the insurgents failed to release them, the Taliban invited nearby villagers to collect the fuel. As the villagers were siphoning off the fuel, several hours later, in the early hours of the morning of 4 September, an air strike was conducted. Investigations were complicated as a result of the ensuing fireball, which incinerated a large number of people making identification extremely difficult. It is not disputed that some Taliban were at the site but it should have been apparent that many civilians were also in the vicinity of the trucks. According to UNAMA HR's investigations, 74 civilians, including many children, were killed. Despite several requests, by UNAMA HR, to the Civilian Casualty Tracking Cell, ISAF did not release the unclassified version of its report nor shown video footage as requested. As a result of the air strike, several high ranking German officials, resigned after it came to light that they had withheld information that civilians had been killed and injured.

It is of concern to UNAMA HR that many victims of air strikes that have resulted in the loss or injury of family members and destruction of property remain unaware as to the reasons for the air strike. Neither are they always informed of who conducted the air strike. This lack of information and the failure to be transparent with the affected

communities often results in allegations of impunity and that those responsible are not held to account.

Location of military bases

UNAMA HR has highlighted concerns in numerous reports, briefings, and dialogue with ISAF on the issue of the location of military facilities within or near areas where civilians are concentrated. The presence of IM bases in residential areas continues to be a major concern. This runs counter to international humanitarian law principles designed to protect the civilian population against the dangers arising from military operations.

When military bases are established in or near residential areas – in either urban or rural areas – this is an additional security threat given the high likelihood of attacks by armed groups or from retaliatory activities by IM forces. The presence of IM bases can generate hostility amongst the civilian population, particularly if civilian casualties arise as a result of their presence.

UNAMA HR has recorded numerous incidents of rocket attacks launched by AGEs towards ISAF bases and missing their target. In some cases, these rockets landed in empty spaces. However, in many documented incidents, rockets fired by AGEs fell short of their targets, hit civilian houses, and killed and injured people occupying them. In one such incident in May a school in Asmar district in Kunar Province was hit by an AGE rocket that was targeting an IM base a kilometer away from the school. Eight school girls and a teacher were injured as a result. UNAMA HR has also documented numerous cases in which ISAF launched rocket attacks in the direction of areas where AGEs are presumed to have launched attacks, and have also hit residential areas, causing civilian casualties as a result. UNAMA HR remains concerned that ISAF retaliatory fire towards suspected AGE locations that are close to villages continues to kill and injure civilians. Any action by pro-Government forces must take into account the principles of proportionality and distinction, in particular when responding to rocket attacks launched from populated areas. Every feasible precaution must be taken to ensure that use of military force not impact on civilian areas causing death or injury to residents.

VBIED at the main gate of ISAF HQ, Kabul

On 15 August, a VBIED managed to bypass heavy security to explode his vest at the entrance to the main gate at ISAF HQ located in a busy and heavily fortified section of downtown Kabul, surrounded by international and national organizations. According to a spokesperson of the Taliban, which claimed responsibility for the attack, 500 kilos of explosives had been used. UNAMA HR's investigations concluded that 7 civilians were killed and at least 90 others were injured.

Although many ISAF bases and ANA army bases are located on the outer perimeter of urban areas, a recent trend is of smaller bases being co-located with the ANSF, and sometimes with provincial civilian authorities, in locations, such as bazaars that are normally in the heart of built-up commercial and residential areas. The repercussions as a result of the locations of such bases, including heightened security risks for civilians, reduced or obstructed mobility for civilians and additional check-points, have given rise to a host of concerns among the affected population. Both pro-

Government forces and AGEs have a responsibility to minimize the impact of the armed conflict on civilians. The relocation of military bases away from civilian areas would mitigate the impact on civilians and reduce the number of lives lost and injured as a result of these attacks.

US marines based in the bazaar in Delaram District, Nimroz Province

A contingent of US marines is co-located with the District Administrator in a small base in the bazaar area of Delaram town in Nimroz Province. Their presence has led to substantial opposition by the community. Local elders and the authorities have complained about the presence of the marines as they feel that it endangers the local population. Their presence has led to more intrusive searches community members visiting the District Governor, a greater risk of a suicide attack being directed against the base and increased the likelihood of the community being targeted by AGE as 'spies' for the IM forces. UNAMA HR raised these concerns both at the provincial and national level. In a meeting with senior ISAF personnel in Kabul in October, UNAMA HR was informed that the situation had been resolved and the base would be closed down. However, upon further investigation, UNAMA HR found that the base, as of end of December, was still operating.

According to international humanitarian law the parties to the conflict, shall, to the maximum extent feasible avoid locating military objectives within or near densely populated civilian areas.⁵ This obligation applies to both IM forces and AGEs, who also, frequently, base themselves in residential areas.

Search and seizure operations

The conduct of pro-Government forces during night raids and searches continues to be of concern, particularly regarding excessive use of force resulting in death and injury to civilians. UNAMA HR recorded 98 civilian deaths as a result of these operations (16%). Concerns have ranged from allegations of ill-treatment, aggressive behaviour and cultural insensitivity, particularly towards women. As a result, a number of demonstrations have been held across the country to protest against these practices as well as prompting debate in both houses of the Afghan parliament on civilian casualties and the presence of international forces in Afghanistan. The Khost Provincial Council went on strike as a result of a night search in April, during which four civilians were allegedly killed. In Laghman and Nangahar Provinces, several demonstrations were held between 8-9 December to protest against a night search conducted by IM forces in Mehterlam District in Laghman Province. AGEs have also capitalized and exploited public anger towards searches. As a result of an unsubstantiated allegation of the desecration of the Holy Quran following a search in Warkdak Province in October, AGEs were able to exploit public sentiment country-wide, resulting in 15 demonstrations across five regions of the country; six of these were in Kabul. UNAMA HR has recorded numerous demonstrations around the country in protest against night searches and killings of civilians by IM forces.

Improvements have been noted in the conduct of behaviour by ISAF forces during search and seizure operations, as those operations have to be partnered with ANSF. However, this progress continues to be undermined by raids that are undertaken by international and Afghan Special Forces or other such government entities. The raids often result in excessive force, ill-treatment and deaths and injury. These forces often

operate with little or no accountability and exacerbate the anger and resentment felt by communities towards the presence of international military forces.

