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AFGHANISTAN

MID YEAR REPORT 2010

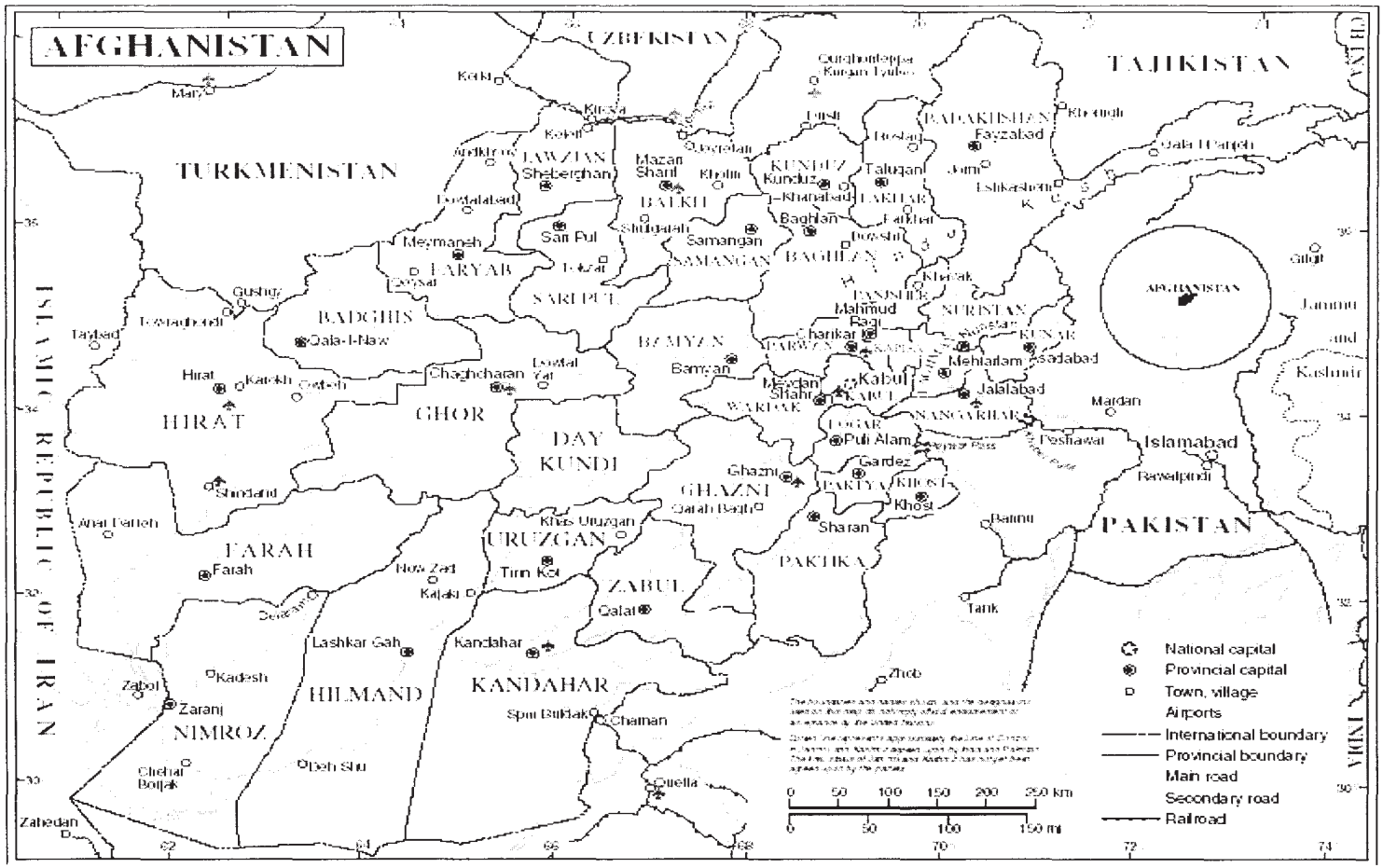
PROTECTION OF CIVILIANS IN ARMED CONFLICT

REUTERS/Bob Strong

UNAMA, Human Rights
Kabul, Afghanistan

United Nations Assistance Mission in Afghanistan

Map of Afghanistan



Source: UN Cartographic Centre, NY

AFGHANISTAN

Mid Year Report on Protection of Civilians in Armed Conflict 2010

UNAMA

UNAMA, Human Rights
Kabul, Afghanistan
August 2010

Mandate

The Mid Year Report on the Protection of Civilians in Armed Conflict in Afghanistan, prepared by the Human Rights Unit of the United Nations Assistance Mission in Afghanistan (UNAMA Human Rights), covers the period 01 January to 30 June 2010. It is compiled in pursuance of UNAMA's mandate under United Nations Security Council Resolution 1917 (2010) to monitor the situation of civilians, to coordinate efforts to ensure their protection, to promote accountability and to assist in full implementation of the fundamental freedoms and human rights provisions of the Afghan Constitution and international treaties to which Afghanistan is State party, in particular those regarding the full enjoyment by women of their human rights.

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; advocacy activities to strengthen protection of civilians affected by the armed conflict; and, initiatives to promote respect for international humanitarian and human rights law and the Afghan Constitution among all parties to the conflict.

Methodology

UNAMA Human Rights investigates reports of civilian casualties by consulting a broad range of sources and types of information that are evaluated for their credibility and reliability. In undertaking investigation and analysis of each incident, UNAMA Human Rights endeavours to corroborate and cross-check information inputs from as wide a range of sources as possible including, accounts of eyewitnesses and directly affected persons, military actors (including Afghan Government and international military forces), local village/district and provincial authorities, religious and community leaders, as well as information obtained through direct site visits, visits to hospitals and medical facilities, still and video images, reports of UN Department of Safety and Security and other UN agencies, secondary source accounts, media reports, and information collected by NGOs and other third parties.

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

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

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

An electronic database was established in January 2009 to support UNAMA HR's reporting on the Protection of Civilians in Armed Conflict in Afghanistan. The database is designed to facilitate the systematic, uniform and effective collection and analysis of information, including disaggregation by age and gender. Due to limitations associated with the operating environment, such as the joint nature of some operations and the inability of primary sources in 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" (PGF) or "Anti-Government Elements" (AGEs) UNAMA HR does not claim that the statistics presented in this report are complete; it may be the case that, given the limitations associated with the operating environment, UNAMA HR is under-reporting civilian casualties.

Legal Responsibilities of the Parties to the Conflict

UNAMA HR takes the position that the armed conflict in Afghanistan is an internal (non international) armed conflict involving the Government of Afghanistan and its partners, including international military forces, engaged in hostilities with Anti-Government Elements. The Anti-Government Elements encompass individuals and armed groups of diverse backgrounds, motivations and command structures, including those characterized as the Taliban, the Haqqani network, Hezb-e-Islami and others.

All parties to the non-international armed conflict in Afghanistan have responsibilities under international law to protect civilians or 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 of 1949,* establishes minimum standards that parties to an armed conflict should observe in non-international armed conflict. Common Article 3 extends humanitarian law into situations occurring in the territory of a sovereign State and binds not only State actors but also non-State actors involved in the conflict.

Customary rules of international humanitarian law also apply to the warring parties. International judicial bodies have stated that several rules in the Geneva Conventions and the Additional Protocols are part of customary international law. This has been affirmed by the International Committee of the Red Cross (ICRC), which has concluded that several rules of the four *Geneva Conventions and Additional Protocol I* have acquired the force of customary international law and that most of these rules apply in both international and non-international armed conflicts (ICRC, *Customary International Humanitarian Law*, ed. Jean-Marie Henckaerts and Louise Doswald-Beck (CUP/ICRC, Cambridge 2005) {ICRC Study}. 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." ICRC Study, Rules 6, 7.
- 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." ICRC Study, Rule 14.
- 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." ICRC Study, Rule 15.

In addition to international humanitarian law, other bodies of law apply in Afghanistan. Insurgents, once they are *hors de combat* ("outside of combat"), are subject to prosecution under the criminal laws of the country concerned. International human rights standards to which the State is a party or which form part of customary international law continue to apply in situations of armed conflict. Members of the Pro-Government military forces are also accountable for violations of international humanitarian and human rights law and the national laws of their home states.

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

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

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

GLOSSARY

AGEs: Anti-Government Elements. These encompass all individuals and groups currently involved in armed conflict against the Government of Afghanistan and/or International Military Forces. They include those who identify as "Taliban" as well as individuals and groups motivated by a range of objectives and assuming a variety of labels.

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

ANA: Afghan National Army.

ANP: Afghan National Police.

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

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

Casualties: May be of two classifications:

- **Direct:** casualties resulting directly from armed conflict – including those arising from military operations conducted by pro-Government forces (Afghan Government Forces and/or International Military Forces) such as force protection incidents; air raids, search and arrest operations, counter insurgency or "Global War on Terror" operations. It also includes casualties arising from the activities of AGEs, such as targeted killings, IEDs or direct engagement with Pro-Government Forces, etc.
- **Other:** casualties resulting indirectly from the conflict, including casualties caused by explosive remnants of war deaths in prison, deaths from probable underlying medical conditions that occurred during military operations, or where access to medical care was denied or 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.

CID: Criminal Investigations Department.

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

Civilian/Non-Combatant: Any person who is not taking a direct part in hostilities. It includes all civilians as well as public servants who are not used for a military purpose in terms of fighting the conflict, and encompasses teachers, health clinic workers and others involved in public service delivery, as well as political figures or office holders. It also includes soldiers or any person who are *hors de combat*, whether from injury or because they have surrendered or because they have ceased to take a direct part in

hostilities for any reason. It includes persons who may be civilian police personnel or members of the military who are not being used in counter insurgency operations and not taking a direct part in hostilities including when they are off-duty.

COIN: Counter-Insurgency.

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

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

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

IDP: Internally Displaced Person.

ICRC: International Committee of the Red Cross.

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

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

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

Injuries: Include physical injuries of differing severity. The degree of severity of injury is not recorded in 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 Afghanistan, NATO took command of ISAF. The ISAF force currently comprises at least 119,745 troops from 46 Troop Contributing countries, organized in six regional commands. Since November 2008, the Commander of ISAF serves also as the Commander of US Forces Afghanistan, although the chains of command remain separate.

KSF: Kandahar Strike Force.

LDI: Local Defence Initiative.

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

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

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

OEF: "Operation Enduring Freedom" is the official name used by the US Government for its contribution to the War in Afghanistan 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 US and other troop contributing nations. Most US forces operating under OEF since October 2008 have been incorporated into "US Forces Afghanistan" (see below) under the command of General David Petraeus, who is also NATO/ISAF Commander.

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

Pro-Government Forces (PGF):

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

- **International Military Forces (IM Forces)** and OGA.

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

TCN: Troop Contributing Nation

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

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

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Executive Summary

The human cost of the armed conflict in Afghanistan is escalating in 2010. In the first six months of the year civilian casualties – including deaths and injuries of civilians - increased by 31 per cent over the same period in 2009. Three quarters of all civilian casualties were linked to Anti-Government Elements (AGEs), an increase of 53 per cent from 2009. At the same time, civilian casualties attributed to Pro-Government Forces (PGF) decreased by 30 per cent compared to the first half of 2009.

UNAMA Human Rights (HR) highlights two critical developments that increased harm to civilians in 2010. First, the number of civilians assassinated and executed by AGEs rose dramatically and second, AGEs used a greater number of larger and more sophisticated improvised explosive devices (IEDs) throughout the country. The devastating human impact of these tactics underscores that nine years into the conflict, measures to protect Afghan civilians effectively and to minimize the impact of the conflict on basic human rights are more urgent than ever.

Between 01 January and 30 June 2010, UNAMA HR documented 3,268 civilian casualties including 1,271 deaths and 1,997 injuries.[1] AGEs were responsible for the deaths and injuries of 2,477 civilians or 76 per cent of the total number of civilian casualties for this period. Suicide and IED attacks caused the most civilian casualties attributed to AGEs including 557 deaths (61 per cent of civilian deaths attributed to AGEs) and 1,137 injuries (73 per cent of civilian injuries attributed to AGEs).