Night search operations in Ghazni Centre: killing and assault of civilians

On 16 October, in the Mangur area of Ghazni centre, international military forces, conducted a night search operation that resulted in the death of four civilians, including a 10-year-old girl. IM forces and ANSF entered the village late at night, and reportedly searched five houses, opening fire when entering one of them. As a result, a 70-year-old man, his 35-year-old son, his 60-year-old wife and their 10-year-old granddaughter were killed. Concurrently, in another house, allegedly an IM soldier tied a man's hands behind his back. Together, with his brother and his 17-year-old and 14-year-old sons, he was taken to a nearby school, where allegedly they were assaulted whilst being questioned about the location of a Taliban commander. The man and his brother sustained serious head injuries as a result of the assault. Later, four more males, including a 13-year-old boy, who also had their hands tied, were taken to the school, and reportedly assaulted whilst being asked the same questions. Both groups were left at the school, tied and were later released by the villagers after the IM and ANSF forces had left. On 18 October, during a meeting between the village representatives and the provincial authorities and the IM forces, IM forces reportedly acknowledged that they had received false information.

It is of concern to UNAMA HR that, often, individuals are arrested and detained without their families being notified of their location, particularly when they are held in places where there is no access to an ICRC office for detainee-family communication. UNAMA HR has documented a number of cases where family relatives have approached ISAF to enquire about the location of detainees. On these occasions they were often unable to access the Forward Operating Bases closest to their villages, were unaware who to approach in ISAF to enquire about their relatives and were often turned away at the gate. UNAMA HR urges ISAF to ensure the prompt notification of detainee's whereabouts to their family. Many communities see the lack of accountability for the actions of the IM forces fostering a culture of impunity. When incidents are not investigated and perpetrators are not brought to justice communities and others query whether IM forces are held accountable for actions that are contrary to international humanitarian and human rights law.

Searches and attacks against medical facilities

Reports have also been received of incidents of medical facilities being affected by the conflict. Health centres during an armed conflict are essentially immune from attack given their presumption of status as civilian objects, with the exception of where parties to the conflict use them as a base for military activities. Even if used for military purposes, the principles of proportionality and distinction remain. A civilian hospital does not lose its protection under international humanitarian law simply because it admits sick or injured combatants. In an incident on 26 August, in Sar Hawza District of eastern Paktika Province, a clinic in which an injured Taliban Commander and at least two other AGEs were receiving medical treatment was the scene of an air strike by PG Forces. As a result, the clinic was partially damaged and civilian casualties were recorded. In another incident, IM forces entered an INGO-run medical facility in Sayadabad District in Wardak Province. According to reports, the troops searched all the rooms, often using force to enter and damaging property, while

looking for insurgents. No arrests were made and, reportedly, upon leaving, medical staff was told to inform Coalition Forces if they received any insurgents in order to decide whether they should be treated. This incident resulted in the closure of the medical facility for three days. ISAF acknowledged that the hospital was searched but claimed that they had sought permission beforehand, an assertion that UNAMA HR could not verify.

Tirin Kot Provincial Hospital searched by ISAF in Uruzgan Province

On 12 April, ISAF forces conducted a search operation in the Tirin Kot Hospital after receiving information that injured Taliban fighters were receiving treatment. In contrast with ISAF statements that only 4-5 people were involved in the search, UNAMA HR recorded that some 40 heavily armed soldiers, who arrived in at least five armoured vehicles, searched all the rooms and wards of the hospital. Although ISAF had stated that they had been invited to enter the hospital, UNAMA HR could not confirm this statement. UNAMA HR recorded complaints that the women's ward was entered by male soldiers. Concern was also raised that the medical staff were not allowed to help even those patients who required emergency care and some patients were reportedly not allowed to enter the hospital during the search. As a result of the search, medical professionals working in the hospital felt that this made the hospital a much less safe place to work and would make it even harder to attract well-qualified medical staff.

Accountability/Redress

In its 2008 Annual Report on civilian casualties, UNAMA HR noted growing anger by Afghans at the perceived impunity, of both sets of parties to the conflict, for civilian casualties and damage to property, especially those civilian casualties attributed to the actions of international military forces.

With changes in command and structure, so that both ISAF and US Forces-Afghanistan are now under the command of COMISAF, there have been some positive steps in improving the conduct of IM forces as well as responsiveness to incidents involving civilian casualties. For example, in the aftermath of the Kunduz air strike on 4 September, two investigative teams were initiated: a Joint Initial Assessment Team and an Operational Investigation Team. General McChrystal visited the site on 5 September to view the location of the attack and to meet victims of the air strike.

However, there still needs to be better coordination between the different security forces, particularly those that are operating outside the control of ISAF. Without this coordination, the lack of accountability of pro-Government forces and other government entities is likely to remain a significant concern. Many families who have been victims of an ISAF/ANSF operation complain that they have not gained access to commanders in the field. Often, they do not even know who to approach with their questions and complaints when seeking redress. This was further emphasized by the UN High Commissioner for Human Rights in a press release on the launch of the Mid-Year Bulletin in July, in which she said that "all parties involved in this conflict should take all measures to protect civilians, and to ensure the independent investigation of all civilian casualties, as well as justice and remedies for the victims."

UNAMA HR welcomed attempts by ISAF to address various issues of concern, including the establishment of Civilian Casualty Tracking Cells in 2008 within ISAF and OEF. However, after a good start, the tracking cell in recent times has not proved very effective in terms of responding in a timely manner to UNAMA HR's requests and engaging on substantive issues with any authority. There must be genuine efforts in improving the Tracking Cell so that it can be more responsive to incidents of civilian casualties.

The issue of condolence or *solatia* payments has been raised by UNAMA HR and the inter-agency Protection Cluster throughout the year. There continues to be no uniform standard, procedure or even timeline between the different countries who mechanisms for payment, creating confusion, anxiety and anger amongst affected Afghans. A letter dated 9 August, from the inter-agency Protection Cluster, brought various concerns to the attention of General McChrystal, including the need for "a more coherent, coordinated and fair approach for the provision of recognition and redress," the greater transparency of existing condolence mechanisms, and the establishment of a unified and comprehensive mechanism for providing redress.

IV. CONCLUSION

Afghans have, repeatedly, identified security as their most pressing priority. As the armed conflict has spread and intensified, the issue of security, or rather lack thereof, is of most acute concern for a growing number of Afghans. Whether the harm inherent in violent conflict is experienced as the unintended outcome of military operations, or is the result of indiscriminate or targeted actions, the civilians who suffer the consequences must, to a significant extent, attempt to repair lives and livelihoods without hope of redress or assurances that the harm they endured will not be repeated.

2009 was the most violent and deadly year since the fall of the Taliban regime in 2001. It witnessed the highest number of civilian deaths and injuries since UNAMA started systematically recording civilian casualties in 2007. More people than ever before are being affected by the conflict. As outlined in a survey conducted in 2009 under the auspices of ICRC, "[V]ery few people in Afghanistan have been unaffected by the armed conflict there. Those with direct personal experience make up 60% of the population..... In total, almost everyone (96%) has been affected in some way, either personally or due to the wider consequence of armed conflict."⁶

ISAF's declared strategy of prioritizing the safety and security of civilians is a welcome development and, as the latter months of 2009 indicate, such policies greatly enhance the protection of all civilians. However, the inability or unwillingness of the armed opposition to take measures that pre-empt and reduce the harm that their tactics entail for civilians translates into a growing death toll and an ever larger proportion of the total number of civilian dead. In addition to the pain and suffering associated with the loss of loved ones, frequently the death of male family members, particularly in poor and vulnerable households, means an end to an assured or sporadic income that is critical to the survival of the family unit.

Given an anticipated increase in the incidence of armed conflict in 2010, it is incumbent on all stakeholders to effectively protect all civilians.

Appendix I

Glossary

The following terminology and abbreviations are utilized in this Report:

AGEs: Anti-Government elements. These encompass all individuals and groups currently involved in armed conflict against the Government of Afghanistan and/or IMF. 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.

ANA: Afghan National Army.

ANP: Afghan National Police.

ANSF: Afghan National Security Forces; a blanket term that includes ABP, ANA, ANP and NDS.

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

BTIF: Bagram Theatre Internment Facility

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 events, counter insurgency or “Global War on Terror” operations. It also includes casualties arising from the activities of AGEs, such as targeted killings, IEDs, VBIEDs, and BBIEDs, or direct engagement with pro-Government forces, etc.
- **Other:** casualties resulting indirectly from the conflict, including casualties caused by explosive remnants of war (ERW), deaths in prison, deaths from probable underlying medical conditions that occurred during military operations, or where access to medical care was denied or was not forthcoming. 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.

Civilian/Non-Combatant: Any person who is not taking an active part in hostilities. It includes all civilians as well as public servants who are not being utilised 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*, whether from injury or because they have surrendered or because they have ceased to take an active part in hostilities for any reason. It includes persons who may be civilian police personnel or members of the military who are not being utilized in counter insurgency operations, including when they are off-duty.

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.

COM-ISAF: The Commander of ISAF; see ISAF.

Force Protection Incidents: situations where civilians fail to heed warnings from military personnel when approaching or overtaking military convoys or failing to follow instructions at check points. Force protection incidents can also occur when individuals are perceived as too close to military bases or installations and there is a failure to follow warnings from military personnel.

GoA: Government (of the Islamic Republic) of Afghanistan.

Humanitarian space: The UN Office for the Coordination of Humanitarian Affairs (OCHA)'s *Glossary of Humanitarian Terms* has no specific entry for humanitarian space, but it does mention the term as a synonym for the 'humanitarian operating environment': "a key element for humanitarian agencies and organisations when they deploy, consists of establishing, and maintaining a conducive humanitarian operating environment." The Glossary goes on to state that: "...adherence to the key operating principles of neutrality and impartiality in humanitarian operations represents the critical means, by which the prime objective of ensuring that suffering must be met wherever it is found, can be achieved. Consequently, maintaining a clear distinction between the role and function of humanitarian actors from that of the military is the determining factor in creating an operating environment in which humanitarian organisations can discharge their responsibilities both effectively and safely." Humanitarian space also encompasses the concept that civilians have a right to access life-saving or life-preserving assistance.

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 also take the form of suicide bombs, such as BBIEDs or Vehicle Borne (VBIEDs), etc.

Incidents: Events where civilian casualties resulted from armed conflict. Reports of casualties arising from criminal activities *etecetra* are **not** included in UNAMA's civilian casualty reports.

IM Forces: "International Military Forces" includes all foreign soldiers forming part of ISAF and US Forces Afghanistan (including OEF) who are under the command of 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 UNAMA Human Rights' Database. Injuries do not include cases of shock or psychological trauma.

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, upon the request of the UN

and the Government of the Islamic Republic of Afghanistan, NATO took command of ISAF. The ISAF force currently comprises at least 80,000 troops from 43 Troop Contributing countries, organised in five regional commands as well as 26 Provincial Reconstruction Teams (PRTs). Since November 2008, the Commander of ISAF serves also as the Commander of US Forces Afghanistan, (numbering approximately 30,000) although the chains of command remain separate. The total number of ISAF forces will be approximately 100,000 in 2010.

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

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

OEF: "Operation Enduring Freedom" is the official name used by the US Government for its contribution to the War in Afghanistan under the umbrella of its Global War on Terror (GWOT). It should be noted that 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 USA 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 McChrystal, who is also ISAF Commander.

OGAs: Other Government Agencies. This term is used to refer to certain security operatives, such as the CIA (Central Intelligence Agency), who do not operate under regular military chains of command. Frequently, it is unclear who has command responsibility for such elements.

Pro-Government forces (PGF):

- **Afghan Government Forces.** All forces who 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 Afghan National Army (ANA), the Afghan National Police (ANP), the Afghan Border Police (ABP), and the National Directorate of Security (NDS).
- **International Military Forces (IMF) and OGA.**

PRTs: Provincial Reconstruction Teams. These are teams of civilian and military personnel operating within ISAF's regional commands working in Afghanistan's provinces to help reconstruction work. Their role is to assist the local authorities in the reconstruction and maintenance of security in the area.

UNDSS: United Nations Department of Safety and Security.

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 McChrystal, 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.

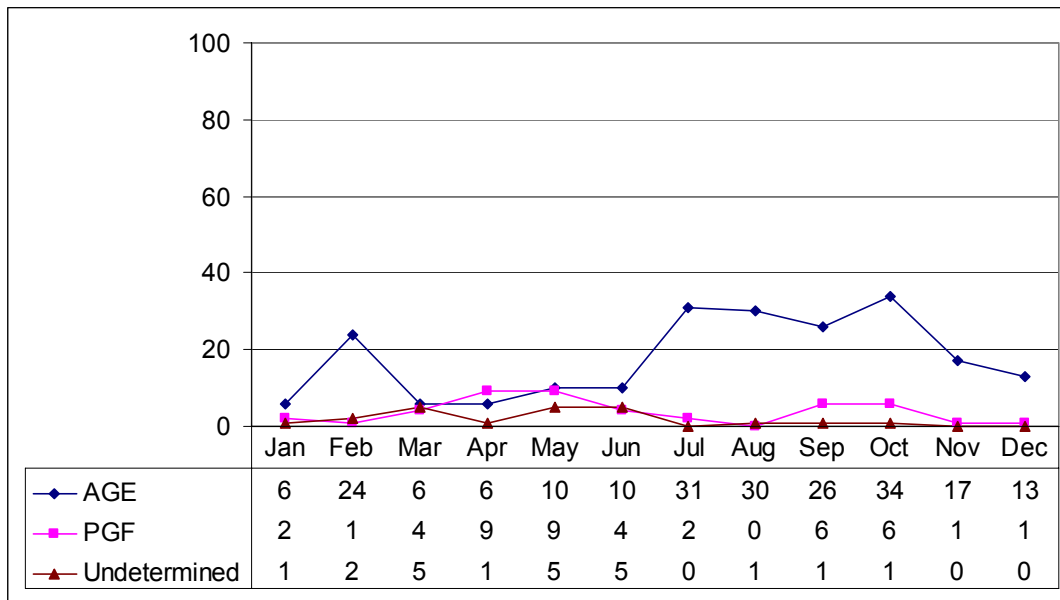
VBIED: Vehicle-Borne Improvised Explosive device; See IED.