In the same period, UNAMA HR recorded 386 civilian casualties (12 per cent of total civilian casualties) linked to PGF, down 30 per cent from the first six months of 2009. Aerial attacks caused the largest number of civilian casualties attributed to PGF including 69 deaths (31 per cent of civilian deaths attributed to PGF) and 45 injuries (20 per cent of civilian injuries attributed to PGF).

As civilian casualties rose in the first half of 2010, women and children made up a greater proportion of those killed and injured than in 2009. Women and children experienced an extreme lack of protection in conflict-affected areas along with widespread violation of their basic human rights. From January to June 2010, women casualties increased by six per cent and child casualties leapt by 55 per cent from 2009. UNAMA HR found that 120 women were killed and 151 injured while 176 children were killed and 389 injured as result of the armed conflict. IEDs and suicide attacks by AGEs caused the most women and children casualties in the first half of 2010.

The 1,271 total civilian deaths in the first half of 2010 was a 21 per cent increase over the number documented in the first half of 2009. In total, 920 (72 per cent of total civilian deaths) were attributed to AGEs, up 48 per cent from the first half of 2009. PGF were

[1] UNAMA Human Rights (HR) documented and included in its analysis and reporting on civilian casualties for the period 1 January to June 30, 2010 only those incidents of civilian death and injury that its field offices reported, cross checked with a diverse range of sources and verified. UNAMA HR does not claim that the statistics presented in this and its previous reports are complete; given the limitations in methodology and the operating environment UNAMA HR may be under-reporting civilian casualties, see the methodology section of this report. Information regarding civilian casualties in Afghanistan posted on the Wikileaks website covers the period 2004-2010 and is comprised of thousands of documents from a variety of sources. UNAMA HR is examining this material for new information on previously reported cases and also reviewing all cases of civilian casualties referred to in the documents.

linked to 223 deaths or 18 per cent of total civilian deaths down 29 per from 2009. UNAMA HR could not attribute the remaining 128 deaths (10 per cent) to either party to the conflict.

IEDs were the deadliest tactic used by AGEs in the first half of 2010 and caused 29 per cent of all civilian deaths while suicide attacks, assassinations and executions took the lives of 14 per cent of civilians. UNAMA HR recorded 183 civilians killed by suicide attacks and a further 183 civilians killed by assassinations and executions. 39 women and 74 children died from IED explosions and suicide attacks in the first half of 2010 - a 44 per cent increase in female deaths and 155 per cent increase in child deaths from 2009 attributed to AGEs.

Compared with the same period in 2009, the number of civilians assassinated and executed by AGEs surged by more than 95 per cent in 2010. More than half of the civilian assassinations and executions occurred in southern Afghanistan, where more than one hundred such incidents were noted.

UNAMA HR found a 64 per cent decrease in civilian deaths caused by aerial attacks by PGF compared to the same period in 2009. ISAF's July 2009 Tactical Directive regulating the use of air strikes appears to have contributed to this decrease. The use of aerial attacks in civilian areas, however, continued to claim the largest percentage of civilian deaths attributed to PGF, causing 69 civilian deaths or 31 per cent of the total number of 223 civilian deaths by PGF in the first half of 2010. Search and seizure operations, mainly night searches, resulted in 41 deaths (18 per cent of civilian deaths by PGF) and numerous detentions. Escalation of Force incidents (PGF shooting at suspected AGE attackers) accounted for 16 per cent of civilian deaths by PGF in the first half of 2010.

Civilian deaths in the south increased by 43 per cent and in the southeast by 24 per cent. The previously more stable northeastern region[2] saw a sharp rise in AGE activities that intensified the conflict causing an increase of 136 per cent in civilian deaths compared to the same period in 2009. In the south, the surge of International Military Forces (IM Forces);[3] the launch of *Operation Moshtarak*, a joint operation of Afghan National Security Forces (ANSF) and IM Forces to re-take the Marja and Nad Ali areas of Helmand province from the Taliban; the start of *Operation Hamkari*, an Afghan Government led and ISAF supported operation to enhance stability and security conditions in Kandahar city and surrounding areas; and the Taliban's response all contributed to intensified conflict and the resultant increase in civilian deaths.

In the south, AGEs, in particular the Taliban expanded and strengthened their campaign of intimidation against a wider and larger group of civilians working for, or perceived by the Taliban to be supportive of the Afghan Government and IM Forces. This campaign included assassinations, executions, abductions, night letters and threats. The Taliban's use of assassinations increased from an average 3.6 per week and 15.6 per month in the first part of 2009 to on average 7.0 per week and 30.5 per month in the first four months 2010. In May and June, the number of assassinations skyrocketed to on

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[2] The provinces in the northeastern region are: Badakhshan, Kunduz, Baghlan and Takhar.

[3] As of 07 July 2010, 119,745 International Security Assistance Forces-Afghanistan (ISAF) were in Afghanistan (including approximately 78,430 US forces). On 9 December 2009, approximately 84,150 ISAF troops were deployed in Afghanistan.
Source: http://www.isaf.nato.int/images/stories/File/Placemats/100706%20Placemat.pdf.

average 18.0 per week according to the UN Department of Safety and Security-Afghanistan. Civilians targeted included teachers, nurses, doctors, tribal elders, community leaders, provincial and district officials, other civilians and civilians working for IM Forces and international organizations. The intensified pattern of assassinations reinforced the widespread perception of Afghan civilians that the Taliban can strike anywhere at anytime with impunity and that the Afghan Government and IM Forces are failing to protect them.

Tactical directives and standard operating procedures implemented in 2010 by IM Forces regulating night searches and rules of engagement on escalation of force, together with the July 2009 Tactical Directive restricting air strikes, contributed to a significant reduction in civilian casualties by PGF.[4] UNAMA HR welcomes the efforts of IM Forces to minimize civilian deaths and injuries. At the same time, we highlight concerns about inadequate implementation of directives and procedures on the ground, and the continuing lack of transparency on investigations and accountability for civilian casualties. While UNAMA HR acknowledges the military's need to balance protection of its forces with protection of civilians, we urge the new leadership at ISAF to fully implement measures designed to reduce civilian casualties and to further strengthen civilian protection.

The first six months of 2010 painted a grim and bleak picture for civilians affected by the armed conflict. As the conflict intensified in the traditional fighting areas of the south, and moved to specific districts in the north, west and northeast, civilians experienced an erosion of Government presence and a further decrease in protection. At the same time, AGEs increasingly undertook unlawful means of warfare through increased use of IEDs, suicide attacks and assassinations that violate Afghans' basic right to life and the international humanitarian law principles of distinction,[5] proportionality[6] and precaution[7] that apply to all parties to an armed conflict –both State (PGF) and non-State actors (AGEs) - requiring them to minimize civilian loss of life and injury.

UNAMA HR highlights the UN Secretary-General's 7 July 2010 statement on protection of civilians in armed conflict in which he stressed that ensuring greater compliance with international law by non-State armed groups was still a "huge common challenge." In the same debate, the Representative of Afghanistan emphasized that both the Afghan

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[4] On 04 August 2010, the Commander of ISAF issued an updated Tactical Directive that provides guidance and intent for the "disciplined use of force" in support of ISAF and US Forces-Afghanistan operations. The updated Directive replaces the July 2009 Directive. The ISAF press release announcing the issuance of the new Directive states, "While stressing the importance of our efforts to minimize loss of innocent civilian life on our operation, it also stresses the right and obligation of our troops to defend themselves and the coalition and Afghan forces with whom we serve shoulder to shoulder." An unclassified portion of the Directive notes, "We {ISAF} must continue-indeed, redouble-our efforts to reduce the loss of innocent civilian life to an absolute minimum. Every Afghan civilian death diminishes our cause. If we use excessive force or operate contrary to our counterinsurgency principles, tactical victories may prove to be strategic setbacks." "ISAF Commander Issues Updated Tactical Directive", News Release by ISAF, 4 August, 2010.

[5] 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." ICRC Study, Rules 6 and 7.

[6] 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." ICRC Study, Rule 14.

[7] 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." ICRC Study, Rule 15.

Government and its international allies bore "enormous responsibility" to safeguard the security of non-combatants.[8] At the Kabul International Conference on 20 July 2010, the Afghan Government and the international community recognized that civilian casualties and protection of civilians are of great concern, noted that most civilian casualties are caused by insurgent attacks and stated that Afghan and IM Forces remain committed to a steady reduction in civilian casualties.[9] The United Nations calls on all parties to the conflict to strengthen civilian protection and to fully uphold their obligations under international law to protect civilians.

[8] "Broaden Focus to Causes of Conflict, Secretary-General Urges Security Council, in Debate on Civilian Protection," Source: http://www.un.org/News/Press/docs/2010/sc9973.doc.
[9] Kabul Conference Communiqué, Kabul International Conference on Afghanistan, 20 July 2010.

RECOMMENDATIONS

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

- The Taliban should withdraw all orders and statements calling for the killing of civilians, including civilian Government officials; adopt and enforce codes of conduct or other directives that prohibit any and all attacks on civilians; accept that civilians' cooperating with the Afghan Government and International Military Forces are protected against any attack and immediately cease targeting those civilians.
- The Taliban should prevent civilian casualties by complying with international humanitarian law, rules and principles including those rules publicly committed to in the 2009 Taliban Code of Conduct and other documents on preventing civilian casualties when planning suicide attacks and acts of perfidy.
- Comply with international humanitarian law, rules and principles that prohibit attacks against civilians and civilian objects and cease attacking civilians. Take all feasible precautions to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian property.
- End the use of all improvised explosive devices and suicide attacks.
- Immediately cease all acts of killing and intimidation prohibited under the Constitution and national laws of Afghanistan, and international humanitarian and international human rights law including assassination, execution, abduction, intimidation and beheading of civilians.
- Fully respect civilians' freedom of movement.
- Cease using civilians as human shields to protect fighters from attack.

To the International Military Forces

- Institute immediate, credible, impartial and transparent investigations into all incidents involving civilian casualties; publicly and promptly report on the progress and results of investigations and take appropriate disciplinary or criminal action against any individuals found responsible for violations of military or domestic criminal law.
- Strengthen and fully implement restrictions on the use of aerial and indirect fires on residential compounds and civilian situations set out in the August 2010 Tactical Directive.
- Seek alternate viable options to night raids required by the January 2010 Tactical Directive. Ensure all search and seizure operations are led by Afghan National Security Forces, fully respect traditional, cultural and religious practices and comply with the forces' international legal obligations of proportionality, distinction and precaution when conducting raids. Establish standard, transparent monitoring and evaluating mechanisms to assess effective implementation of Tactical Directives.
- Establish a body in ISAF that monitors, investigates and publicly reports on all incidents of civilian casualties and works directly with the Afghan Government and other protection actors to strengthen civilian protection, transparency and accountability.
- Provide timely, adequate and transparent compensation to civilians/victims of all military operations that result in death or injury of civilians or damage to civilian

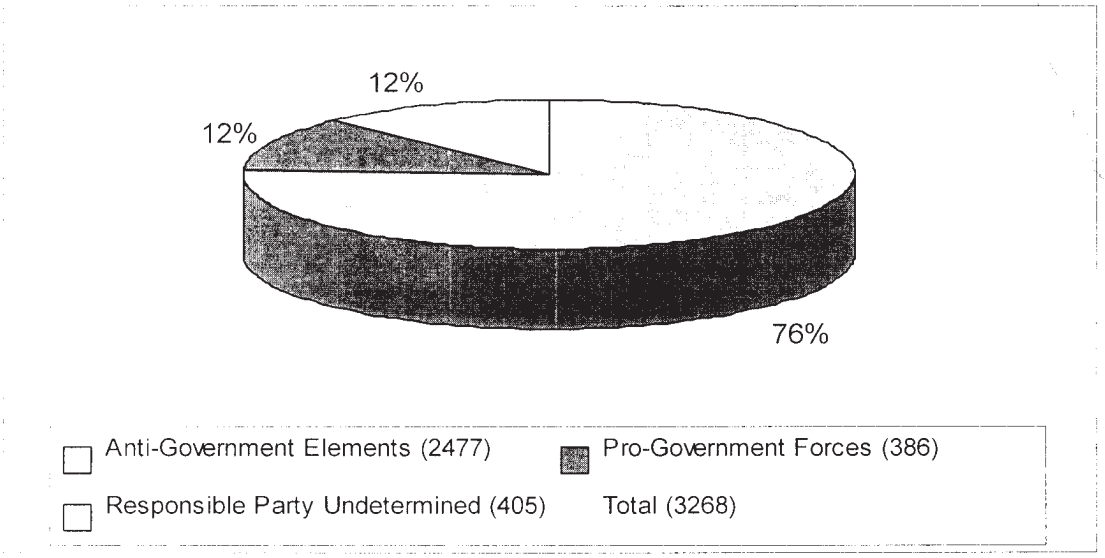
property. Ensure effective implementation of the June 2010 NATO policy guidance on compensation.