Appendix II

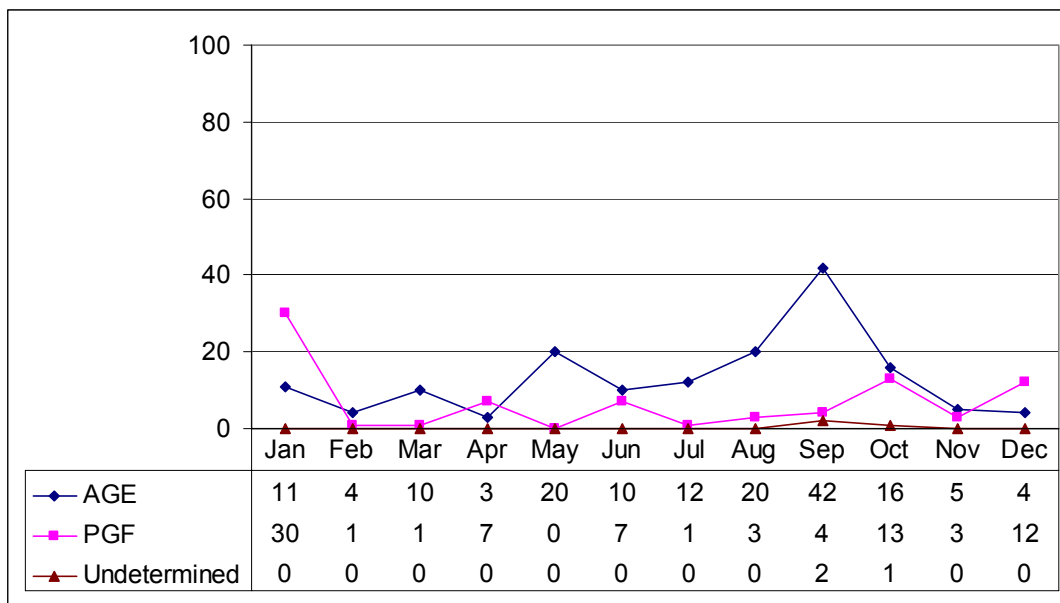
Additional Graphs

These charts showing total civilians killed in armed conflict in 2009, broken down by region, month, and the responsible party. To interpret the charts, note that the regional labels used by UNAMA are defined as follows: Central (provinces of Kabul, Panjsher, Wardak, Logar, Parwan and Kapisa), Central Highlands (Bamyan and Daikundi), Eastern (Nangarhar, Laghman, Kunar and Nuristan), Southeastern (Ghazni, Paktia, Paktika, Khost), Southern (Helmand, Kandahar, Nimroz, Uruzgan and Zabul), Northeastern (Kunduz, Takhar, Badakhshan and Baghlan), Northern (Balkh, Samangan, Jawzjan, Sari Pul and Faryab), Western (Herat, Farah, Badghis and Ghor). Due to the very few incidents that took place, no chart for the Central Highlands region has been included.

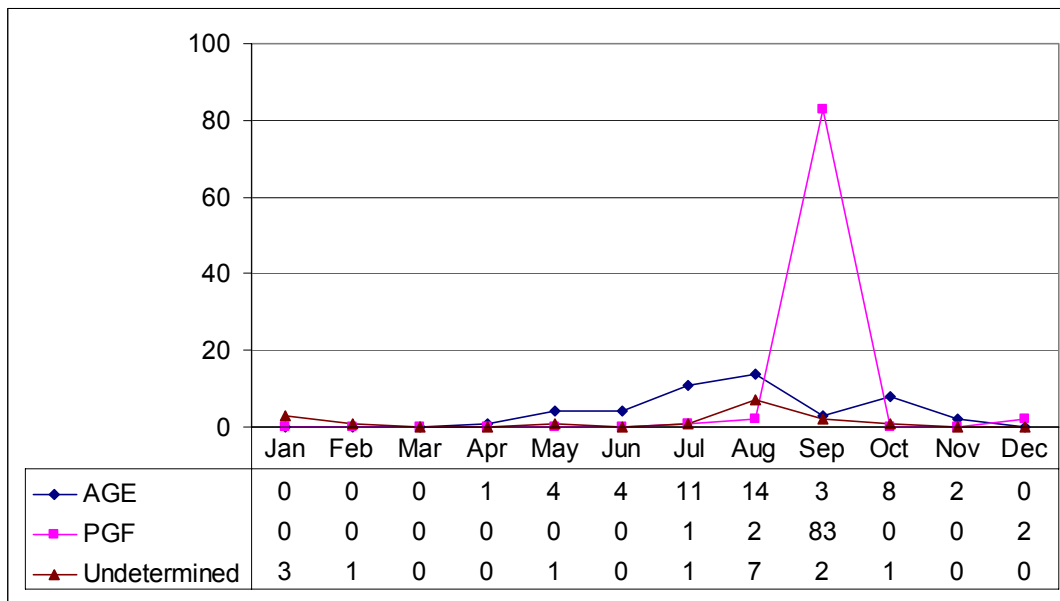
Central Region: Civilians reported killed in 2009 by month and Party



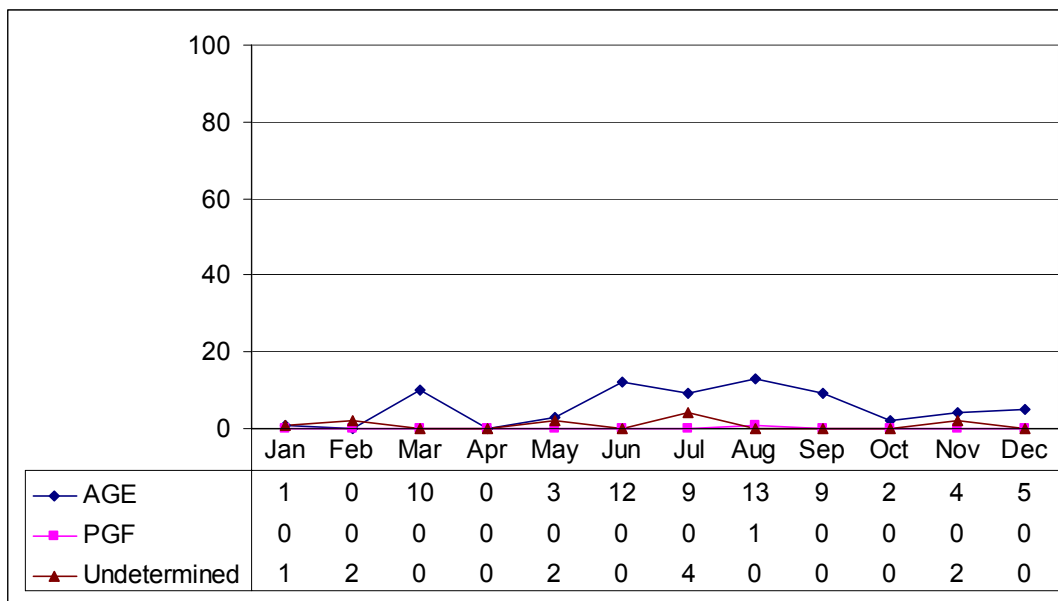
Eastern Region: Civilians reported killed in 2009 by month and Party



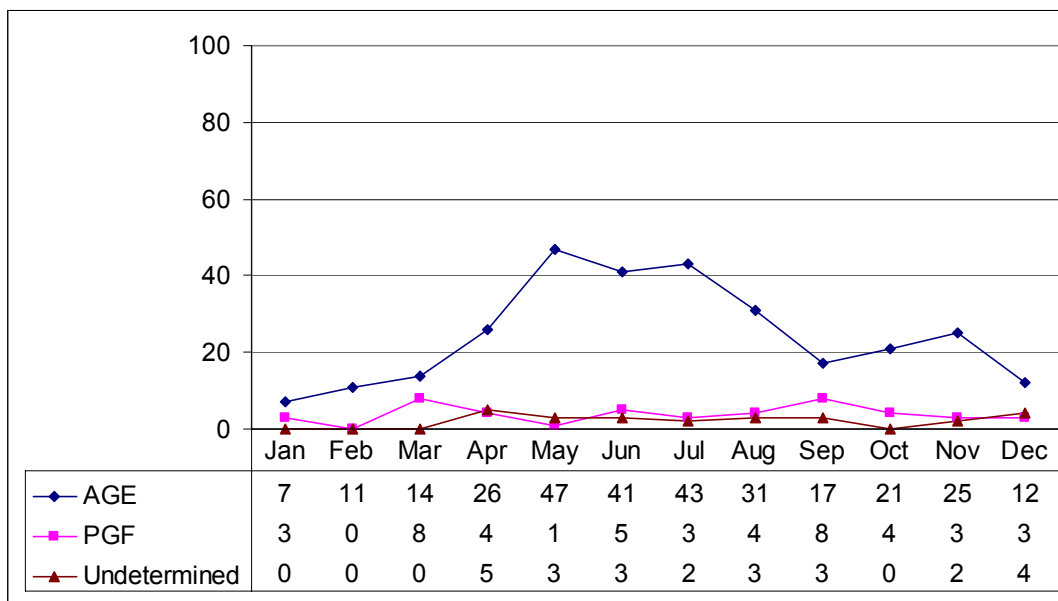
Northeastern Region: Civilians reported killed in 2009 by month and Party



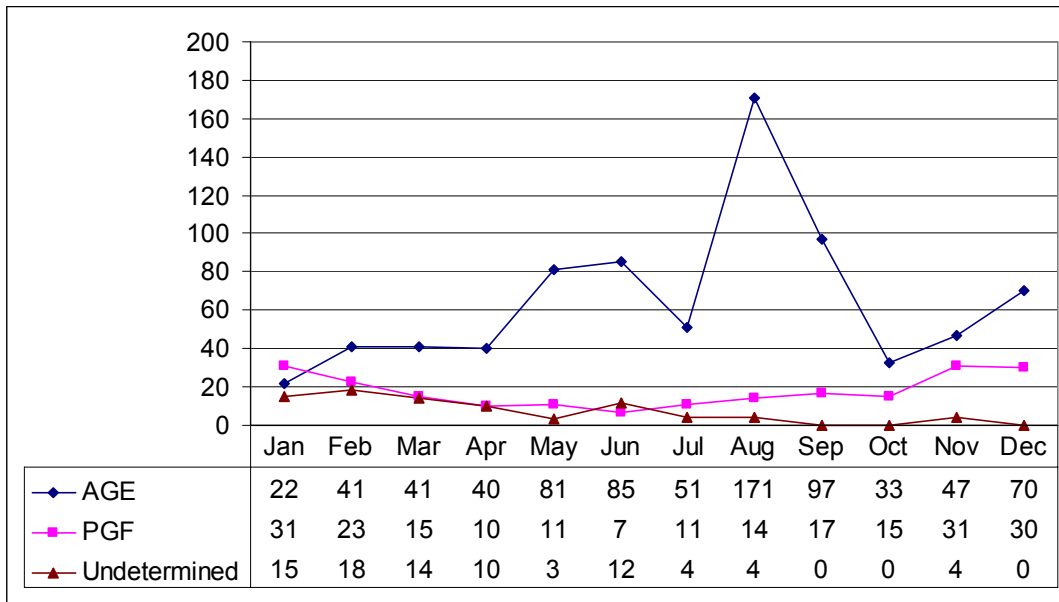
Northern Region: Civilians reported killed in 2009 by month and Party