- Improve transparency and accountability on the involvement of Special Forces in military operations and publicly accept responsibility where civilian harm has occurred as a result of their actions.
- Refrain from locating military bases in locations that place civilians at risk of indiscriminate and disproportionate attacks.

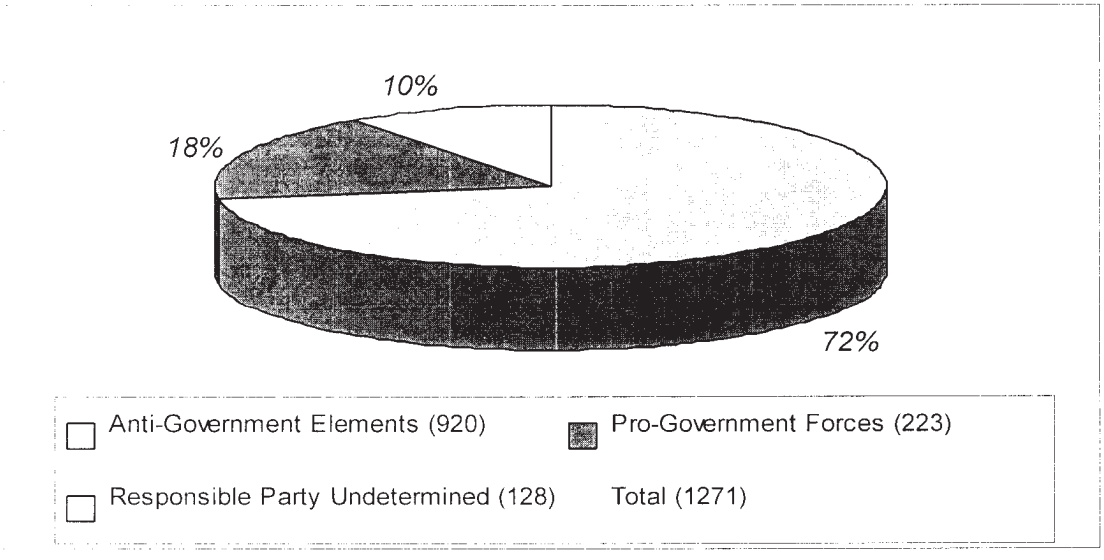
To the Government of Afghanistan

- Create and provide adequate resources for an appropriate governmental body to serve as the lead on the Government's response to major incidents of civilian casualties and to interact with International Military Forces, Afghan citizens, the United Nations, Afghan Independent Human Rights Commission, NGOs and other civil society groups. Ensure that any Government investigation into incidents with civilian casualties includes a forensic component and implements compensatory procedures in a transparent and timely manner.
- Ensure Afghan National Security Forces fully respect their obligations under international humanitarian law to protect civilians and to take all feasible precautions to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian property.
- Take prompt and transparent steps to improve accountability for any member of the Afghan National Security Forces who unlawfully causes death or injury to civilians or otherwise violates the rights of Afghan citizens including disciplinary measures or prosecution, as appropriate.
- Refrain from locating military bases and check points in locations that place civilians at risk of indiscriminate and disproportionate attacks.

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



Recorded total civilian deaths in the first six months of 2010 by parties to the conflict



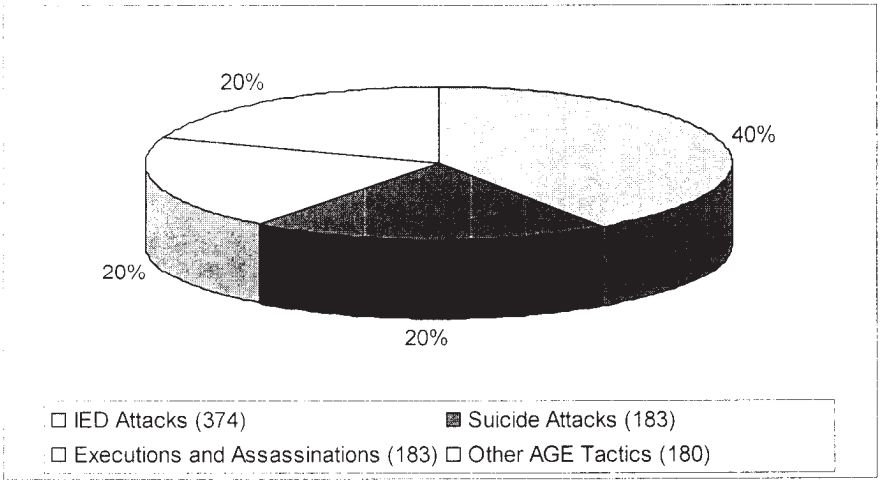
ANTI-GOVERNMENT ELEMENTS AND THE PROTECTION OF CIVILIANS

Legal Analysis: In a non-international armed conflict, non-State organized armed groups, such as the Taliban and other AGEs operating in Afghanistan, are bound by customary international humanitarian law, Common Article 3 of the *1949 Geneva Conventions* and the *Second Additional Protocol to the Geneva Conventions*. These groups have the same obligations as states to limit the risks that conflict imposes on civilians, to protect civilians not engaged in hostilities and to not target and attack civilians and civilian objects.

Overview

Between 01 January and 30 June 2010, 920 civilian deaths were attributed to Anti-Government Elements (AGEs), representing 72 per cent of the total number of civilian deaths during this period. UNAMA Human Rights (HR) observed that AGE attacks often targeted legitimate military objectives that resulted in a disproportionate number of civilian casualties. AGEs also undertook deliberate actions designed to control the civilian population that often involved the intentional targeting of individual civilians. AGEs predominantly targeted military objectives using Improvised Explosive Devices (IEDs), suicide attacks, rockets, mortars and direct fire. However, AGEs often used these tactics in civilian areas where a military target or objective was not clear. Certain tactics and weapons, in particular IEDs and suicide attacks, also appeared in some cases to target specific civilian individuals. AGEs controlled the civilian population through a range of measures often involving violence, assassinations and abductions.

Recorded AGE – attributed civilian deaths in the first six months of 2010 by incident type



In the first half of 2010, AGEs greatly increased their use of IEDs and suicide attacks – the most deadly tactics in the conflict. Stand-off attacks,[1] ambushes and direct attacks were also used.

[1] Stand-off attacks are defined as attacks by mortar, rocket and in some cases rocket-propelled grenades (RPG) aimed at a target and usually from a certain distance.

In addition, AGEs began a systematic and sustained campaign of targeting tribal elders, community leaders and others working for, or perceived to be supportive of the Government and International Military Forces (IM Forces), which has included abductions and assassinations. This campaign was reinforced in an 8 May statement of the Taliban announcing the start of *Al-Faath* (Victory/Conquest) Operations on 10 May, that would target the "Americans, the NATO military personnel, foreign advisers, spies who pose as foreign diplomats, members of the Karzai... administration...contractors of foreign and domestic private security companies, contractors and personnel of military logistics and military constructions [sic] companies and all supporters of foreign invaders who are working for the strengthening of foreign domination."

In some areas, the Taliban have been able to effectively disrupt Government activities through attacks on civilian buildings, such as district administrative centers and educational facilities, often using IEDs, direct and stand off attacks. These attacks resulted in damage to property, loss of life and injury to civilians working in these buildings or the surrounding area and discouraged civilians from regularly visiting provincial authorities and seeking the advice and support of the Government. AGEs have also killed, injured and intimidated civilians working for the Government, including teachers, doctors, nurses and security guards. As a result, basic services, Government outreach and protection for the population have been destabilized and further eroded.

Improvised Explosive Devices (IEDs) and Suicide Attacks

Improvised Explosive Devices

IEDs kill and injure more civilians than any other tactic used in the conflict. Although the Government prohibited the use of ammonium nitrate fertilizer in January 2010, the key ingredient in making IEDs, their use has increased and with it civilian casualties. IEDs accounted for 374 (29 per cent) of the total number of civilian deaths in the first six months of 2010, with incidents in the south accounting for 65 per cent of civilians killed by IEDs. The number of civilians killed country-wide by IEDs increased by 44 per cent from the same period in 2009.

AGEs primarily used IEDs against military objectives but their increased and widespread use has caused increased civilian casualties. IEDs have been placed on roadsides, in bazaar and commercial areas, outside the homes and offices of Government officials, in bicycles and rickshaws. IEDs are detonated in a variety of ways – they can be triggered by remote-controlled IEDs (RCIED), wire-triggered, or by victims (pressure or sensitive-plated IEDs). When detonated, an IED explosion is indiscriminate and affects everyone in the vicinity of the explosion.

UNAMA HR has received reports of IED explosions, often remote-controlled, in busy market areas. On 31 March, an IED, reportedly concealed in a wheelbarrow, exploded in the midst of the weekly Wednesday market in Baba Ji, Lakshar Gah district in Helmand province. A Government delegation that investigated the incident concluded that 24 civilians were killed and 46 injured.

In some instances, IEDs were deliberately placed outside of shops selling music, DVDs and sweets. In Khost city, two separate explosions, reportedly IEDs, occurred against ice-cream shops on 12 and 29 May respectively, injuring 12 civilians, including children.

RCIED incidents documented by UNAMA HR have targeted international military convoys, Afghan National Security Force's (ANSF) personnel and buildings, such as Afghan National Police (ANP) and National Directorate of Security (NDS) headquarters, but have also detonated in crowded civilian places, resulting in more civilians harmed than the intended target. In April, two major incidents involving RCIEDs in Jalalabad city against an international military convoy (placed in a bicycle) and against the head of the investigations unit of NDS (placed in a rickshaw) on 7 and 17 April respectively, resulted in a total of three civilians killed and 21 injured, including six children.

RCIEDs were also used to target high-profile civilians. Two incidents in June illustrate this. On 22 June, the Head of the Public Health Department in Kunduz was killed and three civilians injured when an RCIED detonated at his private clinic. Preliminary investigations suggested that AGEs were behind this attack as the deceased had reportedly refused, on several occasions, to send medical supplies and personnel to treat insurgents injured in clashes with Pro-Government Forces (PGF). On 23 June, an RCIED detonation left the former Deputy Provincial Council member of Behsud district in Nangahar province, and two other civilians, injured. The well-known cleric is also a nominee for the September 2010 parliamentary elections.

AGEs' use of pressure-plated IEDs is of grave concern since these explosives were frequently placed along roadsides used by civilian traffic and vehicles and in commercial areas. Their detonations resulted in indiscriminate explosions that affected civilians through loss of life and injury. The nature of these weapons means they can be triggered by anyone, often civilians, and indiscriminately hit any target.

IEDs were often used effectively to spread fear and to intimidate local populations, restricting their movement and impacting adversely on their livelihoods. While in some cases Taliban warned local communities that IEDs had been planted on a particular road or not to use a certain road, such measures were often inadequate. In Shindand district in Herat province and Pusht Rod district in Farah province, five people were killed and 17 others were injured by an IED in spite of warnings from local Taliban.

> On 28 April, six civilians were killed when their mini bus struck an IED in Daragia area, close to Tani district centre in Khost province. Four other civilians were injured. On 3 May, an IED detonated against a mini bus in Taraki village, Zurmat district in Paktya province, resulting in nine people killed, including two children and 12 others injured, including four children.

Suicide Attacks

In the first six months of 2010, 183 civilians died as a result of suicide attacks, with well over half of all deaths occurring in the southern region (133 civilians killed). This represents 20 per cent of all deaths attributed to AGEs, and 14 per cent of the total 1,271 civilian deaths in this period. These figures reflect an increase of 20 per cent from the same period in 2009 and an increase of 43 per cent from the last half of 2009.

Suicide attacks targeted Government and international military convoys, ANSF and IM Forces' buildings and personnel. Attacks occurred at checkpoints, on busy highways and roads as well as in commercial and residential areas that were often crowded with

civilians. On 18 May, a suicide vehicle-borne IED (SVBIED)[2] detonated close to Darula Anman area in Kabul city targeting an international military convoy. As a result of the explosion, seven civilians were killed and 49 others were injured, including women and children. Six international military personnel were also killed.

Suicide attacks occurred outside hotels, on bridges and in market places – all areas with a heavy civilian presence. Two suicide attacks in the south: one in Dehrawud district in Uruzgan province and one in Kandahar city on 14 January and 4 February respectively took place in crowded areas outside of hotels. As a result of both explosions, at least 23 civilians were killed and 34 injured; the 14 January attack could have been a premature explosion.

Such attacks carried out by Taliban members appear to be in violation of their rules on avoiding civilian casualties set out in the Taliban's 2009 "Code of Conduct." Article 41 states, "..while launching a suicide attack, [we] should try to prevent civilian casualties." Article 46 includes a general order that "[M]ujaheddin must do their best to avoid civilian casualties."[3]

UNAMA HR documented several suicide attacks that targeted Government officials and tribal elders. On 22 February, a young boy detonated his suicide vest targeting a prominent Government tribal leader returning from a meeting with district officials and tribal elders in Nangahar province. As a result, 14 civilians were killed, including the head of Chamtala Disabled Council and the head of Sherzad IDP Council. Twelve others were injured, including the Director of the provincial Returnees and Refugees Department.

The first ever reported suicide attack in Afghanistan that involved a female occurred in Kunar province on 21 June. A female with a body-borne IED (BBIED)[4]detonated against a joint ANP/IM Forces check post on Shultan Bridge in the Shigal wa Shultan district. At least one civilian was killed and 13 civilians were reportedly injured, including nine children. The provincial authorities condemned the attack and distributed compensation to the victims. The Taliban claimed responsibility for the attack.

Although Government and IM Forces were often the targets of attacks, two suicide attacks against private organizations in Kandahar city marked the latest in a series of attacks in and around the city in which civilians and civilian facilities – particularly those linked to the Afghan Government, international organizations and international military – have been deliberately targeted. On 15 April, an SVBIED exploded in a compound hosting several international organizations. As a result, six people were killed and at least 27 were injured. Less than two weeks later, on 27 April, an attack on a compound of a private security company resulted in the deaths of four civilians and injury to 30.

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[2] A suicide vehicle-borne IED is a person driving a vehicle laden with explosives and other ammunition.
[3] Code of Conduct, by the Taliban, 9 May 2009. It was posted in Pashto on the *Shahmat* website on 6 August 2009.
[4] A suicide body-borne IED is a person carrying a suicide vest laden with explosives.

On 9 June, a body-borne IED attack occurred in Masha Kor area of Nagahan village, Arghandab district in Kandahar province at a party in the men's section following a wedding. Reportedly, the attacker was a young man of approximately 18 years. At least 49 people died, including six children, and 106 people were injured, including 14 children. This incident killed more civilians than any other in the southern region in 2010. According to eyewitnesses at the wedding party, the principal target was a commander of the US-supported Local Defense Initiative (LDI) viewed as the most successful LDI program in the south. Approximately three quarters of the casualties were civilians who were not members of any security force or armed group. The Taliban denied responsibility and claimed instead that the incident was caused by an air strike. Such claims from the Taliban are not new and are used to deflect attention and responsibility away from attacks that cause large numbers of civilian casualties.

Complex and Multiple Suicide Attacks

AGEs carried out complex and multiple attacks on a much more frequent basis than at any other time since 2001. In the first two months of 2010, AGEs carried out two complex attacks per month. The number of such attacks has declined since then. Complex attacks included body-borne and vehicle-borne suicide bombers with the use of small arms and grenades. Although the majority of these complex attacks targeted Government buildings (not all of which were legitimate military targets) and international military bases, often with fewer civilian casualties, the attacks nevertheless caused widespread terror and fear among the civilian population. Complex attacks took place in the southern, central and northern regions of Afghanistan.

On 26 February a complex attack comprised of a series of suicide attacks, targeted foreign residences and guesthouses in Kabul city that resulted in the deaths of at least 17 people, including 13 civilians; many of them foreigners. Forty-four civilians were reportedly injured, the majority of whom were Afghans. On 13 March, five attacks took place in Kandahar city: a suicide vehicle-borne improvised explosive device at Sarpoza Prison and the ANP HQ; two body-borne improvised explosive device detonations occurred in the areas of the Red Mosque, Al Jadid and Seman Dorahi. Reportedly, 35 people were killed and 70 injured; a small number of these were ANSF. The Taliban claimed responsibility for both attacks and in a statement issued after the second attack warned International Security Assistance Force in Afghanistan (ISAF) against planning operations in the city.

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

Intimidation Tactics: Abductions, Assassinations, Executions, Illegal Checkpoints and Night Letters

In the first half of 2010, AGEs greatly intensified their intimidation campaign against supporters, or those perceived to be supportive of the Government and the international community. The campaign included abductions,[5] assassinations and executions of civilians and Government officials. UNAMA HR recorded 183 executions and assassinations and 165 incidents of abductions by AGEs[6] in the first six months of 2010. Executions and assassinations increased by more than 95 per cent from the first half of 2009 (14 per cent of all civilians killed by AGEs). Civilians were also harassed and intimidated through the setting up of road blocks, distribution of "night letters" and the use of other intimidation tactics.

AGEs targeted community and tribal elders, Government officials, civilians working for the international military as interpreters, construction workers, and those civilians perceived to be supporting or associated with the Government. They also targeted teachers, health care workers, shop keepers and staff of Afghan and international NGOs. These acts of intimidation and killing are an extremely effective means of spreading fear among communities and exerting control over the civilian population. The tactics also undermine support for the Afghan Government and are facilitated by the Government's frequent inability to protect civilians from such activities and abuses by AGEs.

Abductions

AGEs abducted aid workers, medical and educational employees, labourers, truck drivers, and tribal elders, among others. It is difficult to obtain accurate figures and the number of incidents is often under-reported. Abduction is a sensitive issue and in many cases those involved in negotiations are reluctant to speak out, or are unwilling to talk after release or where abductees were killed.

[5] UNAMA HR does not include the number of abductions in its total number for civilian casualties. If a civilian was killed, the death would have been recorded as an execution/assassination.

UNAMA HR recorded numerous incidents of abduction across the country, especially in the south and the southeast which experienced extremely high rates of abduction in the first half of 2010. In May, in the southeast alone, UNAMA HR recorded 45 cases of abductions by alleged AGEs. Out of this, 14 people were killed, 10 were released, while the fate of the remaining 21 hostages remains unknown, including that of a 12 year old boy. The majority of victims were abducted on the suspicion of spying for the Afghan Government and IM Forces.

Abducted civilians were frequently killed, used to demand a ransom or used as a bargaining tool before release. For example, AGEs demanded the withdrawal of local support for the Afghan Government and the provision of weapons in return for the release of two family members of a pro-Government elder abducted on 14 February in Bilichiragh district in Faryab province. Civilians abducted in Kunar and Laghman provinces in the east in May were often only released after providing assurances they would stop supporting the Government or following the payment of a fine imposed by the Taliban's parallel court. AGEs also abducted civilians at illegal check points they set up.

> On 23 May, 11 pro-Government Zadran tribal elders, who were also members of the Community Development Council, were fired upon by AGEs after being called for a meeting in Sayed Khel Village of Shamal district in Khost province. Five elders were instantly killed, and the remaining six were abducted. One elder was subsequently killed. As of 29 May, the whereabouts of the remaining five elders were unknown according to provincial authorities. Possible motives for the attack included retaliation for the establishment of '*arbaki*', a traditional tribal force to protect local communities used to protect labourers working on the Gardez-Khost road, or the elders' refusal to give AGEs some of the project funds.

Assassinations and Executions

Assassinations and executions by AGEs targeted a greater number and range of civilians in the southeastern and central regions and in particular dramatically rose in the southern region. During the first six months of 2010, AGEs killed at least 183 civilians through these tactics. UNAMA HR also documented several incidents where public executions were held, including of children.

On average there were 7.0 assassinations per week in the first four months of 2010, up from 3.6 per week in the same period in 2009. In May and June alone, AGEs' assassinated on average 18.0 people per week according to the UN Department of Safety and Security-Afghanistan. This included the Barmal District Mayor and the Deputy Mayor of Kandahar. The highest number of assassinations was recorded in the southern region where more than one hundred people were assassinated between January and June 2010.

Although the ANSF remained the predominant target for assassination in the south, it appears more people were abducted and executed on suspicion of spying than previously recorded, including *shura* members, students, mullahs, teachers and tribal

elders.[7] The Taliban frequently attached notes to the bodies of civilians they assassinated warning others of the same fate.

The different versions of the Taliban Code of Conduct have addressed the issue of 'spying.' The 2009 Code of Conduct appears to give more detailed information on how Taliban members should treat suspected spies. It prescribes the death penalty and requires the testimony of two witnesses or a confession when deciding on the sentence.[8]

Targeted assassinations of civilians included district governors, *shura* members, religious elders, members, teachers, off-duty ANSF personnel, tribal elders as well as students, truck drivers, doctors, construction workers and those working for the provincial authorities, international military and international organizations.

At least four civilians were killed during prayers in a Mosque. When entering places of worship, people must leave their weapons at the door, and are therefore unarmed and unable to protect themselves.

On 18 February, a tribal leader from Dand district in Kandahar province was killed while praying in a mosque. On 9 April, a district *shura* member was killed in a mosque in Zhari district in Kandahar province. On 19 April, the Kandahar city deputy mayor was killed in a mosque. On 21 May, a mullah from Tere Zayi district in Khost province was killed while praying in a mosque.

Assassinations in Kandahar

Since the beginning of the year, AGEs, especially the Taliban, conducted a systematic and targeted assassination campaign in Kandahar. During June, 37 individuals were killed and four were injured by AGEs across Kandahar province, the majority of them civilians. The campaign intensified when ISAF announced the Kandahar operation early in the year, with its activities under *Hamkari Baraye Kandahar* (Cooperation for Kandahar). AGEs systematically targeted key civilian leaders, such as tribal and community elders, provincial officials, and aid workers, among others, who supported or were believed to support the Afghan Government and IM Forces.

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[7] UNAMA HR is concerned that documents from the Wikileaks website that reveal personal and other details regarding Afghans who assisted the Government and/or the International Military Forces places them in immediate harm from retaliatory actions by AGEs. UNAMA HR ensures that all of its sources are kept confidential.

[8] The Taliban's "Guidelines for Mujahidin" or *Layeha* first appeared in November 2006 and were updated and published in May 2009. The third edition of the Taliban "Code of Conduct" appeared in June 2010. UNAMA HR is currently translating the 2010 document for further analysis.

UNAMA HR documented 12 civilians assassinated by AGEs in Kandahar province in the first six months of 2010. The victims ranged from civilians in high-profile public positions to civil servants, *shura* members and others. On 2 February, a prominent pro-Government Shi'ite leader and a close associate of Ahmed Wali Karzai were killed in Kandahar city. On 24 February, the Director of the Information and Culture Department of the province, the Head of the Literature Faculty at Kandahar University, and the brother of the Arghistan district chief of police were killed in the city. On 19 April, the deputy mayor of Kandahar was killed while praying in a mosque. The Taliban claimed responsibility for this killing. On 21 April, the Head of the Agricultural Cooperative was killed in District Three of Kandahar city. On 12 May, the deputy prison administrator of Sarpoza prison was killed after he left his house for work. On 15 June, a member of the Shah Wali Kot *shura* was assassinated in the city.