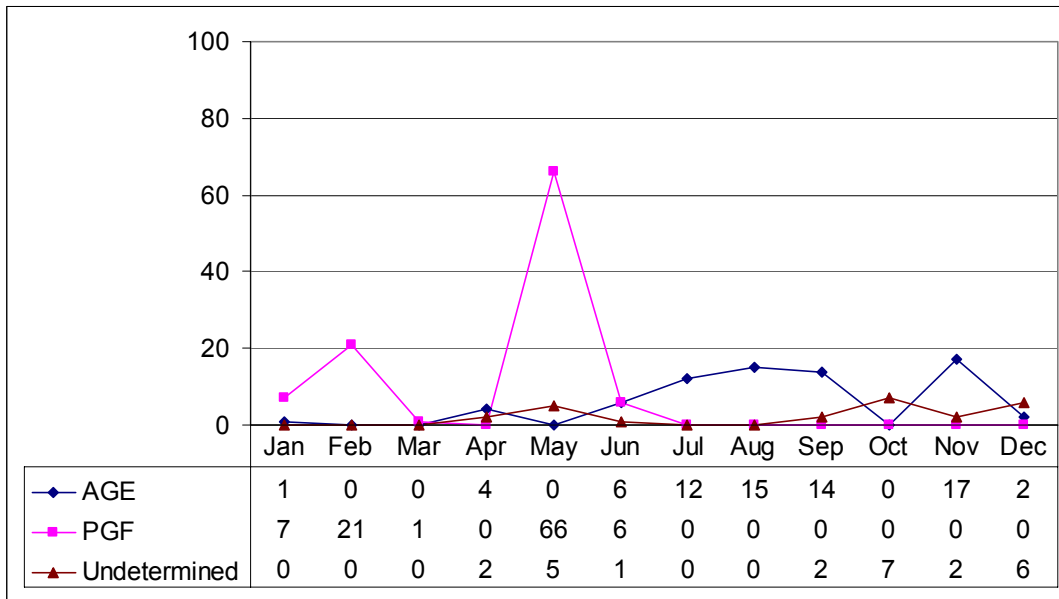
Southeastern Region: Civilians reported killed in 2009 by month and Party



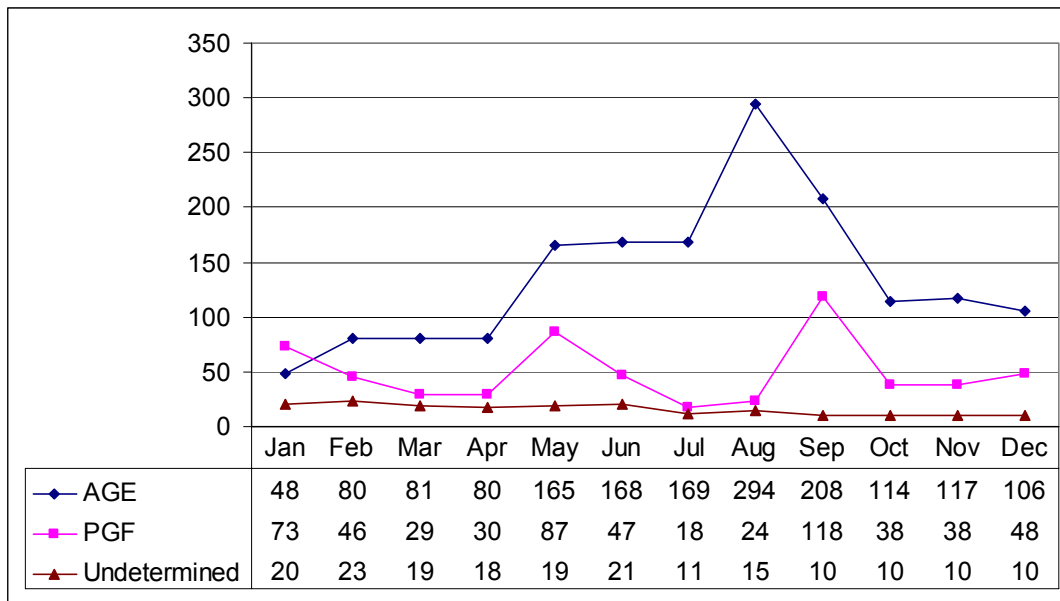
Southern Region: Civilians reported killed in 2009 by month and Party



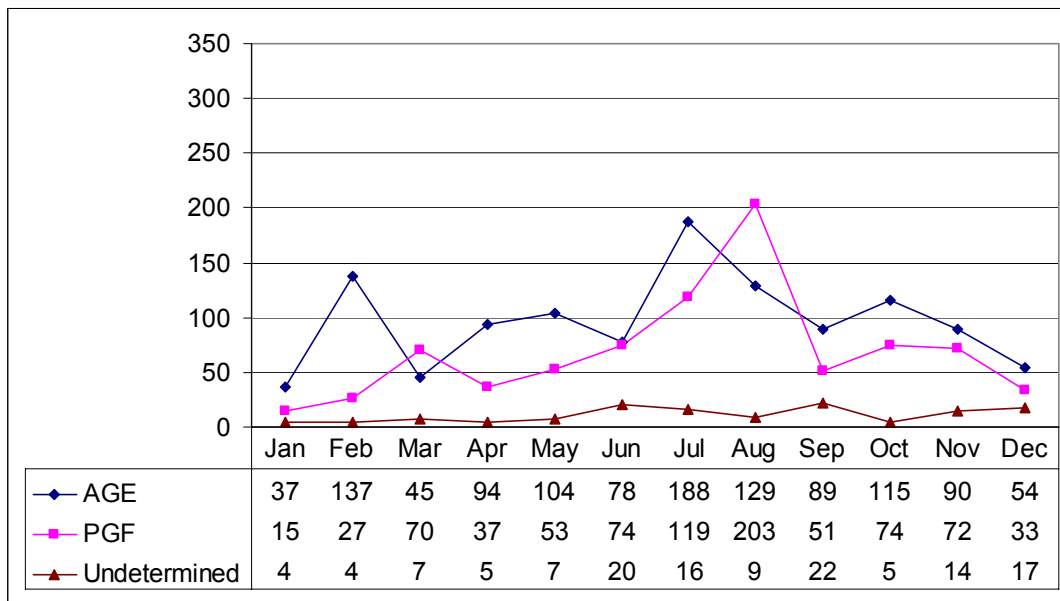
Western Region: Civilians reported killed in 2009 by month and Party



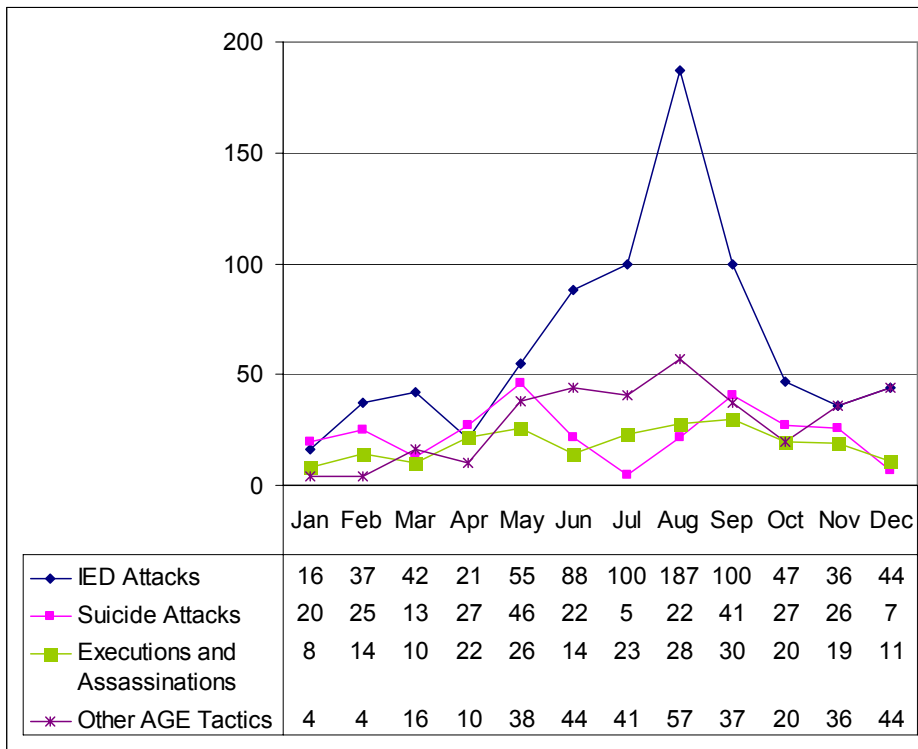
Afghanistan: Number of civilians reported killed in 2009 by month and Party



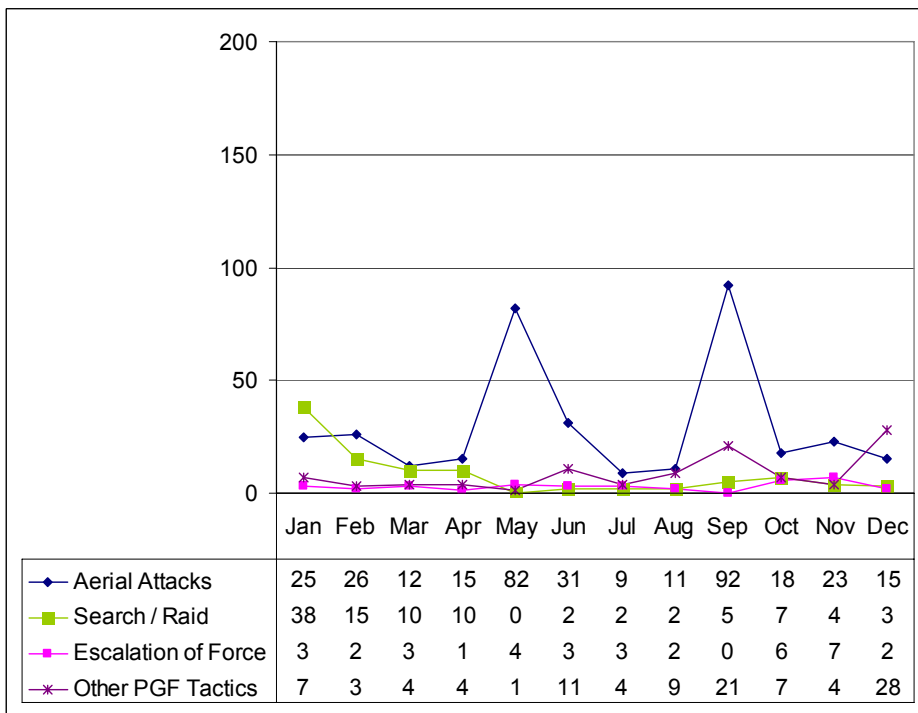
Afghanistan: Number of civilians reported killed in 2008 by month and Party



Civilian Deaths Attributed to AGEs, disaggregated by month and tactic



Civilian Deaths Attributed to PGF, disaggregated by month and tactic



Appendix III

UNAMA mandate, role and methodology in the protection of civilians

UNAMA's mandate in relation to protection of civilians

UNAMA HR conducts activities aimed at promoting and protecting human rights in accordance with UN Security Council Resolution 1868 (2009), paragraph 4 (g), which explicitly requires UNAMA HR to monitor the situation of civilians, to coordinate efforts to ensure their protection, and to assist in the full implementation of the fundamental freedoms and human rights provisions of the Afghan Constitution and international treaties to which Afghanistan is a State Party. This report has been compiled pursuant to this mandate.

UNAMA Human Rights' strategy for Protection of Civilians

UNAMA HR is focused on mitigating the effects of the armed conflict on civilians; it collects, monitors, and analyzes information relating to specific incidents of alleged civilian casualties, and develops advocacy strategies based on the information obtained. Such strategies include, *inter alia*, direct advocacy with pro-Government military forces, Afghan Government officials, Afghan Parliamentarians and Ministers of State, Embassies and Diplomatic Missions, UN Agencies, and international and national NGOs.

OHCHR/UNAMA HR has been engaged in the Protection Cluster, established by the humanitarian community in 2008, both as the deputy co-chair and as the primary entity responsible for protection work focused on the immediate and direct impact of the war on civilians. OHCHR/UNAMA HR was actively involved in the prioritization of protection-related projects for the Humanitarian Action Plan HAP 2010.

The overall the objective of UNAMA HR monitoring and reporting on the impact of armed conflict on civilians is to:

- engender respect amongst the parties to the conflict for international humanitarian law, international human rights law and the Constitution and laws of Afghanistan so as to minimize the numbers of civilians killed or injured or otherwise detrimentally affected as a result of armed conflict;
- assist all relevant stakeholders to enhance the protection to civilians affected by armed conflict;
- develop strategies, such as advocacy and coordination aimed at mitigating the effect of the armed conflict on civilians; and
- inform the public, both in Afghanistan and abroad, of the effect of the conflict on civilians.

Methodology

The information used to compile reports is obtained from a range of sources by UNAMA HR with staff in regional and provincial offices throughout Afghanistan.

When reports of incidents are received, UNAMA HR conducts independent investigations to substantiate or discount the initial report. The civilian casualty figures reported by UNAMA HR are the result of investigations and reports prepared by the team's staff members in accordance with the Security Council monitoring mandate and to assist in giving effect to international law. UNAMA HR investigates

all reports it receives of civilian casualties arising from the armed conflict, no matter which group, entity, or authority is alleged to be responsible.