Targeted assassinations of civilian provincial authorities

AGEs targeted provincial officials through killings, IEDs and abductions across the country. This included targeting a number of provincial and deputy Governors. On 7 January, the Deputy Governor of Khost was injured by an IED explosion in his office. An attack against the District Governor of Chisht Sharif district in Herat province killed him and six other civilians on 17 January. On 15 June, the acting District Governor of Sayadabad district in Wardak province was abducted reportedly by AGEs and later beheaded. On 15 June the District Governor of Arghandab in Kandahar province was killed by a VBIED that detonated against his vehicle.

Illegal Checkpoints

In some cases, AGEs dressed in ANSF uniforms, established illegal checkpoints and stopped civilian vehicles. They harassed passengers and in some cases killed them if they were found to be working for the Afghan Government or IM Forces. In the southeastern region during May, AGEs, dressed in ANSF uniforms, stopped vehicles and accused passengers of being 'AGE sympathizers' and killed those who showed identity cards from the Government or IM Forces.

On 15 May, the Taliban stopped six passengers at an illegal checkpoint in Spina Payela village, Terezai district in Khost province. The passengers were part of a wedding party traveling back from Pakistan. To determine whether the passengers were working for the Afghan Government or IM Forces, the Taliban, without identifying themselves, accused the passengers of being AGE sympathizers. To refute these allegations the passengers produced their work identity cards. Two passengers were released, and the remaining four, including the groom, were killed. Reportedly, the groom was a translator for the IM Forces and the other victims had been working with the Afghan Government and/or private security companies. The Taliban accused the victims of spying and claimed responsibility for the incident.

Illegal checkpoints established by AGEs were reported in the southern, southeastern, eastern and central regions of Afghanistan. AGEs used the checkpoints to extort money from civilians and also as tools in their systematic campaign of intimidation of targeting

civilians working for the Afghan Government and the IM forces. Civilians stopped at illegal checkpoints were harassed, intimidated, and in some cases abducted or killed. These checkpoints also severely restricted civilians' freedom of movement.

Night letters

Night letters, distributed countrywide by AGEs were often placed in public areas, including at mosques and Government buildings, warning communities to stay away from the Afghan Government and IM Forces. Night letters warned entire communities not to send their daughters to school, not to let their sons join the ANSF, and called on teachers and Government employees to stop working. In May, AGEs distributed night letters in Logar, Kunar, Badakshan and Balk provinces warning people not to collaborate with provincial authorities or the international community and to leave the ANSF. The letters also disseminated anti-female education messages and warned people that failure to comply with the warning would lead to retribution.

Attacks on Women and Children[9]

IEDs and suicide attacks by AGEs caused the most women and children casualties in the first half of 2010.

UNAMA HR recorded 39 women and 74 child deaths as a result of both IED explosions and suicide attacks in the first half of 2010. This is a 44 per cent increase in deaths of women and 155 per cent increase in child deaths compared to the same period in 2009.[10] On 6 January, an explosive device detonated in a crowd where children had surrounded an international military/ANP convoy in the Hisarak Mazina area of Rodat district in Nangahar province, killing four children and injuring 68 others. Fifty-six of those injured were school children. The home-made explosive device was reportedly filled with shrapnel and other sharp objects (nails, glass, screws).

Civilian vehicles hit by IEDs placed on roadsides frequently caused women and child casualties. Of great concern were IEDs placed in busy market or bazaar areas, in some cases attached to bicycles, or placed next to organizations and facilities, such as parks, frequented by women and children.

> On 28 February, at least 12 civilians, including three women and two children were killed and three women and two children were injured when their vehicle hit an IED as they were traveling through Khuja Jamal area, Nawzad district in Helmand province. On 4 April, several members of the same family, including three women and a one year old baby were killed and two teenage-boys and a three year old girl injured in Ghazni district in Ghazni province when their vehicle struck an IED near a police check-post.

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[9] In August 2010, the Special Representative of the Secretary-General (SRSG) on Children in Armed Conflict will publish an Annual Report on violations committed against children in the armed conflict in Afghanistan. UNAMA HR used the incidents relayed in this report to illustrate concerns about children affected by the armed conflict. For more in-depth reporting on child rights violations in the armed conflict in Afghanistan, please see the upcoming report of the SRSG on Children in Armed Conflict.

[10] According to the Mine Action Coordination Center of Afghanistan (MACCA), 301 civilians were victims of mines and unexploded remnants of war in the first six months of 2010. 185 of the casualties were children.

An alarming issue was the extrajudicial killing of children by AGEs on the suspicion of spying for the Government. UNAMA HR documented four separate cases where AGEs reportedly executed children soon after they were abducted on allegations of spying. On 8 March, a 17 year old student was taken at night allegedly by the Taliban from his home in Shekhyasin village, Chack district in Wardak province. His body was found the following morning. The Taliban had reportedly accused him of being part of the Afghan Government. On 29 June, a 12 year old boy was publicly executed allegedly by AGEs in the district centre of Waghaz in Ghazni province. The motive for killing the boy is unknown. On 10 June, a seven year old boy was publicly hanged in Sanjin district in Helmand province reportedly by the Taliban. Although tribal tensions may have been a factor, the Taliban had accused the boy of spying for the Government.

The impact of the conflict continued to have more serious consequences for women and children; access to basic services, such as health and education were adversely affected. Doctors and medical practitioners, including vaccinators, were killed and abducted by AGEs. These attacks affected not only the quality of services available to Afghans in need, but also affected access to medical care. AGEs attacked educational facilities, and harassed and intimidated teachers and students. As a result, schools were destroyed or closed either on a semi-permanent or temporary basis, denying educational opportunities for thousands of children, particularly in the southern, southeastern, northern and central regions. The United Nations Human Rights Council adopted a resolution[11] in July 2010 that condemned attacks against schools and students, especially against girl students in Afghanistan.

Night letters, disseminated by AGEs warning teachers and pupils not to attend schools were distributed in the southern, southeastern, central and northern regions of Afghanistan. On 29 February, the head of a girl's school in Pul-i-Khumri, the provincial capital of Baghlan, received threat letters, allegedly from the Taliban, warning her to close the school otherwise her children would be killed. UNAMA HR has documented cases where IEDs were placed on routes used, particularly by female students, to walk to school, resulting in casualties.

Accountability

AGEs operate with impunity in Afghanistan. UNAMA HR observes that while the Taliban have made public commitments to avoid civilian casualties, including those found in several provisions of the 2009 Taliban Code of Conduct, no information exists on whether and how Taliban commanders have ensured effective implementation of these provisions on the ground. Based on UNAMA HR's documentation regarding increased civilian casualties attributed to the Taliban, it appears that the Taliban's public commitments to avoid civilian death and injury have not been respected.

The Afghan Government often fails in its duty to investigate, arrest and punish perpetrators, including any member of an AGE, for violations under domestic criminal laws, international humanitarian law or applicable human rights law. The weak and under-resourced judicial system in Afghanistan often cannot ensure fair trial standards for accused persons or justice for victims. With the current focus on reconciliation and reintegration between the Government and those Taliban who renounce violence and

[11] The resolution is a joint Afghanistan-US resolution. It was adopted by consensus. The resolution was announced in a UN press release issued on 26 July 2010.

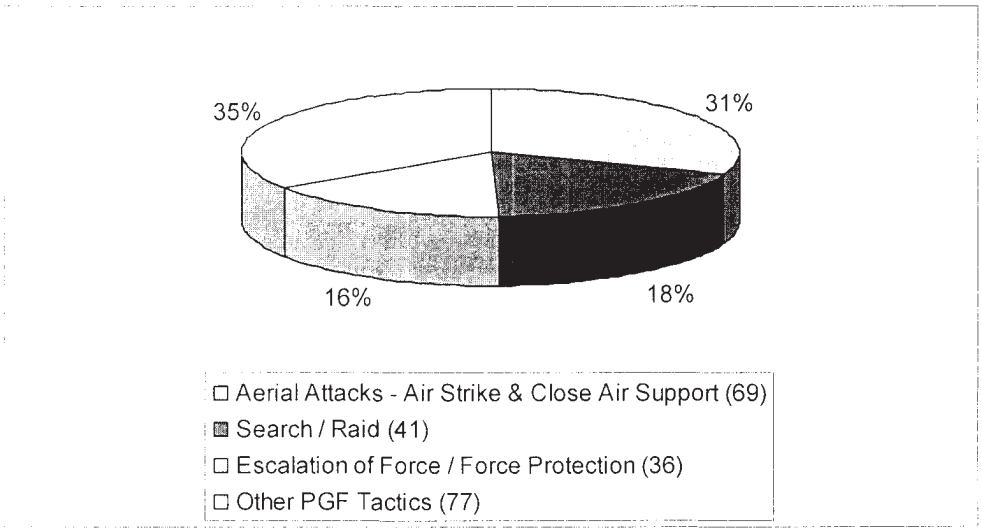
respect the Constitution, the Government risks further entrenching the state of impunity by providing amnesty and reintegration for those who may have committed serious crimes during the conflict. At the same time, such actions also risk weakening protection for civilians and deepening both the protection and accountability gap that currently exists in Afghanistan.

PRO-GOVERNMENT FORCES AND PROTECTION OF CIVILIANS

Overview

Between January and June 2010, 386 civilian casualties (deaths and injuries) were attributed to Pro-Government Forces (PGF). UNAMA Human Rights (HR) recorded 223 civilian deaths and 163 civilian injuries. These figures represent a decrease of 29 per cent in civilian deaths caused by PGF from the same period in 2009. For the first half of 2010, UNAMA HR recorded 69 civilian deaths as a result of air strikes (31 per cent of the 223 civilian deaths by PGF), 41 deaths occurred during search and seizure operations, mainly night raids (18 per cent of total civilian deaths from PGF) and 36 deaths were attributed to escalation of force incidents (16 per cent of total deaths caused by PGF). UNAMA HR recorded 42 female civilian deaths and 25 injuries, and 51 child deaths and 26 injuries by PGF for the first six months of 2010. This is a decrease of 42 per cent in deaths of women and a 50 per cent decrease in child deaths by PGF compared to the same period in 2009.

Recorded PGF – attributed civilian deaths in the first six months of 2010 by incident type



ISAF's counterinsurgency guidelines, tactical directives and the Commander of ISAF (COMISAF)'s numerous statements directing troops to reduce civilian casualties appear to have produced a decrease in civilian deaths and injuries from January to June 2010. UNAMA HR notes, however, that civilians (in lower numbers) continued to be killed, injured, arbitrarily detained and their property damaged or destroyed as a result of some operations of International Military and Afghan National Security Forces (ANSF).

Efforts of international military forces to reduce civilian casualties began in 2008 with tactical directives in September and December of that year and in July 2009 with a directive restricting aerial attacks.[12] The overall reduction in civilian casualties mainly

[12] On 04 August 2010, the Commander of ISAF issued an updated Tactical Directive that provides guidance and intent for the "disciplined use of force" in support of ISAF and US Forces-Afghanistan operations. The

from air strikes (the tactic that results in the largest number of civilian casualties by international forces) suggests that decisions by international military troops prevented an increase in civilian casualties even as large numbers of additional troops entered Afghanistan in 2010. The International Security Assistance Force (ISAF) took further measures in 2010 to minimize the impact of international military operations on civilians by introducing two directives that apply to ISAF and US forces Afghanistan (USFOR-A): the 23 January 2010 Tactical Directive on night raids and a review of Standard Operating Procedures on Escalation of Force incidents first published on 19 February 2010 and updated on 19 April 2010.

UNAMA HR has observed that from at least mid-July 2009 through to June 2010 incidents in which air attacks on residential compounds have caused mass civilian casualties were rare. This suggests that adherence by international forces to restrictions on targeting residential compounds likely prevented mass casualty incidents.