UNAMA HR investigates reports of civilian casualties by tapping as wide a range of sources and types of information as possible. All sources, and the information they provide, are analysed for their reliability and credibility. In undertaking investigation and analysis of specific incidents, UNAMA HR endeavours to corroborate and cross-check all information from as wide a range of sources as possible including, for example, testimony of victims, victim's relatives, and witnesses, health personnel, community elders, religious leaders and tribal leaders, pro-Government military forces, local, provincial, regional and central Government officials, United Nations Department of Safety and Security (UNDSS), mass media, published reports and documents, and other secondary sources.

Wherever possible, investigations are based on the primary testimony of victims and/or witnesses of the event and on-site investigations. On some occasions, primarily due to security constraints regarding access, this level of investigation is not possible. In such instances UNAMA Human Rights relies on a range of techniques to gain information through reliable networks, using a wide range of sources. As already noted, all available information is assessed for credibility and reliability.

Every effort is made to ensure that data contained in UNAMA HRs' reports on specific incidents is comprehensive; however, such data is not necessarily exhaustive. Where UNAMA HR is not satisfied with the evidence concerning a particular incident, it will not be reported. In some instances, investigations may take several weeks before conclusions can be drawn. This may also mean that conclusions as to civilian casualties arising from a particular incident may be adjusted as more information comes to hand and is analysed. However, where information is equivocal, then 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 statistical reporting or trends analysis. As information is updated, and conclusions and statistics are modified, this can result in slight differences between the statistics compiled from month to month.

Due to limitations in the operating environment, UNAMA HR does not break responsibility for civilian casualties into particular sub-groups, other than to attribute incidents (where possible) to pro-Government forces or AGEs. In relation to pro-Government forces, operations are often conducted jointly between Afghan military forces and contingents of IM forces; frequently, sources of information are not able to distinguish between the different elements of those forces and different chains of command, so that specific responsibility can be attributed. ISAF will often deny direct involvement in a specific incident, leaving it to be assumed who was directly responsible since other military forces operating in the country do not consistently communicate to UNAMA HR whether they were present or not. UNAMA HR concludes that distinguishing direct responsibility, given such limitations, would be misleading, since it is, in many instances, not possible to properly distinguish between which components of Afghan Military Forces or IM forces were actually involved. Similarly, the nature of the armed insurgents, being composed of diverse groups which do not necessarily identify as Taliban and do not act under a single line of authority, and are not apparently motivated by the same goals and ideologies, makes it equally difficult to attribute actual responsibility for civilian casualties to particular

individuals or groups of AGEs. This is particularly so when the evidence, even of eye-witnesses, is not properly able to distinguish between them.

In some incidents, the non-combatant status of the reported victims of an incident is disputed. In such cases UNAMA HR is guided by all the information to hand, as well as the applicable standards of international humanitarian law. This means that UNAMA HR does *not* presume fighting-age males are automatically civilians. Rather, such claims are assessed on the particular facts that are available concerning the incident in question. Thus, if the non-combatant status of one or more victim(s) remains under significant doubt, such deaths are not included in the overall number of civilian casualties.

In light of the above, UNAMA HR does not claim that the statistics presented in this report are complete; it may be the case that, given the limitations in methodology noted above, UNAMA HR is under-reporting civilian casualties.

Legal Responsibilities of the Parties to the Conflict

The current situation in Afghanistan is quite complex, involving armed hostilities between the Government of Afghanistan and its partners (including IM Forces), and insurgents encompassing individuals and groups of diverse backgrounds, motivations, and command structures, including those characterised, for example as the Taliban, the Haqqani network and others.

All parties to the armed conflict have responsibilities under international law to protect civilians/non-combatants and to minimize the impact of their actions on the civilian population and civilian infrastructure. Article 3, common to the four Geneva Conventions, establishes minimum standards that parties to an armed conflict should observe in non-international armed conflict. Common Article 3 thus extends the reach of humanitarian law into situations occurring within 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 are also applicable to the parties in the armed conflict in Afghanistan. In this respect, international judicial bodies have indicated that a number of norms contained in the Geneva Conventions and the Additional Protocols are now part of customary international law.⁷ This has been further affirmed by the International Committee of the Red Cross (ICRC), which has concluded that a number of the rules of the four Geneva Conventions and Additional Protocol I have now acquired the force of customary international law and that many of these rules are equally applicable in international and non-international armed conflicts.⁸ These rules include:

- Distinction: “Civilians are protected against attack, unless and for such time as they take a direct part in hostilities,” and “[a]ttacks must not be directed against civilian objects.”⁹
- Proportionality: “Launching 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, is prohibited.”¹⁰
- Precautions in attack: “In the conduct of military operations, constant care must be taken to spare the civilian population, civilians and civilian objects. All feasible precautions must be taken to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects.”¹¹

Moreover, in addition to international humanitarian law, other bodies of law continue to apply. Nothing precludes insurgents, once they are *hors de combat*, from being prosecuted 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.¹² Members of the pro-Government military forces are also accountable for violations of international humanitarian law and international human rights norms.

¹ Customary international humanitarian law prohibits “the use of human shields.” This means that the “intentional collocation of military objectives and civilians or persons *hors de combat* with the specific intent of trying to prevent the targeting of those military objectives” is prohibited (ICRC Study, Rule 97; see also Protocol I, art. 57(7)). Taking over a family's house and not permitting the family to leave for safety so as to deter the enemy from attacking is an example of the use of “human shields.”

² “Interview: Hamid Karzai”, Al Jazeera web site, 14 February 2009.

³ See ICRC study, rule 65

⁴ “The Cost of War: Afghan experiences of conflict, 1978-2009,” Afghan Civil Society Forum, Afghan Peace and Democracy Act, Association for the Defence of Women's Rights, Cooperation Centre for Afghanistan, Education Training Center for Poor Women and Girls of Afghanistan, Oxfam GB, Organisation for Human Welfare, Sanayee Development Organisation and The Liaison Office. November 2009.

⁵ See ICRC Study, Rules 23-24

⁶ ICRC, *Our World, Views from the Field, AFGHANISTAN, Opinion Survey, 2009, ICRC Geneva, Switzerland, 2009*

⁷ See, e.g., ICTY, Prosecutor vs. Zoran Kupreškić et al., Case No. IT-95-16-T (14 January 2000), para. 524.

⁸ ICRC, *Customary International Humanitarian Law*, ed. Jean-Marie Henckaerts and Louise Doswald-Beck (CUP/ICRC, Cambridge 2005) [ICRC Study]

⁹ ICRC Study, Rules 6, 7.

¹⁰ ICRC Study, Rule 14.

¹¹ ICRC Study, Rule 15.

¹² See, e.g., *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, I.C.J. Reports 2005, para. 219.