According to media reports, COMISAF brought the majority of US Special Forces under its command in March 2010 reportedly to ensure greater integration and coordination of military operations. UNAMA HR often finds it difficult to verify whether Special Forces were involved in particular operations, as many witnesses and victims do not know the difference between regular international military and Special Forces. In addition, most operations involving Special Forces are not publicized and no, or limited, information is made available to civilians in response to requests for information on their operations.

Excessive force, ill-treatment and deaths and injury to civilians have occurred in some cases involving Special Forces that UNAMA HR has investigated. A 12 February night raid in Gardez city, in which five civilians were killed, and a 21 February air strike in Uruzgan province, where at least 21 civilians were killed were illustrative of incidents involving Special Forces (see boxes below). UNAMA HR welcomes the move to better integrate certain elements of US Special Forces into ISAF's chain of command. However, more information on how many forces and which units from the Special Forces, including forces that are part of Operation Enduring Freedom, have been brought under COMISAF could provide greater transparency and accountability for civilian casualties that occur as a result of Special Forces' operations.

Location of Military Facilities

As raised in its previous reports, UNAMA HR remains concerned about the proximity of military bases and checkpoints to civilian areas. UNAMA HR has documented numerous incidents where AGEs have attacked ANSF/IM forces observation posts, bases and outposts in towns and residential areas, including through the use of ground engagement, mortar and rocket attacks. Often mortars do not hit their intended target and have killed and injured civilians and damaged civilian property. Retaliatory actions

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updated Directive replaces the July 2009 Directive. The ISAF press release announcing the issuance of the new Directive states, "While stressing the importance of our efforts to minimize loss of innocent civilian life on our operation, it also stresses the right and obligation of our troops to defend themselves and the coalition and Afghan forces with whom we serve shoulder to shoulder." An unclassified portion of the Directive notes, "We {ISAF} must continue-indeed, redouble-our efforts to reduce the loss of innocent civilian life to an absolute minimum. Every Afghan civilian death diminishes our cause. If we use excessive force or operate contrary to our counterinsurgency principles, tactical victories may prove to be strategic setbacks." "ISAF Commander Issues Updated Tactical Directive", News Release by ISAF, 04 August, 2010.

by ANSF/IM forces, through the use of artillery on suspected AGE locations, often have the same consequences.

UNAMA HR documented numerous incidents during *Operation Moshtarak* in Marja and Nad Ali districts in Helmand province where checkpoints established by IM Forces hindered the movement of people, particularly those who were injured and seeking medical assistance. After combat operations had finished, Government and IM Forces continued to locate in residential areas putting civilians at increasing risk from Taliban attacks. COMISAF's Guidance for Counter Insurgency (COIN) operations incorporates a population-centric approach predicated on support from the Afghan people by ensuring a safe and secure environment to enable development. By locating military bases in or near residential areas particularly in conflict affected areas, IM Forces may be putting civilians at heightened risk. In such areas Afghan civilians face not only the risk of often disproportionate and indiscriminate attacks by AGEs, but also death and injury from mortar and rocket attacks fired by IM Forces that mistakenly fall short of their target and hit residential compounds.

Large- Scale Military Operations

Operation Moshtarak in Helmand Province

Conflict-affected communities have reported to UNAMA HR that large-scale military operations remain deeply unpopular as they are believed to result in further insecurity and less protection for the area and its inhabitants. For example, *Operation Moshtarak* in Nad Ali and Marja districts in Helmand province, launched in February 2010 by PGF, has not resulted in increased protection for the local population. As of June 23, UNAMA HR recorded at least 74 civilians killed in Marja. 29 civilian deaths were linked to PGF, 32 civilians were attributed to AGEs with 13 civilian deaths caused by unknown actors. Civilians were killed and injured through the use of IEDs, air strikes, raids and force protection incidents during the 13-24 February operation in Marja. According to UNHCR, as of 13 June, 3,719 families were displaced by the conflict.

Since the completion of major combat operations in Marja, the Taliban's violent intimidation of civilians has become the defining protection concern in the area. The Taliban have carried out abductions, assassinations and executions against civilians. Those targeted have included local residents, teachers, civilians attempting to play a political role in the area, persons accused of spying for the IM Forces, Afghan constructors and civilians accepting assistance from the Government and international community. Provincial authorities have failed to achieve an effective presence in the area due to the violence and the continuing Taliban intimidation campaign.

Numerous civilians were killed in intimidation incidents since the end of combat operations in late February to the end of June. As a result, many persons displaced from the area were reluctant to return and the pace of return has been very slow. The continued violence carried out by the Taliban in Marja, coupled with their repeated and increased use of IEDs and mines, has seriously affected civilians' daily lives. Civilians in the area have limited ability to freely move, children have been denied access to

education[13] as the majority of schools were closed, and participation in development projects has been very difficult.

Operation Hamkari in Kandahar

Operation Hamkari[14] in Kandahar province is according to a May 2010 article by the NATO Secretary-General,[15] a campaign "to change the political situation, to gradually enhance security, to strengthen governance and to expand the Government's authority in key areas of insurgent influence" in Kandahar province. The objective of the first phase is to create a security ring protection force ("Ring of Steel") of ANSF checkpoints to control all access points to Kandahar city. ANSF activities would also focus on the outlying districts, such as Zhari, Arghandab, and Panjwai, supported by IM Forces with the reported intent to avoid combat operations as much as possible.Afghan and IM Forces launched the second phase of *Operation Hamkari* on 21 July with low-level operations in Arghandab district.

Many local elders from the surrounding districts of Kandahar city, whom UNAMA HR met with expressed strong opposition to the impending military activity by PGF. The elders claimed that such operations would not protect their communities from the Taliban or improve the security environment for civilians, but rather exacerbate the already insecure conditions in their districts. Local elders reported that in their view any impending military activities would fail to stop Taliban activity in the area, result in greater civilian casualties and destroy their homes and crops. They were especially concerned about what they believe is the inability of IM Forces to distinguish between Taliban and civilians (even with the IM Forces' use of biometrics) and the Taliban's persistent use of civilians as human shields, its "guerilla warfare" and increased use of IEDs and mines. Elders also expressed concerns about IM Forces' lack of cultural awareness when conducting operations, the destruction of property and loss of livelihoods, in particular of their harvest that would result from military operations. Elders stressed that ISAF's publication of its plans to launch the military operation caused the Taliban to plant more IEDs and intensify their campaign of intimidation against pro-Government figures.

Elders also reported that although numerous *shuras* were held between the provincial authorities, IM Forces and affected communities to discuss impending operations in Kandahar these meetings were "photo opportunities" at which the elders' concerns and suggestions were not taken seriously. As one elder from Panjwayi district told UNAMA HR, *".. there are far too many 'meetings in name.' ISAF and the Government ignore what we say, because we are from the districts..[T]his is not true, and it is insulting...[t]here are too often photographers and television cameras at these meetings. In Pakistan, of course, the Taliban can watch television, see me sitting with the governor and decide to kill me. So, when there is a 'meeting in name,' first I risk my life, and then I am insulted."*

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[13] According to a number of UNAMA sources only one school has reopened in the town since the end of major combat operations on 25 February 2010.

[14] *Operation Hamkari* (Cooperation) is led by the Afghan Government and the Afghan National Security Forces (ANSF) and supported by ISAF. It is a series of events that aim to enhance stability and security in Kandahar city and its outlying districts. It is divided into three phases. Phase One is increased security within Kandahar City, which is ongoing; Phase Two is the clearance of Arghandab district until approximately 10 August 2010 and Phase Three is the clearance of Panjwei and Zhari districts, which is expected to begin after the September 18 elections. Information about *Operation Hamkari* comes solely from UNAMA sources.

[15] "The Taliban is Hitting, but not Winning," Anders Fogh Rasmussen, New York Times, 24 May 2010.

UNAMA HR has documented that since the announcement of the military campaign early in 2010, civilians in Kandahar city and its surrounding districts have experienced high levels of assassinations, attacks, threats and intimidation by AGEs. Civilians have often been the target or borne the brunt of the AGEs response. The publicization of the operation and any impending military activities appears to have increased Taliban activity in Kandahar as more civilians were killed in the region in the first six months of 2010 than in any other region, particularly through the use of IEDs, suicide attacks, assassinations and abductions.

Search and Seizure Operations/Night Raids

"*I sympathize even with my enemies when this happens to them.*"
UNAMA HR interview with a local elder from Arghandab district in Kandahar province who was involved in a night raid, April 2010.

Concerns of Civilians

UNAMA HR has spoken to many Afghan civilians about the impact that search and seizure operations, most particularly night raids, have on their communities and how these incidents cause extreme anger, mistrust and resentment towards the international community. Concerns around night raids are not new, and debate has not often focused on the need or reason for night searches, but rather on how night raids are conducted, and the frequency of civilian casualties as a result. According to the January 2010 Tactical Directive, the ANSF should take the lead on all raids whenever possible. Special Forces also carry out night raids with other armed pro-Government groups. UNAMA HR notes that the number of night raids that result in civilian casualties is likely higher than UNAMA HR has been able to document given the overall lack of information and transparency around night raids.

UNAMA HR documented 13 night raids in the first six months of 2010, resulting in 41 civilians killed and eight injured, as compared to 26 night raids in the same period of 2009 that resulted in 75 civilians killed and 29 injured. This figure represents a decrease of 45 per cent of civilian deaths by PGF in night raids. Civilians were often arbitrarily detained and property damaged or destroyed as a consequence of these raids.

Many affected communities reported to UNAMA HR that the lack of transparency and accountability of those conducting night raids is a huge concern for them. Communities' concerns included the inability to distinguish and determine which forces conducted the raid, lack of effective investigation and prosecution for abuses that occurred during a raid, lack of information regarding the location of detainees, lack of access to medical treatment for persons injured during a raid and the inability to receive compensation for loss of life, injury and destruction to property. Many communities informed UNAMA HR that they are often turned away from bases, ignored or repeatedly told information is forthcoming with no further follow up when seeking redress from IM Forces. Communities also reported a continuing lack of cultural awareness and sensitivity on the part of certain troops involved in raids regarding invasion of people's homes, especially at night, particularly the searching of women's quarters by men and violating the honour of women and the reputation and future of the entire family. Communities' also expressed concerns that inaccurate intelligence was often used as a basis to search premises contributing to increased and unwarranted civilian casualties.

January 2010 Tactical Directive

COMISAF has recognized that night raids have galvanized communities to express their grievances against IM forces more than other tactic used by PFG. The Tactical Directive issued in January 2010 attempts to address some of these concerns and applies to all ISAF and USFOR-A troops. UNAMA HR notes that the number of night raids it has documented that resulted in civilian casualties has decreased which could be attributed to implementation of the Tactical Directive. The Directive states "the first and most preferable course of action is to explore all other feasible options before effecting a night raid that targets compounds and residences", to have Afghans in the lead where possible and coordinate the operations "with Afghan [G]overnment officials, ANSF and local elders whenever possible."[16] ANSF are required to be included in all night raids and in the planning process at the earliest possible time with notice to Afghan Government representatives prior to the start of any night operation.

In the first half of 2010, in spite of the issuance of the Tactical Directive and a subsequent reduction in civilian casualties during night raids, UNAMA HR documented similar patterns of abuse during some raids: excessive and often indiscriminate use of force against occupants of a house, including women and children; destruction of property and theft of goods. In some cases, UNAMA HR documented allegations of mistreatment and abusive conduct towards women and children. Abuses have reportedly continued to occur, even with ANSF presence, and in some instances as a direct result of their activity.

In addition, due to the lack of transparency around night raids, communities and others often did not know whether local elders were consulted and whether viable alternate options, such as cordoning off the target until daybreak, were considered. There was no follow-up on whether the raid produced results (such as yielding useful information/intelligence, or capture of insurgents and weapons). This lack of transparency continued to fuel anger and resentment toward PGF among affected communities and the Afghan public.

The Tactical Directive also contains a procedure for tracking persons detained during a night raid through a form that gives contact details on how the family can follow up with IM Forces on detention and return or compensation for any property seized or damaged. The form includes a section on the reason for detention. UNAMA HR has obtained copies of two completed forms from two separate night raids that do not provide contact details of IM Forces for follow up. One of the forms specified the property damaged and seized but failed to provide contact information for follow up. The second form detailed information about one person detained but did not give any contact details for the family to find out the detainee's location.

> On 12 February, IM Forces, reportedly US Special Forces, jointly with Afghan armed groups conducted a night raid against a private house in Khataba village of Gardez centre in Paktya province. At the time a large group of people were present to participate in a family celebration. As a result of the operation, five civilians belonging to the same family were killed, including two brothers, one an ANP Intelligence Officer in Zurmat district and the other a prosecutor in Ahmad Abad district. Three women were killed, two of whom were pregnant. Four were injured, including a 15 year old boy and eight others were detained.

[16] "ISAF issues guidance on night raids in Afghanistan," Press Release by ISAF, 5 March 2010.

UNAMA HR's investigations of this incident revealed that US and Afghan forces physically assaulted and injured, restrained and forced those who were in the house to stand in the cold with bare feet for several hours. According to witnesses, two people later died from injuries sustained during the raid caused by the US and Afghan forces' failure to provide adequate and timely medical support. On the same day, hours later, the bodies of the five persons killed were carried through Gardez town in protest, with the demonstrators calling on the provincial authorities to resign as they were unable to prevent the deaths of civilians. A Ministry of Interior and ISAF press release on 12 February stated that a joint investigation was underway. To date, since the family insists on the perpetrators being brought to trial, they have rejected compensation from ISAF but accepted compensation from the Afghan Government for injuries sustained by victims. UNAMA HR is aware that ISAF conducted a further investigation into the allegations of abuse however the findings and results of the investigation have not been made public.

While night raids are conducted mainly to detain those actively involved in the conflict, UNAMA HR has documented that PGF also detained many other Afghan males during some of these operations. These detentions can result from misinformation, poor sourcing or a desire for revenge on the part of other families. UNAMA HR documented a number of incidents where ANSF and IM Forces had detained men ranging from several days to years, without the detainees knowing the evidence against them and being unable to effectively challenge their detention.

Demonstrations against Night Raids

Night searches have hit such a discord with Afghan communities that demonstrations were often held following such operations even when those killed or detained were AGEs. Demonstrations occurred in the southern, southeastern, central and eastern regions of Afghanistan. Reportedly, AGEs have manipulated some of these demonstrations, particularly in the south. Some demonstrations have resulted in civilians killed and injured due to excessive use of force by the ANSF. A joint search operation, led by the ANSF, in Garmsir district in Helmand province sparked a series of demonstrations in the area due to an allegation that a copy of the holy Quran was desecrated and an allegation that a girl was sexually abused (later reported to be unfounded). Reportedly, the demonstrations, instigated by AGEs, turned violent and in the first demonstration on 12 January, ANSF killed eight civilians and injured16 others. In the second demonstration on 13 January, international military and Afghan forces injured five civilians. Many other demonstrations held across the country have called for the Government to end night raids and bring perpetrators of abuses to justice.

> In Asmar district in Kunar province, the community held demonstrations following a night raid reportedly by US Special Forces on 13 March in which three civilians were killed. A night raid on 25 April that resulted in three people killed and two arrested in Nasir village in Logar province prompted demonstrations the following day. In both raids suspected AGEs were killed. On 28 April, a relative of a female Member of Parliament was killed during a night raid at her house in Nangarhar province, resulting in demonstrations the following morning where protestors chanted anti-American slogans. The raid was condemned in the Wolesi Jirga.

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

Escalation of Force

An Escalation of Force (EoF) incident occurs when the driver of a vehicle fails to stop after PGF give a series of signals to stop, resulting in the death and injury of civilians. UNAMA HR recorded 36 civilians killed and 36 injured during the first six months of 2010 from EoF incidents. This is 16 per cent of the total number of civilian deaths caused by PGF and represents an increase of 125 per cent in the number of civilian deaths during EoF incidents compared to the first half of 2009.

Civilian casualties and concern from communities on force protection incidents prompted IM Forces in February 2010 to review their procedures on EoF (Standard Operating Procedure 373) that are part of a campaign to end civilian casualties caused by EoF incidents. The updated SoPs were first published on 19 February and later updated on 19 April. The SoPs provide guidance on EoF incidents and how ISAF should respond to situations in a proportionate manner. The SoP provides a framework for the use of force within the authorized rules of engagement. The guidelines instruct troops to ensure efforts are made to control a situation without force; to 'tailor' procedures to the local environment by consulting local Afghan leaders; whenever possible to remain at the scene of any convoy shootings; to find ways to de-escalate the situation; and to take responsibility for their actions.

Many EoF incidents occured because drivers did not seem to understand, or ignored signals or were not aware of the signals or because IM Forces gave ambiguous signals. Although ISAF has embarked on numerous public awareness campaigns to publicize EoF signals across the country, civilians continued to be killed and injured.

UNAMA HR notes that many EoF incidents adversely affected families, children and passengers in civilian vehicles. UNAMA HR documented five children killed and one injured as a result of EoF incidents. On 10 May, IM Forces, traveling in a convoy, killed a two-year old child in Zardad Ghund area in Logar province, while the family was traveling to Kabul. On 19 April one child and four civilians were killed when their vehicle reportedly got too close to an IM Forces' convoy in Gurbuz district in Khost province.

On 12 April, IM Forces, engaged in a routine clearance patrol, fired at a bus killing four civilians, including one female teenager, and injuring 18 others in the Senzerai area in Zhari district in Kandahar province. Conflicting reports were released regarding the precise position of the bus at the time of the shooting and whether warning signals were given. ISAF immediately accepted responsibility for the incident on 12 April and according to an ISAF Joint Command statement on the same date, a joint ANSF and ISAF incident assessment team were sent to review the events. According to ISAF a report was published but it has not been made available to UNAMA HR. ISAF reported that measures taken to prevent future incidents included re-emphasis on the 2 July 2009 Tactical Directive to minimize the impact of the conflict on civilians, a broader public information campaign to make the public aware of and understand EoF signals and increased use of non-lethal measures.

Action taken by IM Forces to investigate EoF cases has not been consistent, leaving many victims or affected families reporting confusion, outrage and resentment. In a rare development, a military prosecutor opened an investigation into an EoF case on 28 March involving the killing of one person and the injury of two, including a child, at an Afghan National Army (ANA) checkpoint in Guzara district in Herat province. In early July, an ANA soldier involved in the incident was sentenced to 20 years in prison.

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

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

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

Aerial attacks

UNAMA HR documented 22 incidents of air strikes that resulted in 114 civilian casualties (69 civilians killed and 45 injured) in the first six months of 2010.[17] This is a sharp decline from the same period in 2009, in which 191 civilians were killed and 97 injured. These figures represent a significant decrease of 64 per cent of civilian deaths caused by air strikes since the first half of 2009. Although UNAMA HR documented very few civilian casualties caused by air attacks, there was a spike in civilian casualties in February and

[17] UNAMA HR records and analyzes only those air strikes that cause civilian casualties and does not track the total number of air strikes in any given period.

a smaller increase in June as numerous aerial attacks were carried out in the south and east against suspected AGEs. The southern region recorded the largest number of civilian deaths (39) by aerial attacks, with the eastern region recording the second highest total of 22 civilian deaths. While the number of air strikes that resulted in civilian deaths and injuries was low compared to the overall number of aerial attacks, when casualties do occur they result in a larger number of civilian deaths than any other tactic used by PGF.

> On 18 June, air strikes were launched against suspected AGE hideouts in Pirai and Kohsin areas of Paktya province, close to Musa Khel district in Khost province. On hearing the air strike a family, based in Musa Khel, evacuated their house and sheltered under a tree. The air strike hit them and killed the mother and five children, all under 12 years, and injured one 13 year old boy. In a statement, ISAF said they were reviewing the "operational details of the engagement." In spite of requests to ISAF, UNAMA HR has been unable to obtain information about the outcome of this review.

In its earlier reports on protection of civilians, UNAMA HR raised numerous concerns about civilian casualties from air strikes and aerial bombardment by PGF. COMISAF attempted to address these concerns through the July 2009 Tactical Directive, that stipulated when and how aerial attacks should be conducted and the criteria used to base decisions. Since then, UNAMA HR has documented a noticeable reduction in the number of civilian deaths and injuries from air strikes and urges COMISAF to fully implement the updated Tactical Directive of 4 August 2010 on restriction of air strikes. Increased transparency on investigations and accountability for any civilian casualties caused by air strikes would also strengthen civilian protection.

> UNAMA HR documented three air strikes by IM Forces against suspected AGE locations in Kunar province that resulted in 18 women and child casualties. On 11 February, an air strike by IM Forces against suspected AGE locations in Korangel area, Manogay district reportedly killed four women while they were collecting wood in the early morning. In spite of UNAMA HR's queries to the ISAF regional command, it is unclear whether ISAF investigated the incident.
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> On 16 February, an air strike by IM Forces against suspected AGE bases in the Shultan Valley, Shigal district reportedly killed a family of seven, including five children, who were crossing into Afghanistan as refugees from Pakistan. In response to UNAMA HR's queries, ISAF stated that guided bombs were dropped on a group of 10 insurgents in a known infiltration route from Pakistan in accordance with ISAF's rules of engagement, that all 10 were killed and that there were no civilian casualties. It is unclear whether ISAF's statement was the result of an investigation into the incident.
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> Between 27 and 28 June, during a joint ANSF and IM Forces operation against AGEs in Murwara district in Kunar province, IM Forces conducted an air strike against suspected AGEs firing from the vicinity of, or in, a residential compound. The air strike reportedly killed five civilians, including three children and injured two women and three children. An ISAF statement released on 27 June stated "the combined force has taken precautions to prevent collateral damage, and ISAF has no reports of injuries to civilians." ISAF told UNAMA HR that a lead investigating officer had traveled to the region but had not completed the investigation report.

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

In the conduct of military operations, constant care must be taken to spare the civilian population and civilian objects. Armed forces must take all feasible precautions to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects. They must also take all feasible precautions in the choice of means and methods of warfare with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects.

Under international humanitarian law, parties must do everything feasible to assess whether any attack may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated. Finally, the warring parties must give effective advance warning of attacks which may affect the civilian population, unless circumstances do not permit.

Compensation for Deaths, Injuries and Property Damage

Since 2008, protection actors, including the former UN High Commissioner for Human Rights Louise Arbour during her visit to Afghanistan in 2007, have called on ISAF and NATO to put in place a uniform compensation system for civilians who have suffered personal and property loss during combat operations. On 26 February 2010, NATO missions and additional missions participating in ISAF carried out a policy review of non-binding guidelines describing appropriate compensation practices. The objective was to streamline compensation practices among ISAF troop contributing nations (TCNs), which have been *ad hoc* and inadequate as different countries had different processes and methods of payment.

On 11 June, the North Atlantic Council adopted these guidelines.[18] The focus of the guidelines is on TCNs' prompt acknowledgment of civilian casualties or damage to property during combat. The guidelines require troops to investigate possible cases of civilian casualties or damage to property and provide information to the ISAF Civilian Casualty Tracking Cell;[19] and to proactively offer assistance for individual or community harm, ensuring transparency and accountability in the process. The timely and effective implementation of the guidelines should remain high on the agenda of both COMISAF and troop contributing countries.

[18] On 6 August, 2010 the non-binding guidelines are to be published on the NATO website.
[19] The Civilian Casualties Tracking Cell was created in September 2008 in ISAF. UNAMA HR has been informed that the Civilian Casualties Tracking Cell is currently reviewing its activities.

Response of the Government of Afghanistan to Civilian Casualties

Civilian casualties and the impact on civilians of military operations by PGF and AGEs remain a critical issue for Afghan civilians and the Afghan Government. President Karzai has continuously called on IM Forces to end night raids, aerial bombardments and for transfer of control of detention facilities to the Afghan Government. During the opening of Parliament in February 2010, President Karzai stated that NATO must do more to prevent civilian casualties, but acknowledged that progress had been made in reducing civilian casualties, particularly those caused by aerial bombardment. In his visit to the US in May 2010, President Karzai again called for ending night raids. The final communiqué from the July 20 Kabul International Conference stated ".. civilian casualties and protection of civilians are of great concern and noted that most civilian casualties are caused by insurgent attacks. Participants regretted the death of every Afghan and international civilian, and Afghan and international military forces remain committed to the objective of a steady reduction in the rate of civilian casualties." [20]

Both the Wolesi and Meshrano Jirgas (the lower and upper houses of the Afghan Parliament) have repeatedly discussed civilian casualties, the operations of AGEs and PGF and condemned the loss of civilian life, the inability of the Government and IM forces to protect civilians and the need for thorough investigations into incidents of civilian casualties.

The Government often undertakes *ad hoc* investigations into major incidents of civilian casualties. These investigations are often instigated at the provincial level and are widely reported in the media. Government investigations usually involve a mix of the civil and security arms of the Government and serve as fact-finding missions. After an investigation has been completed, usually in a very short time, the investigation committee releases a report (often not public) outlining its findings and sends it to the President. It is unclear what procedures or criteria are followed during these investigations and what occurs afterwards. In some incidents that UNAMA HR has monitored, President Karzai has given compensation to affected families through the presidential discretionary fund. To enhance civilian protection, UNAMA HR suggests that the Government regularly investigate, where possible, all major incidents of civilian casualties rather than on an *ad hoc* basis using standard procedures. In addition, the Government should determine and make public the procedures and criteria for investigations, mandate, persons involved in these investigations, final report, ensure any investigations are carried out in a detailed and thorough manner with forensic expertise and grant families access to the investigation report and committee for follow up.

Accountability

All States including those that have contributed troops as part of ISAF have a general international obligation to conduct credible, transparent and impartial investigations of alleged violations of international human rights or international humanitarian law committed by their citizens and soldiers. This obligation applies to States acting individually or as part of multinational force such as ISAF. Such investigations are required to be carried out either by individual States or, when adequate mechanisms exists, by the mechanism set up by the multinational force.

[20] Kabul Conference Communiqué, p.6, issued at the International Conference on Afghanistan, held in Kabul on 20 July 2010.

Although ISAF has taken concrete measures, through its guidance and directives, to minimize the impact of the conflict on civilians, UNAMA HR observes that greater transparency and accountability for any civilian casualties caused would further advance civilian protection and could lead to greater decreases in civilian deaths and injuries. UNAMA HR noted that when investigations by IM Forces have been announced and undertaken, minimal information was made available on the details of the investigation and the results. The outcome of investigations was often not made public. UNAMA HR documented only a few cases in which the results of investigations have been partly published. Victims and affected communities were often not informed whether disciplinary or other action had been taken against those who may have been responsible for civilian casualties including commanders. To improve protection of civilians, any investigation and accountability process should ensure that credible investigations are conducted in an open and transparent manner and explanations and apologies, when appropriate, are issued where harm has occurred. Appropriate punitive measures should also be taken against those found guilty of a breach of domestic or military law.

UNAMA HR also notes that IM Forces often do not publicly report on activities of Special Forces and other Pro-Government armed groups that result in civilian casualties. Protection of civilians in conflict-affected areas would improve if all Special Forces were subject to greater transparency and accountability. UNAMA HR has been informed that some night raids have yielded useful information and prevented other attacks; however communities were not informed of such results causing continuing resentment. Based on the number of deaths and injuries that still occur during night raids, UNAMA HR remains concerned that possible failure to use alternative measures which show greater respect for civilians continues to cost too many lives.

A US investigation into an aerial attack on 21 February against a three–vehicle convoy in the Sourki area of northern Charchine district in Uruzgan province that killed at least 21 civilians and injured 14 others revealed a number of errors and omissions by those involved. The convoy was carrying civilians displaced by previous fighting back to their village in the Sourki area. General McChrystal apologized for the civilian casualties on 23 February and on 29 May, USFOR-A released the redacted findings of a US investigation into the incident. Among the investigation findings were that "inaccurate and unprofessional reporting of the Predator crew" meant the ground force commander was not provided with all available "evidence and analysis that the vehicles were not a hostile threat" and that "[i]nformation that the convoy was anything other than an attacking force was ignored or downplayed by the Predator crew." According to a USFOR-A press statement, General McChrystal issued "memoranda of reprimand" to four officers and "memoranda of admonishment" to two officers (these memoranda are forms of non-judicial punishment in the US military justice system). The Afghan Government and USFOR-A provided compensation to the victims' relatives.

USFOR-A "launched a criminal investigation into allegations that US soldiers were responsible for the unlawful deaths of as many as three Afghan civilians" according to a 20 May 2010 statement. Reportedly, the soldiers were from the 2nd infantry of the 5th Stryker Brigade, which had been operating in Kandahar province. According to media reports, five soldiers were charged with premeditated murder including two who were also charged with assault in three separate incidents.

Accountability of ANSF and other Pro-Government Armed Groups

According to media reports, in mid-May, an Afghan military prosecutor issued a warrant for the arrest of an American Special Forces officer accused of being in command of a group of Afghan men, reportedly called the Kandahar Strike Force (KSF). The KSF are allegedly part of a US-trained and financed armed group. Members of this group shot and killed Kandahar's provincial chief of police and the provincial head of the ANP Criminal Investigation Department (CID) on 29 June 2009 during a reported attempt to free one of its members who had been detained. The provincial security authorities arrested 41 Afghans in Kandahar in connection with this incident. The Primary Criminal Court in charge of cases related to the members of the police sentenced four to death and the remaining 37 to lengthy prison sentences. According to the Director of the Investigations Department of Prosecution a letter was sent to the Afghan Ministry of Foreign Affairs to request the prosecution of the American Special Forces officer. The Director of the Investigations Department of Prosecution informed UNAMA HR that to date he has not received a reply to his request from the Afghan Ministry of Foreign Affairs.

Based on its documentation, UNAMA HR has found that accountability for abuses by ANSF is quite rare. For example, following an RCIED detonation against a vehicle carrying private security guards in Tirin Kot district in Uruzgan province on 13 March, which killed five and injured one, the surviving guards established a road block and searched vehicles. At this roadblock, they killed a driver during an argument. UNAMA HR repeatedly raised the incident with the provincial chief of police but no investigation was initiated.

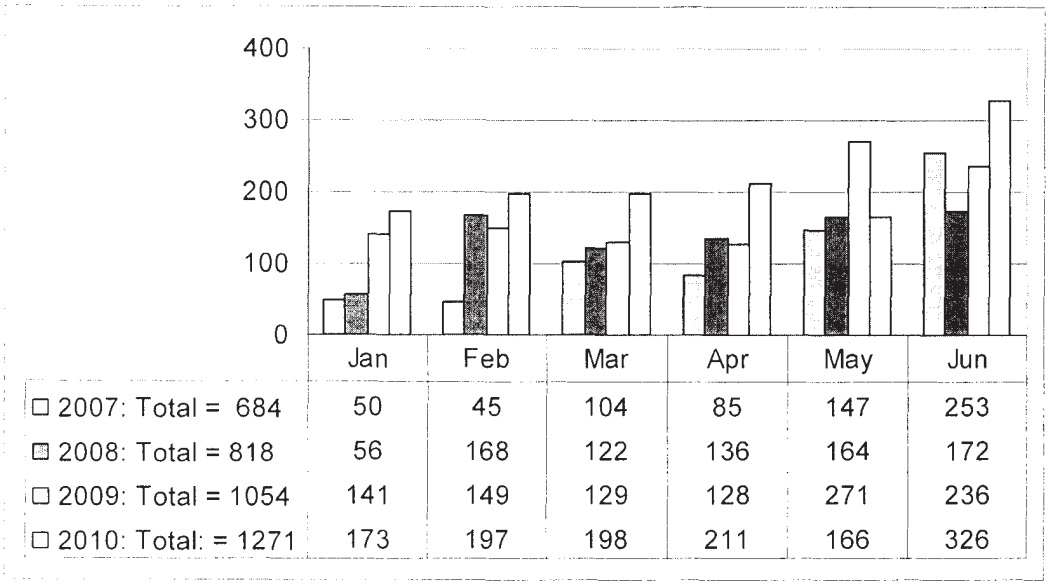
On 4 April, a police truck was struck by an IED, killing one officer in Tirin Kot district in Uruzgan province. According to credible reports, armed men employed by a local powerbroker, affiliated with the police, came to the suspected perpetrator's home, killed him, threw grenades into the home, and dragged his dead body behind a truck. The dead man's family was reportedly warned to leave the area. While UNAMA HR has raised the incident with both the provincial chief of police and the implicated powerbroker, as of 25 May, no investigation had begun.

Public accountability for civilian casualties is critical as victims and their families have the right to know why operations were conducted, why killing and injury occurred, and whether those who killed and injured civilians have been held responsible. Demonstrations occur because Afghans are angry that military operations caused civilian deaths and injury and seek to express their frustration about the lack of information about operations including on night raids. More transparency could lead to less anger and resentment from local communities and advance civilian protection. In UNAMA HR's conversations with elders in Logar and Wardak provinces, they said their priority was to end the culture of impunity for civilian deaths and injury from military operations and for those who committed abuses to be held accountable.

Appendix

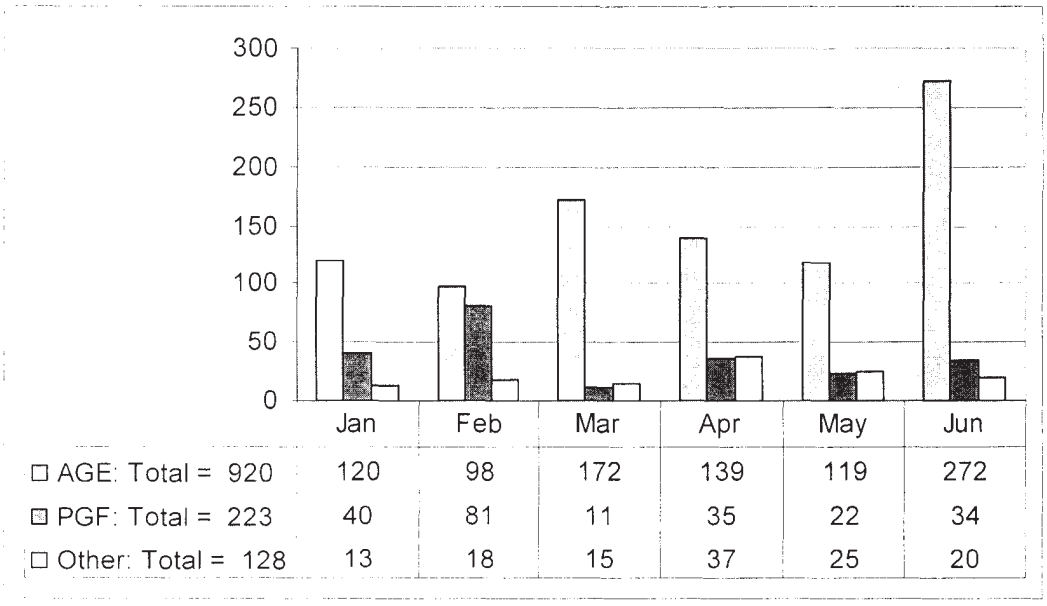
Additional Graphs on civilian casualties

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



	Jan	Feb	Mar	Apr	May	Jun
2007: Total = 684	50	45	104	85	147	253
2008: Total = 818	56	168	122	136	164	172
2009: Total = 1054	141	149	129	128	271	236
2010: Total: = 1271	173	197	198	211	166	326

Recorded civilian deaths in the first six months of 2010 by parties to the conflict and month



	Jan	Feb	Mar	Apr	May	Jun
AGE: Total = 920	120	98	172	139	119	272
PGF: Total = 223	40	81	11	35	22	34
Other: Total = 128	13	18	15	37	25	20

Recorded civilian deaths in the first six months of 2010 by region